United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 112th CONGRESS, SECOND SESSION

Vol. 158 WASHINGTON, THURSDAY, FEBRUARY 2, 2012 *No. 17*

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The PRESIDING OFFICER. Today's opening prayer will be offered by Rev. Dr. Joseph Vought, senior pastor of Community Lutheran Church in Sterling, VA.

The guest Chaplain offered the following prayer:

Let us pray.

God of grace and glory, in whom all righteousness, peace, and goodness are found, You have created us in Your image, given us a world of good gifts and the blessing of this land we call home.

Send Your spirit of wisdom, discernment, and grace to these elected servants. Take away any fear or prejudice that may keep them from civil discourse, good will, and mutual endeavor. Remind them of their calling to serve, and inspire them to make decisions which promote the common good, ensure justice and liberty for all, and make this Nation a beacon of hope for the world.

In Your holy Name we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 2, 2012.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period of morning business until 11 a.m. this morning. The majority will control the first half and the Republicans the second half. Following morning business, the Senate will resume consideration of the STOCK Act. We worked very hard until late in the evening last night to try to come up with an agreement to complete action on this bill. We will notify Senators when those votes are scheduled. We hope that can be done.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period 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, with the majority controlling the first half and the Republicans controlling the final half.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMERICAN BUSINESSES

Mr. DURBIN. Mr. President, over the last several months, I put my staff on a little mission. I asked them to identify manufacturing companies in my home State of Illinois that have not only weathered this recession but are doing well and are hiring. I wanted to meet with these companies and find out why the recession has treated them differently, particularly when it comes to manufacturing jobs. I have been pleasantly surprised at how many businesses I have found to be in that condition in my State. Not to understate our unemployment rate or the impact of the recession on many businesses, the fact is there are some that have not only weathered the storm but are doing quite well, and they represent a variety of different goods that they manufacture.

The heartening and encouraging news is that we are hearing more often that companies have decided to resource their jobs back to the United States. In his State of the Union Address, the President spoke of one such company, Master Lock, located in Milwaukee, WI, which he noted has now announced that they think America is the best place to make products and do business. That is a good trend we want to encourage.

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

We know we have lost a goodly share of manufacturing jobs over the last several years. In the year 2000, more than 17 million Americans were employed in manufacturing. Ten years later, the number had fallen to 11.5 million—from 17 million to 11.5 million. More than 300 of those jobs were lost in my home State of Illinois in that decade, from 2000 to 2010.

But American manufacturing is growing again. One of the real good news stories is Chrysler. I am sure the Presiding Officer remembers the controversy when General Motors and Chrysler faced bankruptcy and the possibility of literally going out of business. In my lifetime, other car manufacturers have gone out of business. The President decided—and rightly so—that we could not afford to lose those jobs. So we engineered a loan with General Motors and Chrysler, premised on their changing the way they did business.

Many critics said that was the wrong thing to do, the capitalist purists who were saying: No, no, these things happen. Companies go away, and new companies emerge; General Motors and Chrysler should be allowed to go gently into the night.

President Obama disagreed. Many of us disagreed. And he put a downpayment on the future of the American automobile industry which has paid off handsomely. Just this last week, the major auto manufacturers—Ford, Chrysler—announced recordbreaking profits. They have restructured. They are selling a better product, they are doing it in a better way, and they are now competitive. The American people are buying their products. General Motors has come back strong.

Just by way of comparison, I recently read that if you look at the total number of employees in certain companies, it gives you an idea of why some have more value overall to the economy than others. We all know Facebook. We hear about it all the time. When somebody asks to take my picture, I laughingly say: Do you promise you will put it on Facebook? And they laugh out loud because that is exactly what they are going to do, instantaneously. Facebook has about 3,000 employees in America. We all know Google. We use it every day—I do—to find information and to access different sites. Google has about 30,000 employees in the United States. How many employees are there in General Motors' direct employment? A hundred thousand.

When the President said that we need to invest in the automobile industry, it was a decision based on the need for good-paying jobs right here in America. Well, I can tell you, when it comes to Chrysler, it was an investment that paid off for my home State of Illinois. This week, Chrysler is announcing that it will be adding 1,600 manufacturing jobs at its plant in Belvidere, IL. I was encouraged when I met with the CEO of Chrysler and he said it is one of the most efficient and cost-productive plants in all of Chrysler Corporation, and it should be expanded.

In November, Caterpillar, the largest exporter in my State, the largest manufacturer, announced a $600 million investment in its plants in Decatur and Peoria, IL, and they are going to bring back hundreds of jobs to our area.

American companies are beginning to realize that manufacturing products right here in the United States can be profitable again. That is good news for Illinois and good news for America. Manufacturing was the backbone of the American economy for decades. We may never see it return to its heyday, but we should take steps to strengthen it.

In the State of the Union Address, President Obama laid out a number of key steps to boost manufacturing and ensure that more products have these three key words: ''Made in America.''

The President's proposal builds on legislation that I introduced personally in 2010 to reduce the tax benefits that companies can claim when they close factories here in the United States. Hard as it may be to believe, the Tax Code rewards and compensates those companies that decide to close down manufacturing in the United States and move it overseas. The Tax Code currently allows companies moving operations overseas to the deduct their moving expenses and reduce their taxes in the United States as a result. It is a direct subsidy to move a job overseas. It is just common sense that taxpayers should not be helping companies cover the cost of outsourcing jobs.

The President is also taking important steps to encourage insourcing—when companies close operations overseas and move jobs back to the United States. Specifically, the President is calling for a 20-percent income tax credit for the expenses of moving operations back into the United States to help companies bring jobs home.

He also proposed a new credit for investments that help finance projects in communities that have suffered a major job loss event, and every one of our States has one. It might be the steel mill in Hennepin, IL, the tool manufacturers in Sterling-Rock Falls, the appliance factory in Galesburg, or the farm equipment factory in Canton, IL. Too many communities have suffered dramatic layoffs when plants have shut down over the last several decades. We have all seen the stories. We have all met the people who have seen their lives changed dramatically because of those decisions. Without new investment, many of these communities will continue to struggle.

The tide is starting to turn for American manufacturing, but we can do more to make growth in that sector stronger and faster. We may never return to the forties and fifties, but there are some things we can do. One of the things I found interesting as I visited these plants that were trying to hire people in manufacturing was the obstacles they were running into.

We have a State with a lot of unemployment, over 8 percent. In some parts of the State, it is over 10 percent. You wonder how in the world with so many people out of work there would be good-paying jobs unfilled. It turns out, I found, as I traveled around the State, those in manufacturing who want to hire new employees run into three obstacles.

The first obstacle is that people applying for a job don't have the skills necessary to work in manufacturing today. Those who have not seen it personally may not know what manufacturing looks like today. It is much different than the image of 30, 40 years ago. The plants themselves are much cleaner operations, and most of them are computer driven. Unlike the old days of steam and dirt in every direction, those aren't the manufacturing plants of today, in many instances, across America.

What they are looking for in applicants for industrial maintenance, for example, which is a major area of need as baby boomers age out and retire—industrial maintenance requires that the applicant have more than a passing knowledge of mathematics and computers. If they don't, frankly, they are walking into an environment where they cannot be of much help.

In some areas—in Danville, for example—a local manufacturer is teaming up with the Danville Community College to take those who don't possess the right math and computer skills and train them at the expense of the company so they can go to work. The same is true in my State over and over again. The community college links up with the manufacturing concern and starts training employees so they will be ready to fill the jobs, at the expense of the company.

The second obstacle is a psychological one which I hadn't thought about. It turns out that many parents, when the son says they are hiring at such-and-such a business, will say: Wait a minute. I didn't want you to grow up working in a factory like your dad. I wanted you to have a job where you wear a coat and tie. Didn't you go to community college? You ought to do better than that. It turns out there is a prejudice against working in factories, even though, as I said, they are much different and the compensation is much better than some other alternatives. They are having open houses at many factories in Illinois so families and high school counselors can see what they look like and see that they are not the image they might have in their mind.

The third obstacle is one that is very practical. Before an employer would put an employee in charge of a multimillion-dollar, computer-driven manufacturing process, they would want to make sure the employee is not only skilled but sober. That means drug tests. Many of these would-be applicants for manufacturing jobs fail drug tests time and again. Why? They have

grown up in a generation that says marijuana doesn't count, and they are wrong. Or they are engaged in other drugs. They just cannot expect to be taken seriously as a job applicant if they cannot pass a drug test. They will not get through the front door.

Those three things—basic skill and training, attitudes of families toward jobs in manufacturing, and the drug tests—have turned out to be the three obstacles that have been raised time and again all across Illinois. But we can overcome each one of them, and we should. We can fill these jobs, good American jobs, with skilled set people who can produce for this country for many years to come.

CITIZENS UNITED

Mr. DURBIN. Mr. President, this year's political campaigns are different than just 2 years ago. There is a dramatic infusion of money from so-called super PACs. Now we are starting to learn the identity of those who were behind it. Just yesterday there were disclosures about some of the contributors. Many of the names are familiar—the same very wealthy people who have, time and again, been engaged in our political process. The new approach, of course, is that there is no limitation in what they can spend. In addition, there is little disclosure on a timely basis.

There are a lot of reasons for that. One of them is the Supreme Court decision in Citizens United. It may be as flawed a decision as that Court has ever made: to equate corporations and special interest groups with average Americans when it comes to our political process and say speech is money, money is speech, and say, basically, there are no rules or limits in terms of what a special interest group or a corporation can spend in our political process.

I cannot think of a more corrupting influence. We know politics and campaigns have become more expensive in this country every year. Those of us who are engaged in this business have, over our political lifetimes, seen a dramatic evolution in terms of how money is raised and spent. I can recall, in my first race in 1982 for the U.S. House of Representatives, raising and spending what was then almost a record amount in a House race against an incumbent Congressman of $800,000. It was a huge amount of money then, as I said, one of the most expensive congressional races to date. I waited anxiously for a $25,000 check from the Democratic National Campaign Committee they had promised, but it never showed up. But $25,000 was a big deal.

Look where we are today. It is not unusual for candidates for Congress and the Senate to spend millions of dollars routinely in electing and reelecting Members of the House of Representatives. On our side of the Rotunda just dramatically increase those numbers, and you will see the basic political field we play on in political campaigns.

The Citizens United decision was a step in the wrong direction. It wasn't that long ago when two of our own—a Republican, JOHN MCCAIN, and a Democrat, Russ Feingold of Wisconsin—teamed up to end soft money in politics and to try to bring down the infusion of money from outside interests. They took years to reach their goal. Finally, when they did, after being challenged in court, they were picked away at over the years, and now with Citizens United, they have been toppled completely. Now the field is wide open.

Whether we are talking about the need to reduce the deficit, reform the Tax Code, create jobs, most everybody knows different parties have different ideas. What many people don't know is that there are special interest groups that have their own agenda and ideas on these and so many other issues. It is just hard for Presidential candidates and Members of Congress to navigate through or around the special interests that have now become such an integral part of campaigns. The major donors in the Citizen United decision are a major force in American politics.

I believe the overwhelming majority of people serving in the House and Senate in both parties are honest and hard-working people. I believe they are guided by good intentions. We are nonetheless stuck in a terrible, corrupting campaign financing system. That decision by the Supreme Court 2 years ago made our system so much worse that I think the only thing that can save it—literally save it so our democracy is protected—is a dramatic change.

After Citizens United, corporations and unions can spend as much money as they want to influence the Presidential race, as well as congressional elections, and the Federal and State and local elections as well. In 2010, for the first time ever, spending on House and Senate races exceeded $1.6 billion. Outside groups spent 335 percent more on congressional campaigns than just 4 years earlier. Those numbers are still like a drop in the bucket compared to this year, this election cycle. The super PAC money is being used, as we have seen in the Republican Presidential primary, to fund negative, deceptive ads in support of candidates who are loosely, albeit not officially or formally, connected to those running super PACs.

I think of the situation with former Speaker of the House Gingrich. One man and his wife have literally financed Gingrich's campaign in two States, with $5 million contributions in each of those States, as I understand it. That, to me, is a corruption of the process. You can bet that big business isn't going to be shy about engaging in the Citizens United strategy of spending money to influence the outcome of elections, and you can bet it will impact those of us who serve in the Senate and House. We know every single day as we vote, there is the potential for some special interest group out there deciding that is the breaking point; that from that point forward they will do everything in their power to defeat us, and they can spend as much as they want to get the job done. It is a humbling, sobering reality from the Citizens United decision.

Well, there is an alternative. One is a resolution that has been offered by the Presiding Officer, which I am cosponsoring. That is a constitutional amendment that would reverse Citizens United. We all know how uphill that struggle will be, but at least we have staked out a position to say we have to overturn this decision; we have to go back to the days of accountability and manageability when it comes to financing campaigns. I applaud the Presiding Officer, the Senator from New Mexico, for his leadership on that issue.

There is another issue too, one that I think we should continue to bring up and discuss. It is called Fair Elections Now. The Fair Elections Now Act is a bill that I have introduced in many Congresses. It would dramatically change the way congressional campaigns are funded. It would make super PACs irrelevant. The bill would allow candidates to focus on the needs of the people they represent regardless of whether those people are wealthy or whether they donate to a super PAC, attend a fundraiser, or try to find special access to a candidate.

Candidates in the fair election system would not need a penny from special interest lobbyists or corporations to run their campaigns. Under this system, qualified candidates for Congress—and to qualify, they would need to raise small contributions in volume in the State they are running in—those qualified candidates would receive grants, matching funds, and television broadcasting vouchers from the fair elections fund to help them run competitive campaigns. In return, candidates who voluntarily participate in the fair election system would agree to only accept campaign donations from small-dollar donors in their States.

We pay for the fund by asking businesses that earn more than $10 million a year in Federal contracts to pay a fee of one-half of 1 percent, with a maximum amount of $500,000 per year. That would fund it, and it would make certain that under the fair election system we would have public financing and we would put it into this money chase that I believe is not only corrupting our campaign system but could someday corrupt the very government we are proud of and represent as elected officials.

It is time to reform our system. I am afraid, as I said in one gathering recently, if you are a student of history, it takes a massive scandal or crisis to create a massive reform. I hope that doesn't happen. I hope we have the good sense to move toward reform

without that happening. In the meantime, what is happening to our political system is not in the best interest of democracy.

If the average person who is not wealthy cannot even consider the possibility of being a candidate for Congress without the backing of huge special interest groups or without their own personal wealth, then we have lost something. A lot of us who got engaged in public life many years ago might never have considered it under today's rules because it is so expensive and overwhelming. Any person who now steps up and says they are ready to run for Congress or the Senate is introduced quickly to what is known as the ''Power Hour''—dialing for dollars. We sit them down in a chair and they get on the phone and call this list and beg every person they can reach for at least $2,300, $2,500. And they keep calling until the Sun goes down, and they start again the next day.

There was a time when many of these candidates would not be sitting talking to the wealthiest givers in America but would be out in their States and districts talking to the people whose needs they ought to appreciate. That time has changed. We can change it back. We need to have the support of the American public and the political will in both political parties to achieve it.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. I ask the President to notify me when I have used 10 minutes.

The ACTING PRESIDENT pro tempore. The Chair will do so.

RECESS APPOINTMENTS

Mr. ALEXANDER. Mr. President, last week we Republican Senators had an extraordinary experience that millions of Americans have had and will have in the future: We spent a day at Mount Vernon, George Washington's home, which is not more than about 40 minutes from the Nation's Capital.

Even in the middle of winter, it is a beautiful, historic setting. It is hard to imagine why George Washington and Martha Washington would ever want to leave the place.

Touring the rooms, we could imagine what life must have been like then. There are many things that impress any of us when we visit there.

One thing that especially impressed me was the fact that, despite the beauty of the place and Washington's love for farming, he was gone from Mount Vernon for 8½ years during the Revolutionary War. He never went home; he was always in the war. Even when he was President of the United States for 8 years, he was only at Mount Vernon 10 times during those 8 years; and after the Presidency, of course, he soon died. So he gave up quite a bit to be President of the United States.

There were other things that impressed me about our visit to Mount Vernon. One was the reminder that our Revolution was a revolution against a King. George Washington, as commander in chief of the Continental Army, led a fight for independence from a King whom the signers of the Declaration of Independence stated, had a ''History of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States.''

Those were our Revolutionary Founders talking. As President of the Philadelphia Convention, George Washington presided over the writing of the U.S. Constitution which emphasizes, if it emphasizes any one word, the idea of ''liberty'' in creating the system of government we enjoy today.

Then there was another aspect to George Washington of which we were reminded which would be good for us to think about today and that was his modesty and restraint.

George Washington must have had remarkable presence. He never had to say very much, apparently, to command the attention and respect of his countrymen. He likely could have been general of the Army as long as he wished and President of the United States as long as he wished, but he chose not to do that.

It was he who first asked to be called simply Mr. President, rather than some grand title. It was Washington who gave up his commission when the war was over, and it was Washington who stepped down after two terms and went home to Mount Vernon. In fact, that aspect of his character was imprinted upon the American character, that modesty and restraint on the part of the executive branch and a recognition that our system depends absolutely on checks and balances.

I am struck by that attitude and the different attitude I see in the administration of President Obama, which has shown disregard for those checks and balances and the limits on Presidential power that our Founders and George Washington felt were so important.

This administration, over 3 years, has been arrogating more power to the executive branch of government and upsetting the delicate balance, which the Founders created for the purpose of—what? For the purpose of guaranteeing to each of us as individuals the maximum amount of liberty.

I remember Senator Byrd saying time and time again that the purpose of the Senate, more than anything else, was a restraint upon the tyranny of the executive branch of government. That is our purpose as a Senate.

This President's Executive excesses were first illustrated by the creation of more czars than the Romanovs had.

We have always had some so-called czars in the White House—the drug czar, for example. But now we have approximately three dozen of them. These czars duplicate and dilute the responsibilities of Cabinet members; they make it harder for the Congress, us, to have a supervisory role over exactly what they are doing. It is not only antidemocratic, it is a poor way to manage the government.

Equally disturbing to me has been this administration's use of regulation and litigation to bypass the Congress and the will of the people when the Congress has a different point of view.

For example, this was the case with the National Labor Relations Board and their decision in the Boeing case; which has now been apparently resolved but which was an enormous—an enormous abuse of power, in my opinion.

Then the President is taking to blaming almost everyone for the problems we see in our lives today: First, it was President Bush, then it was the banks, then it was business, then it was the insurance companies, then it was Wall Street, then it was 1 percent of us, and now it is the Congress, which of course is in a government that is primarily run by the President's own political party.

The President has taken to saying in his campaign speeches and his State of the Union Address the other day, ''If Congress won't act, I will,'' and he has begun to show that is no idle threat.

Because now, on top of these other abuses, with his recent appointments to the National Labor Relations Board and the Director of the Consumer Financial Protection Bureau to head a new and unaccountable agency, the president has undermined the checks and balances that were placed in our Constitution and that George Washington so respected.

This Senate has always been the place—whether it was a Democratic Senate arguing about the appropriateness of President Bush using war powers, this Senate has always been the place that has insisted upon checks and balances and the liberty of the people as guaranteed by those checks and balances.

The President's recent actions have shown disregard for possibly the best known and possibly most important role of the Senate and that is its power of advice and consent of executive and judicial nominations as outlined in Article II, Section 2 of the Constitution.

These actions, four appointments during a period of time when the Senate, in my opinion, was in session, fly in the face of the principle of separation of powers and the concepts of checks and balances against an imperial President.

Let's look for a moment at the history and precedents of recess appointments. The exact length required for a

recess is not defined in the Constitution, but according to the Congressional Research Service ''it appears that no President, at least in the modern era, has made an intra-session recess appointment during a recess of less than 10 days.''

Both parties have relied upon the adjournment clause in Article I of the Constitution to argue that the absolute minimum recess period would conceivably be 3 days.

We can also look at the number of recess appointments made by recent Presidents. As of January 23 of this year, President Obama had made 32 recess appointments, all to full-time positions. At the same point in time in his first term, President Clinton had made nine recess appointments to full-time positions. President Bush, at about the same time, had made 35.

So they all made recess appointments—appointments while the Senate was in recess. That is provided for specifically in the Constitution as something the President could do. But President Clinton never did it when Congress was in session for less than 10 days. President Bush never did it when Congress was in recess for shorter than 11 days. Now, unfortunately, President Obama has broken that precedent and made 4 appointments when we were in a period of less than 3 days.

Why is that important? In 2007, the current majority leader of the Senate, HARRY REID, decided the Senate did not want President Bush making recess appointments; that is, making appointments while the Senate wasn't in session. So the Senate refused at that time to enter into prolonged recesses. They invented the idea of pro forma recesses every 3 days. President Bush strenuously objected to that, but he respected that. He respected the constitutional authority of the Senate under article I, section 5 to determine when the Senate is in session.

On November 16, 2007, Senator REID said: ''With the Thanksgiving break looming, the administration has informed me that they would make several recess appointments.''

Senator REID didn't like the idea of recess appointments any more than we do. So he said: ''As a result, I am keeping the Senate in pro forma to prevent recess appointments until we get back on track.''

The ACTING PRESIDENT pro tempore. The Senator has consumed 10 minutes.

Mr. ALEXANDER. I thank the Chair and ask to be notified when I have consumed 3 minutes more.

On November 16, 2007, Senator REID said:

> As a result, I am keeping the Senate in pro forma to prevent recess appointments until we get this process back on track.''

And on July, 28, 2008 he said: ''We don't need a vote to recess. We will just be in pro forma session. We will tell the House to do the same thing.''

The President is restricted, as Senator REID indicated, by article I section 5 of the Constitution, which states that ''neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.''

Last December when the House and Senate agreed to adjourn, the Speaker—a Republican—and the majority leader here—a Democrat—agreed the two Chambers would hold pro forma sessions for the express purpose of not going into recess. Yet the President went ahead and made his appointments. This is a dangerous trend. It is a dangerous trend.

The major issue before our country is the Obama economy. That is what we will be talking about more than anything else in an election year. But liberty is the defining aspect of our American character. If the President's current actions were to stand as a precedent, the Senate may very well find that when it takes a break for lunch, when it comes back, the country has a new Supreme Court Justice.

Because we believe in the importance of that constitutional system, all of us on the Republican side insist on a full and complete debate on this issue. We intend to take this issue to the American people. We will file amicus curiae briefs in all of the appropriate courts and we will take this issue to the most important court in the land and that is the court of the American people on election day.

I do not suggest that the President will find, or even should find, his relationship with Congress to be easy or simple. George Washington did not. President Washington once came up here to discuss a treaty with Senators and became so angry that he said, and this is Washington's word, he'd be ''damned'' if he ever went there again.

The separation of powers does not mean an easy distribution of powers but it is essential to the American character. We should remember that. A short trip to Mount Vernon would remind us of that. The President's recess appointments not only show disregard for the Constitution, they show disregard for every individual American who chooses liberty over tyranny, President over King.

I yield the floor.

REPEAL THE CLASS ACT

Mr. THUNE. Mr. President, I come to the floor today to laud the actions of the House of Representatives which voted to repeal the CLASS long-term care entitlement program that was created by the health care law. The vote yesterday in the House of Representatives was 267 in favor of repeal. It was a bipartisan vote. It was a clear, I think, message that this is a piece of legislation that needs to be taken off the books.

It was a disaster in the making from the very beginning. Many of us tried to predict that ultimately this program was destined to fail. The vote in the House of Representatives yesterday to repeal this insolvent program I hope will pave the way for the Senate to follow suit. My fear has been all along that if we do not get this program off the books, at some point there will be an attempt to resurrect it. That would be the absolute worst outcome and worst scenario for the American taxpayer because this is a program that, even before it was voted on and added to the health care bill, was predicted would fail.

The Congressional Budget Office said it would run deficits in the outyears. The Actuary at the Health and Human Services Department predicted that this was a program that actuarially was unsound, could not be viable in the long run. It was here in the last few months that finally the Secretary of Health and Human Services, Kathleen Sebelius, came out and said, ''I do not see a viable path forward for CLASS implementation.''

That was a statement she made back in the middle of October. So even the person who was tasked with implementing this program has now said there is no viable path forward for CLASS.

We ought to get this off the books. It was, in fact, a pay-for in the health care bill. It was designed to help understate the cost of the health care bill. It front-end-loaded premiums, got revenue in the door early, knowing full well that when the demands for payments came later on that it was going to be upside down, and it was clearly a program that I think, by any account, all who observed this process closely knew just flat out this would not work. But what was done—it obscured the cost of the health care bill and helped it to sort of balance out because it was front-end loaded, saw revenues come in in the early years before payments would have to go out in the outyears.

I am hopeful the Senate will take the action that was taken by the House of Representatives and end this once and for all. We have people on both sides of the aisle who have come to that conclusion. There was a lot of debate, even in the runup, the lead-up to the health care bill, about how this would not work. I offered an amendment during the health care debate to strip it. We had 10 Democrats at the time who voted with me on that amendment. Many of them made statements regarding this legislation and the implications if it were to pass. In fact, the Senator from North Dakota, the chairman of the Senate Budget Committee, said at the time that this is ''a Ponzi scheme of the first order, the kind of thing that Bernie Madoff would have been proud of.''

He vowed to block its inclusion in the Senate bill. It ended up in the Senate bill and ended up in the overall bill, so to this day it is still a part of the health care legislation but a part that needs to be stripped out if we are going to do what is in the best interests of

the American taxpayer and not put yet another unfunded liability on the backs of our children and grandchildren.

We have a lot of bipartisan support for repealing it. There are a lot of people who have weighed in against this, who know it will not work. We have an awful lot of outside interests as well who have observed, now, that this is not something that is sustainable over time. In fact, a lot of editorial pages around the country, newspapers have weighed in on this. The Washington Post:

. . . a new gimmick that has been designed to pretend the health reform is fully paid for.

That is something they said back when this was being debated.

The Wall Street Journal:

Known by the acronym CLASS, the long-term care insurance program for nursing homes and the like was grafted onto the health-care bill mostly to hide that bill's true costs.

It has been described as ''a budgetary time bomb.''

It seems to make perfect sense to me, and I hope to many of my colleagues, that we take the steps necessary to get this program off the books once and for all. In trying to justify this, there are people who say we ought to keep it on the books in case we figure out a way to go forward with it, to implement it. It does not work. It cannot work. That has been known from the very outset.

I want to mention something else the Actuary, Rick Foster, said prior to it being voted on. He said:

Thirty-six years of actuarial experience lead me to believe that this program would collapse in short order and require significant federal subsidies to continue.

I want to repeat that. This is from the person who studies the trends and makes sure, or tries to make sure, these programs are actuarially sound.

Thirty-six years of actuarial experience lead me to believe that this program would collapse in short order and require significant federal subsidies to continue.

That was the warning that was issued way before the vote ever occurred on the CLASS Act.

He described it as '' . . . a classic 'assessment spiral' or 'insurance death spiral.' '' Those are words he used to describe this.

The program is intended to be ''actuarially'' sound but at first glance this goal may be impossible.

These were all statements made by the Actuary.

Those of us who were here at the time and were concerned about this being included in the health care bill came to the floor and, as I said, I offered an amendment to strip it. It came close to getting the necessary votes but unfortunately came short. It had broad bipartisan support but we recognized at the time this thing was destined to fail. Now we have all this, the studies that have been done since, that validate that by the objective third-party validators, if you will, by the HHS Actuary.

It seems to me at least that the American taxpayers, the American people deserve to know where their elected officials stand on the CLASS Act. Are they for keeping this unviable, insolvent, actuarially unsound provision in the health care bill, which now even those who are tasked with implementing it—the Health and Human Services Secretary, Kathleen Sebelius—have said there is no viable path forward for its implementation? Are we going to continue to keep this around? Or are we going to have a vote here in the Senate to put an end to this once and for all?

I hope the majority leader, Senator REID, will allow us to get this up for a vote. It has been passed in the House of Representatives. It is very clear based on not only all the actuarial evidence but all those who have looked at it who are tasked with trying to put it into practice that it is not going to work. I hope before this goes any further we will get a vote here in the Senate that will echo what happened in the House of Representatives and that we will do the right thing by the American taxpayer and get rid of a program that, if it ever is resurrected, if it ever is reincarnated in some form, would be a terrible drain on American taxpayers, not only today but well into the future, and represent yet another unfunded liability that we will put on the backs of our children and grandchildren. It is time to end the CLASS Act once and for all.

I am going to continue to press for a vote on this and I hope Majority Leader REID will allow us to get a vote on repeal of the CLASS Act so the American people do know exactly where their elected officials stand and whether they are going to stand on the side of the taxpayer, stand on the side of common sense, or stand on the side of using this budgetary gimmick to understate the cost of the health care bill and perhaps at some point in the future put a plan in place that literally is not going to work, is only going to continue to lead us on the pathway to bankruptcy.

I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

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

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

RECOGNITION OF THE MINORITY LEADER

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

THE STOCK ACT

Mr. MCCONNELL. Mr. President, I think it is pretty clear at this point that there is broad bipartisan support for legislation that provides greater transparency in Congress. The more important question at this point is whether the executive branch is willing to play by the same rules. I mean, I think a lot of people out there want to know why a venture capitalist who raised hundreds of thousands of dollars for the President, only to end up overseeing the administration's green energy loan program, should not be held to the same high standard as others. Shouldn't the President's Chief of Staff be held to the same standard as a legislative director to a freshman Senator?

Let's be honest, people are equally, if not more, concerned about the kind of cronyism they keep reading about over at the White House and within the executive branch agencies such as the Department of Energy that it controls. There is no question that Congress should be held to a high standard, but if we are going to pass new standards here, the same standards should apply to the White House and to the executive agencies that spend hundreds of billions of dollars of taxpayer money at the President's direction.

That leads to a larger point, which is this: As long as the White House and the agencies it controls continue to play favorites, this economy will never fully recover and the playing field won't ever be level. As long as Washington has this much say over the direction of the economy, people won't ever feel they are getting a fair shake. So, yes, let's hold Congress to a high standard, but the White House must be held to the very same standard.

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

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

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. BROWN of Ohio). Without objection, it is so ordered.

Mr. GRAHAM. I ask unanimous consent to speak in morning business.

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

Mr. GRAHAM. Please let me know when 5 minutes elapses. I will try to keep my comments short.

CLASS ACT REPEAL

Mr. GRAHAM. Mr. President, the topic I wish to address is the CLASS Act repeal being taken up by the House. I understand the HHS Secretary has indicated that from her point of view the CLASS Act will not work, and this is music to my ears.

During the Obama health care debate, one of the revenue raisers was the CLASS Act wherein the Federal Government would be in the long-term health care insurance business and, supposedly, would collect premiums over a decade that would allow something like $80 billion in revenue that

would help pay for Obama health care. However, eventually we would have to honor the payments due to the people on the program.

Senator CONRAD from North Dakota called the CLASS Act a Ponzi scheme of the first order because what we would be doing under the program is collecting premiums for an insurance product and using the money to help pay for Obama health care. So when people are ready to get the services they have paid for, there would be no money in the program to pay them because it was used to offset Obama health care costs. It is just not a practical idea. The costs would explode over time. There would be adverse selection. So it was an ill-conceived idea.

The House is going to repeal it. The HHS Secretary said they would not implement the program. I hope the Senate will allow repeal so we can take it off the table and it is a reason for the Congress to revisit the Affordable Health Care Act, Obama health care, because one of the components of the legislation relied upon the revenue to be collected by the CLASS Act to offset the cost of Obama health care, trying to make it deficit neutral. That is no longer a viable option. The money to be collected by the CLASS Act is never going to happen. So that money cannot be used to make the legislation deficit neutral.

This is a chance for the Senate, working with the House, to repeal the program. I think it would be wise for us all to sit down and try to reevaluate what does this mean in terms of the viability of the Affordable Health Care Act because the assumptions made by the CLASS Act are never going to come true.

I have been working with Senator THUNE for a very long time to keep this program from coming about. I would like to say this is a bipartisan moment, where we have stopped a program that would have a devastating effect long term on the country's finances and would do very little to improve health care.

I wish to, one, congratulate the HHS Secretary for understanding this program is unsound. I would like to make sure it is repealed, and I think Congress should be the body to do that. But this is good news for the taxpayer. It is good news for the country as a whole that we are not going to allow a program to be created that is unsustainable, that is going to add to the debt and do very little to take care of our health care needs. It was a Ponzi scheme. It is a Ponzi scheme that needs to be buried politically, as soon as possible.

I look forward to taking up the House-passed legislation. I hope we can get bipartisan support in the Senate to make sure what HHS Secretary Sebelius said never happens, that the CLASS Act never becomes reality because it is an unsound, unwise, poorly constructed program, and this is a chance for the Senate to come together and do something about it with our House colleagues.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. 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. LIEBERMAN. Mr. President, I note the presence on the floor of the distinguished Senator from Delaware, to whom I am pleased to yield.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. COONS. Mr. President, I thank Senator LIEBERMAN.

I ask unanimous consent to speak in morning business.

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

REAUTHORIZATION OF THE VIOLENCE AGAINST WOMEN ACT

Mr. COONS. Mr. President, I rise to speak on behalf of tens of thousands of Delawareans affected by domestic violence each year, as well as their families, their friends, and their allies across our State and our country.

Just a few minutes ago, my colleagues on the Senate Judiciary Committee took up the reauthorization of the Violence Against Women Act. It has earned strong bipartisan support through the nearly two decades since its original passage, and it was voted out earlier today.

Law enforcement agencies across this country are counting on us to move forward with the Violence Against Women Act reauthorization, depending on the training and the resources to advocate for victims and to provide critical and lifesaving interventions that it funds.

As I asked for input from Delawareans in the last few weeks, one of the hundreds who took the time to write or call my office in strong support of the reauthorization of VAWA was a former New Castle County police officer. He e-mailed me to tell me he had seen firsthand that dedicated resources and innovative policing methods made possible by VAWA made a real difference in combating these types of crimes and improving the lives of victims.

The Violence Against Women Act has been extraordinarily effective, with the annual incidence of domestic violence falling by more than 50 percent since it was first passed. Yet we still have so far to go.

Just this week, I heard from hundreds of constituents in Delaware for whom this legislation has a deep and resounding importance. From young women in their twenties to senior citizens, Delawareans from all walks of life have reached out to ask us, as Members of the Senate, to take action without delay, to work with our colleagues in the House, and to reauthorize this most important bill.

Paul from Yorklyn, DE, wrote to say that as a father of two young daughters, he worries that if the Violence Against Women Act is not reauthorized, then victims of sexual assault will once again be subject to two traumas—first, horrific attacks and, second, trying to pursue justice against their attackers.

Linda from New Castle, DE, had the courage to write me personally and say:

> First of all, I am a victim and I am not ashamed to say that [today].

Linda's willingness to lift the cloud of fear and shame that for so long enveloped victims of domestic and dating violence is brave and important in that she was able and willing to do that, but she also highlights the ongoing challenges we face. She described her hesitation to discuss abuse out loud and stressed the importance of talking about these crimes in the open in order to break what she called the generational curse.

As a son, as a husband, as a father, I too am deeply concerned about this curse that has moved from generation to generation and has affected families all throughout this country's history.

Evils such as domestic violence thrive in darkness. The Violence Against Women Act is a spotlight, and it deserves to be strengthened and sustained by this Senate today and this year.

The Violence Against Women Act requires reauthorization every 5 years. This signifies a belief that protecting victims of domestic and dating violence is so important that we must revisit it to make sure we are getting it right.

Each time we go through the process of reauthorizing this bill, we learn more about what is needed. This time around, that process, I believe, has resulted in several critical enhancements; first, by bolstering the tools available to law enforcement. Along with my friend and colleague Senator BLUNT, I cochair the Senate Law Enforcement Caucus. I am determined to ensure local agencies have the tools they need to support victims and to prosecute abusers. This reauthorization will do just that.

Second, our review made clear that perpetrators find their victims throughout our society without regard for sexual orientation or gender identity. So the reauthorization that was passed out of the Judiciary Committee just earlier today addresses that challenge by making this the very first Federal grant program to explicitly state that grant recipients cannot discriminate on the basis of a victim's status. Whether they are or are not a member of the LGBT community should be irrelevant to whether they are able to access the vital services funded by the VAWA.

Finally, this reauthorization recognizes our current difficult fiscal situation as a country and promotes accountability to make sure these dollars are well spent. It reduces authorization levels while protecting the programs which have been most successful. This VAWA reauthorization merges 13 existing programs into 4 streamlined and consolidated programs. This will prevent wasted time and effort and make the application and administrative processes more efficient.

I am honored to be joined today by an old and dear friend, a former countywide-elected official, Paulette Moore, now vice president of public policy for the National Network to End Domestic Violence. I am grateful to my dear friend Carol Post, who leads the Delaware Coalition Against Domestic Violence, and my friend Amy Barasch, a tireless advocate in the ongoing efforts to bring to light the challenges of domestic violence in the State of New York.

There are folks all across this country who turn to this task week in and week out. It is long and tiring and difficult work, but it is uplifting because it is part of making this a more just, more safe, and more secure nation.

It is important for me to note that, unfortunately, some of my colleagues on the other side of the aisle see the enhancements I just referred to in this reauthorization as a reason to abandon their long-term support for it, even though they have been strong backers of VAWA in the past. In fact, the vote we just took in the Judiciary Committee was 10 to 8. It only narrowly passed. I hope our friends on the other side of the aisle will review the details of these changes one more time and see their way clear to join us in this effort to strengthen and sustain the Violence Against Women Act. It is and should remain a bipartisan bill and a bipartisan effort.

My predecessor in this seat, our great Vice President, JOE BIDEN of Delaware, took an absolutely central leadership role in writing and passing the first Violence Against Women Act in one of the most enduring legacies of his 36-year Senate career, representing Delaware and advocating for women all over this country.

His efforts broke barriers and laid the groundwork for this current bill. But it is up to all of us to keep pushing tirelessly for Federal, State, and local governments to do more to save lives and to serve victims.

I urge my colleagues to come together and promptly pass the reauthorization of the Violence Against Women Act. Thank you to the men and women of this country who work so hard to end this terrible scourge of domestic violence in our country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—S. 2038

Mr. REID. Mr. President, I ask unanimous consent that the following amendments listed below be the only amendments remaining in order to the bill before the Senate, S. 2038:

Lieberman No. 1482; Paul No. 1484; Paul No. 1487; Lieberman side-by-side to Shelby amendment No. 1491; Shelby No. 1491, as modified; Lieberman side-by-side to Paul No. 1485; Paul No. 1485, as modified; Collins side-by-side to Boxer No. 1489; Boxer-Isakson No. 1489; Portman No. 1505; Enzi No. 1510; Blumenthal No. 1498; Toomey-McCaskill No. 1472; Inhofe No. 1500; McCain No. 1471; Leahy-Cornyn No. 1483; Coburn No. 1473; DeMint No. 1488; Grassley No. 1493; Brown of Ohio No. 1481, as modified; that all other pending amendments be withdrawn, with the exception of the substitute amendment; that the time until 2 p.m. be for debate on the bill and amendments, with the time equally divided between the two leaders or their designees; that at 2 p.m., the Senate proceed to votes in relation to the amendments in the order listed; that there be no amendments or points of order to any of the amendments prior to the votes other than budget points of order; that the following be subject to a 60-vote affirmative threshold: Paul No. 1487; Collins side-by-side to Boxer No. 1489; Boxer No. 1489, as modified; Blumenthal No. 1498; Toomey-McCaskill No. 1472; Inhofe No. 1500; McCain No. 1471; Leahy No. 1483; DeMint No. 1488; Grassley No. 1493; and Brown No. 1481; further, that Coburn amendment No. 1473 be subject to a two-thirds affirmative vote threshold; that there be two minutes equally divided in between the votes; that all after the first vote be 10 minutes in duration; that upon disposition of the amendments listed, the substitute amendment, as amended, if amended, be agreed to, and the Senate then proceed to vote on passage of the bill, as amended.

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

The amendment No. 1491, as modified, is as follows:

At the end of the amendment, insert the following:

SEC. 10. PROMPT REPORTING AND PUBLIC FILING OF FINANCIAL TRANSACTIONS FOR EXECUTIVE BRANCH.

(a) TRANSACTION REPORTING.—Each agency or department of the Executive branch and each independent agency shall comply with the provisions of sections 6 with respect to any of such agency, department or independent agency's officers and employees that are subject to the disclosure provisions under the Ethics in Government Act of 1978.

(b) PUBLIC AVAILABILITY.—Not later than 2 years after the date of enactment of this Act, each agency or department of the Executive branch and each independent agency shall comply with the provisions of section 8, except that the provisions of section 8 shall not apply to a member of a uniformed service for which the pay grade prescribed by section 201 of title 37, United States Code is O-6 or below.

Mr. REID. Mr. President, the mere fact that we now have the right to vote doesn't mean people have to have recorded votes. There are other ways of rejecting or approving amendments. I hope people will talk to Senators LIEBERMAN and COLLINS and find out if there needs to be a recorded vote on these matters. I appreciate the cooperation of both sides.

STOP TRADING ON CONGRESSIONAL KNOWLEDGE ACT OF 2012

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2038, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2038) to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes.

Pending:

Reid amendment No. 1470, in the nature of a substitute.

Reid (for Lieberman) amendment No. 1482 (to Amendment No. 1470), to make a technical amendment to a reporting requirement.

Brown (OH) amendment No. 1478 (to amendment No. 1470), to change the reporting requirement to 10 days.

Brown (OH)/Merkley modified amendment No. 1481 (to amendment No. 1470), to prohibit financial conflicts of interest by Senators and staff.

Toomey amendment No. 1472 (to amendment No. 1470), to prohibit earmarks.

Thune amendment No. 1477 (to amendment No. 1470), to direct the Securities and Exchange Commission to eliminate the prohibition against general solicitation as a requirement for a certain exemption under Regulation D.

McCain amendment No. 1471 (to amendment No. 1470), to protect the American taxpayer by prohibiting bonuses for Senior Executives at Fannie Mae and Freddie Mac while they are in conservatorship.

Leahy/Cornyn amendment No. 1483 (to amendment No. 1470), to deter public corruption.

Coburn amendment No. 1473 (to amendment No. 1470), to prevent the creation of duplicative and overlapping Federal programs.

Coburn/McCain amendment No. 1474 (to amendment No. 1470), to require that all legislation be placed online for 72 hours before it is voted on by the Senate or the House.

Coburn amendment No. 1476, in the nature of a substitute.

Paul amendment No. 1484 (to amendment No. 1470), to require Members of Congress to certify that they are not trading using material, non-public information.

Paul amendment No. 1485 (to amendment No. 1470), to apply the reporting requirements to Federal employees and judicial officers.

Paul amendment No. 1487 (to amendment No. 1470), to prohibit executive branch appointees or staff holding positions that give them oversight, rule-making, loan or grant-making abilities over industries or companies in which they or their spouse have a significant financial interest.

DeMint amendment No. 1488 (to amendment No. 1470), to express the sense of the Senate that the Senate should pass a joint resolution proposing an amendment to the Constitution that limits the numbers of terms a Member of Congress may serve.

Paul amendment No. 1490 (to amendment No. 1470), to require former Members of Congress to forfeit Federal retirement benefits if they work as a lobbyist or engage in lobbying activities.

Blumenthal/Kirk amendment No. 1498 (to amendment No. 1470), to amend title 5, United States Code, to deny retirement benefits accrued by an individual as a Member of Congress if such individual is convicted of certain offenses.

Shelby amendment No. 1491 (to amendment No. 1470), to extend the STOCK Act to ensure that the reporting requirements set forth in the STOCK Act apply to the executive branch and independent agencies.

Inhofe/Hutchison amendment No. 1500 (to amendment No. 1470), to prohibit unauthorized earmarks.

Boxer/Isakson amendment No. 1489 (to amendment No. 1470), to require full and complete public disclosure of the terms of home mortgages held by Members of Congress.

Tester/Toomey amendment No. 1492 (to amendment No. 1470), to amend the Securities Act of 1933 to require the Securities and Exchange Commission to exempt a certain class of securities from such act.

Tester/Cochran amendment No. 1503 (to amendment No. 1470), to require Senate candidates to file designations, statements, and reports in electronic form.

The PRESIDING OFFICER. The time until 2 p.m. is equally divided.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the majority leader. I thank Senator COLLINS, Senator BROWN of Massachusetts, Senator GILLIBRAND, and a lot of others, who have worked to get us to this point where we can do two things. Most important to those of us who have worked on the STOCK Act is that we are now in a position this afternoon of adopting a clear statement that Members of Congress and our staffs are covered by anti-insider trading rules and that we can also provide for fuller disclosure by Members, making it accessible to the public online.

Instead of coming to a point where the system broke down again and Senator REID being forced to file a cloture motion, we worked out an agreement here, people were reasonable, and there will be votes on a number of germane amendments—and some that are not, but we have agreed to a 60-vote threshold.

This is the way I think the Senate is supposed to work. Some of these votes will be controversial, some difficult. But that is why we are here. I thank everybody who was part of getting to this point.

I note the presence of the Senator from Massachusetts, Mr. BROWN, and I yield to him.

Mr. BROWN of Massachusetts. Mr. President, I also stand and commend the majority leader for allowing this process to unfold in a thoughtful and fair manner, the way it should. We are starting the new year off correctly and allowing everybody to feel as if they are participating in the democratic process, not moving for cloture, shutting off debate, and filling the tree, but allowing us to stay late and work together in a bipartisan manner to work through the amendments, allowing me and Senator COLLINS, and on their side, Senators LIEBERMAN and GILLIBRAND, to call individual Members and say: You have four amendments up; which ones do you want? Is there a modification or can we combine them with other similar amendments? That is how it should work.

This is what I have been saying for the last 2 years and why I have continuously moved to work across the aisle: to allow that democratic process to work.

I am thankful we are here. These are some tough votes, but we are the Senate. We should be taking tough votes. That is why the people sent us here. I am thankful that we can send the message to the American people that we are trying to reestablish that trust that seems to have been lost with them by moving on the STOCK Act.

There are other issues we are taking up. I hope they are just as thoughtful and methodical and respectful. I hope we are going to do the postal bill next. It is something Senators LIEBERMAN, COLLINS, CARPER, and I have spearheaded. It is a solid bill and a good framework. If we allow it to move forward and everybody has their say and their day in the Sun, and we do as we have done today, we will have another good deed and, who knows, maybe we will be in double figures in terms of the approval rating pretty soon.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1472

Mr. INOUYE. Madam President, I rise today to speak against the Toomey amendment that would impose a permanent ban on congressional initiatives or earmarks.

The Constitution grants to the Congress the power of the purse. There is no authority more vital to the separation of powers than the one that prevents the executive branch from directly spending the tax dollars collected from its citizens. Depriving the Congress of the ability to direct money to specific projects does not save money or reduce the deficit; it simply gives additional power to the President and weakens the legislative branch.

As I stated when I announced the initial moratorium on appropriations earmarks last February, I continue to support the constitutional right of Members of Congress to direct investments to their States and districts under the fiscally responsible and transparent earmarking process we have established.

Hawaii is a long way from the Capital City. It is simply not possible for a bureaucrat here in Washington to understand the needs of my home State as well as I do. And I believe such is the case with all 50 States. Each one is unique, each one has individual challenges, and each one has issues that cannot be fully understood by civil servants located thousands of miles away.

This amendment has nothing to do with lowering the deficit. Let me state that again. Eliminating earmarks will not save a single penny in spending. It will simply take decisions that were rightfully made by Congress and delegate them to the executive branch.

In truth, this is a political amendment meant to give cover to those who seek to mislead the American people into thinking earmarks are responsible for our current deficit, and that simply is not the case. Our deficit is driven by entitlement spending that is rising at a rate three times that of inflation, not by discretionary spending that is now capped at less than the rate of inflation. Our deficit is driven by the fact that revenues are at their lowest level in 50 years. A permanent ban on earmarks addresses neither of these matters.

Madam President, finally, I note for my colleagues that the voluntary moratorium in appropriations bills for fiscal year 2012 was 100 percent successful, and the committee will continue the moratorium for fiscal year 2013. Prior to the moratorium taking effect, the Appropriations Committee had to put into place a series of reforms that ensured openness and transparency for earmark requests. Every earmark request was posted online. Every earmark that was approved was listed along with the sponsor's name in committee reports and posted online. There were no secrets and no backroom deals.

The reality is that without congressional earmarks, we find ourselves at the mercy of the bureaucrats to ensure that our local needs are fulfilled. If we approve this amendment, from now on earmarks will be at the sole discretion of the executive branch. Local needs will either go unmet or will be included through deals made between our elected officials and the White House or unelected bureaucrats. No longer will we show the American people what earmarks we are funding and why. Instead, they will be part of a tradeoff between Members and bureaucrats—a bridge in return for support of a trade agreement.

By permanently banning earmarks, the spending decisions will move from the transparent process to discussions that are hidden from the public. So we face a choice between an open and transparent method for allocating targeted funding or one that will be done with phone calls, conversations, winks,

and nods. One method allows for accountability and another leaves us all at the whim of unelected bureaucrats.

I urge my colleagues to vote against the Toomey amendment. This amendment will serve to deprive the Congress of essential congressional prerogatives. It has no impact on the debt, and it is simply designed to give political cover to those who refuse to address the core drivers of our fiscal imbalance—lack of revenues and ever-increasing entitlement spending.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. INOUYE. Madam President, on behalf of the Leader, I ask unanimous consent that any time spent in quorum calls be equally divided between the two sides.

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

Mr. INOUYE. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. KYL. Madam President, I rise to speak on the pending Toomey amendment, an amendment that we will be voting on here after a little bit, amendment No. 1472, known as the Earmark Elimination Act.

I thank Senators TOOMEY and MCCASKILL for continuing this important discussion and commend them as well as numerous other Senators, including my colleague from Arizona, Senator MCCAIN, and Senators COBURN and DEMINT, who have championed reforms to Washington's earmark culture. The concern, as noted by Senators TOOMEY and MCCASKILL, is that the earmark process lacks transparency and scrutiny. I support their efforts to reform the process in a manner that reflects the principles of our Founders and the trust the American people instill in us to represent them.

I wish to confirm, however, that this effort does not restrict Congress's ability to protect the American taxpayer from unnecessary expenses and significant legal exposure. In certain situations, the United States is required to fulfill legal obligations. For example, the United States must resolve water rights claims that American Indian tribes assert against the United States and other water users within an affected State. In those instances, as is common in other litigation, it is in the interest of the United States and the American taxpayer to limit ongoing legal exposure by settling the tribe's water rights claims. Effectuating the terms of such a settlement requires congressional review and approval. Congress will undoubtedly employ the searching scrutiny required to understand whether the settlement is in the best interests of the American people. Such settlements, however, are not amenable to a formula-driven or competitive award process. Rather, the settlements must be addressed and negotiated if and when the claims are asserted against the United States.

Congressionally enacted Indian water rights settlements have not previously fallen within the earmark moratorium. In that vein, I want to confirm with my colleague from Pennsylvania that the Earmark Elimination Act does not restrict Congress's authority to protect taxpayers by limiting the exposure of the United States to similar legal challenges.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Madam President, the Senator from Arizona is absolutely correct. The Earmark Elimination Act is not intended to preclude Congress from effectuating legal settlements, such as Indian water rights settlements, that resolve claims against the United States. This body must maintain its ability to avoid costly litigation and to limit the legal exposure of the United States in a manner that ultimately benefits American taxpayers.

Mr. KYL. I thank my colleague from Pennsylvania. I concur with my colleague in expressing a commitment to ensuring that these positive efforts to reform the earmark process do not result in an unintended consequence whereby Congress's efforts to settle legal claims against the United States are subject to a point of order.

I thank my colleague from Pennsylvania for his efforts, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. INHOFE. I ask unanimous consent that I be recognized for as much time as I consume and that at the conclusion of my remarks, the Senator from Ohio be recognized for such time as he consumes.

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

AMENDMENT NO. 1500

Mr. INHOFE. Madam President, we are going to have a number of votes on amendments this afternoon. I think it is important that we look at this in historic perspective. I am referring to the amendments and the meaning of the Toomey amendment, which I think is very significant.

As most people think about earmarks, yes, we want to do away with this. I am the first to admit that there has been a lot of abuse in the earmark process. I don't want to take sides between authorizers and appropriators, but I can remember several times here on the floor when appropriations bills are coming through, when people are legislating on appropriations bills, when they are swapping out deals. That is the kind of thing we want to stop. I think we have an opportunity to do that today.

I have an amendment. It is my understanding, the way the amendments are stacked up, there is going to be a vote on the Toomey amendment and then a vote on my amendment. Let me talk a little bit about how long we have been working on this issue.

Way back in 2007, I gave a talk to the Grover Norquist group. It was on July 25, 2007. I gave the Senate history of the 200-year fight between appropriators and authorizers.

In 1816 responsibilities between authorizing versus appropriating had been debated. In that year the Senate created the first 11 permanent standing committees.

I think most people understand that we in the Senate, each one of us is on at least two standing committees. Many of these are authorizing committees or appropriating committees. Mine happened to be authorizing committees. My two major committees I have been on since serving in the Senate are the Senate Armed Services Committee and the Environment and Public Works Committee. Both are authorizing committees.

What is significant about this is that there has always been a fight. This is not a new fight. People think this is just going on today. This has been going on literally since 1816.

In 1867 the Senate created the Appropriations Committee. The purpose of that was to have the tax writing put in the Finance Committee and then have the appropriating committee as a separate committee—keeping those functions divided. Here it is now a couple of hundred years later and we are still trying to do the same thing. Today may be the day we can do it, and my amendment actually would do that.

In 1921—I am reading notes from the speech I made in 2007 at the Grover Norquist event—in 1921 the Senate passed the Budget and Accounting Act of 1921. The Senate tried to ensure that authorizing had to take place in a separate committee.

There we go. That is what we are talking about today. My amendment actually resolves the problem because it defines an earmark as an appropriation that hasn't been authorized. In a minute, I am going to talk about that because there is a lot of support for that currently that should be considered.

Let me use my committees as an example. If we were to do away with all earmarks as they are described in the House bill, the earmarks would actually be defined as any appropriation or

authorization. That gets into the huge question we will talk about in a minute—what our Constitution says. It says we, the House and the Senate, should do the spending or the appropriating. This has been this way for a long time.

I am hoping Members will go back and read Joseph Story and some of the great people in the past who have talked about why it is necessary for all the authorizing and the spending to take place in this body, in the Senate and in the House. If that does not happen, we are going to be in a position where we are giving our function to the President. We are ceding our constitutional obligation to the President—in this case, President Obama.

Back in the time I was making this speech initially, I talked about such things. I mentioned this on the floor yesterday. A lot of people do not understand. The budget that comes to us is a budget from the President. It is not from Congress, not from the House, not from the Senate, not from the Democrats, not from the Republicans, it is from the President. The President is the guy who sends the budget down. I am so critical of this President because every one of these budgets now—we have just gotten the fourth budget—has a deficit of over $1 trillion. Unheard of. I can remember back in the days—1996 was the first $1.5 trillion budget. That was during the Clinton administration. I remember coming down to the floor and saying: We cannot sustain this level of spending. That was $1.5 trillion to run the entire United States of America. What President Obama has sent down is $1 trillion to $1.5 trillion in each of his budgets, just deficit alone. We can't continue to do that.

I am on the Armed Services Committee. It is an authorizing committee. It is a committee staffed with experts in every area—missile defense, strike fighters—all of that having to do with defending America. Of course, when the budget comes down, historically—I am talking about historically from 100 years ago—we have taken that budget and analyzed that budget. The Chair is fully aware of this because she sits on that committee. We determine what is the best way to spend the given number of dollars that come down in the budget to best defend America.

The example I used yesterday was in one of the first budgets that came down. I think it was the first budget from President Obama. It had one item that was a $330 million item that was for a launching system that was referred to as a box of rockets—a good system, I might add, but with the scarce dollars we made a determination in the Armed Services Committee that we could take that same $300 million and instead of spending it on a launching system, spend it on six new F–18 strike fighter aircraft. And we did that. That is what we should be able to do. But if you have an earmark ban, then you would not be able to do that. It depends on how it is going to be interpreted, but the way I interpret it, it would mean we cannot change what the President sends down because that would be called a congressional earmark. Some might argue and say: No, it is that only if it happens to be in your district or something like that. That is not what it says, though. The way it is defined is anything that would be an authorization or an appropriation.

So we had the example there in the Armed Services Committee, and one of the unintended consequences would be—I will just use this as an example. I can remember back in the days, I am old enough to remember back when Reagan was President and nobody believed we would ever have a problem with people sending over a missile with some type of a weapon on it that would be very destructive to America, nor did they believe it would be possible, if a missile were coming in, that we could knock down that missile. Well, we have now settled that. Everyone knows you can hit a bullet with a bullet. We have done it before. We are doing a good job.

We also know after having gone through 9/11 that we should have at the very top of our concern as representatives of this country to defend America and to have an enhanced system. So we had a policy that we wanted to have a redundancy in all three phases of missile defense. In missile defense, you have three phases—a boost phase, a midcourse phase, and a terminal phase—and we want to have that. So when we are addressing that, if the President comes in with something that doesn't follow that redundancy, we could be in a position where we would not be able to do what is in the best interests of the country.

I am not the only one who believes that when we say we want an outright ban on all spending—and that is what we are saying, an outright ban on all spending—there is an article that I took out of the Hill Magazine—that would have been about 3 or 4 years ago—saying ''Lobbyists Hitting Up Agencies As Earmark Rate Drops.'' In other words, as we quit spending here, it does not save a cent. That money goes back into the bureaucracy, and they are spending it at that point. So that puts us in the position of, admittedly, what they are talking about—they are actually lobbying the bureaucrats as opposed to Members because that is where all the power is. In other words, we have ceded that power.

I can see a lot of the Democrats wanting to pass an all-out ban on congressional earmarks because they are supporting Obama. Obama wants to do the spending. They want him to do that. I understand that, and I heard from some of the Democrats who do not agree with that, and I appreciate their making that statement on the floor.

But I think as we address this and go back to things that we did on the floor a year and a half ago—this was November 2010—we talked about the Constitution and how it restricts spending only to the legislative branch and specifically denies that honor to the President.

We take an oath of office—

I am reading now from a statement I made on the floor a year and a half ago.

> We take an oath of office to uphold the Constitution of the United States. That means that we take an oath of office to uphold article I section 9 of the Constitution.

What does that say? That says that the spending in our government should be confined to the legislative branch. That is us. If you go and look in the Federalist Papers, it talks about this. Over and over, judges without exception have reinforced this as the constitutional obligation we have.

Sometimes I miss Senator Bob Byrd more than other times, and this is one of the times I do. I can hear him standing on the floor saying: Why is it we are giving up our constitutional right? Remember he used to carry around the Constitution? He would hold it up. I wish he were here today so he could talk about article I, section 9 of the Constitution and how we are ceding that authority to the President.

I mentioned yesterday that one of the problems I have with a permanent moratorium without a definition of what an earmark is—one of the problems we have in giving the President, ceding our authority to him—and there is no better example—a lot of us got quite upset in this body when the President had his $800 billion-or-so stimulus plan. Remember the stimulus plan that didn't stimulate and he spent all this money? And when he signed it, he was talking about how this was going to stimulate. As it turned out, only 3 percent went into roads, highways, and so forth, and only 3 percent into defending America. When he signed it, President Obama said: What I am signing then is a balanced law with a mix of tax cuts and investments. It has been put together without earmarks or the usual porkbarrel spending. So, anyway, we had such examples of earmarks.

In fact, I remember on Sean Hannity's program, he had the 102 most egregious earmarks. In those earmarks was $219,000 to study the hookup and behavior of female college co-eds in New York; $1 million to do fossil research; $1.2 million to build an underpass for deer crossing in Wyoming. There were 102 egregious earmarks and not one of them was a congressional earmark. They are all bureaucratic earmarks. We ceded that so the President, through our action, was able to do all those things he could not otherwise do.

I have a longer list that I ask to be made a part of the RECORD at this point in my presentation, which includes about 10 or 15 other egregious earmarks.

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

FIFTEEN EARMARKS FROM HANNITY'S LIST OF 102 MOST EGREGIOUS EARMARKS

1. $219,000 to a university to study the hookup behavior of female college coeds in New York.
2. $8,408 to a university to study whether mice become disoriented when they consume alcohol.
3. $712,883 to develop ''machine generated humor'' in Illinois.
4. $325,394 to study the mating decisions of Cactus bugs in Florida.
5. $500,000 to Ohio to purchase recycling bins with microchips embedded inside of them.
6. $800,000 to a company in Arizona to install motion sensor light switches.
7. $25,000 for socially conscious puppet shows in Minnesota.
8. $1 million to research fossils in Argentina.
9. $500,000 to study the impact of global warming on wild flowers in a Colorado ghost town.
10. $150,000 to develop the next generation football globes in Pennsylvania.
11. $1.2 million to build a deer underpass in Wyoming.
12. $50,000 to resurface a tennis court in Montana.
13. $15,000 for a storytelling festival in Utah.
14. $14,675 for doormats at the Department of the Army in Texas.
15. $10,000 for the Colorado Dragon Boat Festival.

Mr. INHOFE. As it turned out, the President was the one who did the earmarks of the $800 billion stimulus program.

Again, getting back to article I, section 9:

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.

The law, that is us. We are the legislative branch of government. That is what we are supposed to do. I think everyone understands that. It is unintended, and I know a lot of people out there would say, well, we want to kill all earmarks, without stopping to think that that is all spending and that is our constitutional duty.

I would say if we continue on making permanent and current moratoriums on congressional earmarks, then we are limiting our ability to govern with the President. If all we are doing is handing the President pots of money and requiring that he have competitive grants to disburse the funds, then we are washing our hands of the outcome. There is no light or transparency inherent to the Federal grant-making process. So what we are doing is giving up our constitutional responsibility in ceding that to the President.

It could be that things are going to be refined, with further definitions, and I have no objection to that. But I am saying we have one very simple solution to it. When the votes come up today, I will announce right now, if we don't have a definition of earmark, then I would vote against a permanent moratorium on earmarks because that is our constitutional responsibility.

My amendment is a little bit different, because what I do is define what an earmark is, and an earmark is defined as an appropriation that has not been authorized. I was very proud—2 days ago Senator TOOMEY said that some earmarks ought to be funded, but they ought to be funded in a transparent and honest way subject to evaluation by an authorizing committee. That is exactly what my amendment does. I talked to Senator TOOMEY, and I appreciate the fact that he is very open about this. I will repeat that: Some things ought to be funded, but they should be funded in a transparent and honest way subject to evaluation by an authorization committee. That is my amendment. A definition of an earmark is spending or appropriating without authorizing.

Last year Senator COBURN said: ''It is not wrong to go through an authorization process where your colleagues can actually see it. It is wrong to hide something in a bill . . . .'' Amen. I agree with that. I said earlier, and I said yesterday, I can remember Democrats and Republicans on consideration of appropriations bills sitting on the floor, swapping out deals, making deals back and forth. That is what we want to do something about, and this is not a partisan thing. This is something that has been going on, and we have a way now of doing it.

Senator MCCAIN was kind enough to endorse a freestanding bill I had that does the very thing of defining an earmark as an appropriation that has not been authorized. Senator MCCAIN said: Some earmarks are worthy. If they are worthy, then they should be authorized. Authorized, there is the key, and Senator MCCAIN is exactly right. If you authorize it, then that is the process we want. When an earmark is considered by an authorization committee before it is appropriated, real transparency is brought to the process.

In fact, I remember it was Senator COBURN who said on the floor—and this is about a year and a half ago—he agreed with me and said one good thing about requiring an authorization before an appropriation is that then if it is a bad one, we have two chances to kill it. Senator COBURN is right. We can kill it in the authorization phase or we can kill it in the appropriations phase.

The example I use is a good example in terms of what we and the Armed Services Committee should be doing and are not doing. But I would say to you that this afternoon when we have these votes—it is my understanding we are going to have around 20 votes. A lot of these will be voice voted, I am sure. But the two votes I am concerned about are, No. 1, the vote on the Toomey bill, which I support, but I support it if you can define it and make real transparency set in by having the authorization process in place.

I would only say that we go back to the Constitution. As I mentioned, let's go back to the statements that were made by Senator TOOMEY, Senator MCCAIN, and Senator COBURN, that we want transparency and we don't want to cede the power of our constitutional duty as Members of the Senate to the executive branch. I know some in here would probably want to do that. Some are stronger supporters of Obama than I am. I am very critical of what Obama has done in terms of the deficits, which we have already talked about, in terms of what he is doing to the military. Some trillion dollars over a period of 10 years would be taken out of our military. When you add his budget to the sequestration, that is something that should not happen.

With energy, right now the President is going around talking about how he is for developing energy in this country, and yet he is the obstacle to the development. He is the one who has in his budget the various things that make it very difficult, if not impossible, to get our resources that we have out there in oil and gas.

In fact, it is kind of humorous and very clever of the President. Last week during his State of the Union message the President was talking about wanting to exploit all of our natural gas when he slipped in a little phrase that hardly anyone heard. I know Senator BOXER heard it because she was next to me, and we disagree on this whole issue. He said: We want to go after this type of formation, all the shale that is out there, but we don't want to poison the ground at the same time. Well, what he is talking about there is hydraulic fracturing. If you take away hydraulic fracturing, as he is trying to do, and put that in the hands of the Federal Government, then you might as well say goodbye to all these types of formations, oil and gas. We would not be able to do it. So I am critical of him in that respect.

In the fourth area, in addition to what he is doing to the military, the deficit spending, and energy in this country is regulations. I am the ranking member of the Environmental and Public Works Committee, with all of these MACT programs—that is MACT, maximum achievable control technology. He is trying to do away with emission requirements where there is no technology to get into that type of requirement. So it is very expensive.

The other thing he is trying to do—and I know this is the most controversial issue among liberals and conservatives—and that is we were able to successfully stop this whole global warming cap-and-trade legislation that has been out there ever since we refused to ratify Kyoto. It was made very clear that there is one thing nobody argues with—we know it is true—if you were to have legislation for cap and trade, the cost would be between $300 billion and $400 billion a year. We know that is true. That has come from the MIT, it has come from the CRA, and it has come from the Wharton School. That is the range they talk about. However, now this President is trying to do by regulation what we have voted down in legislation.

Right now in this body of 100 Senators, there are at the very most 25

Members of the Senate who would vote for cap and trade, and yet he is trying to do that through regulation. I have to say that would be the largest amount of money in terms—that would probably exceed the obligations we have to pay back even the deficits he has had. We will talk more about that later, but the issue right now is the two votes that are coming up.

I would encourage us to vote for my amendment, which would define an earmark as an appropriation that has not been authorized. I have read to you quotes from virtually everyone in here who would agree with that, except for those individuals who want to cede this power to the President of the United States.

I yield the floor, and I understand under unanimous consent that the Senator from Ohio would be the next speaker.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Madam President, at the conclusion of my remarks, I ask unanimous consent that the Senator from Iowa, Senator GRASSLEY, be recognized.

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

Mr. BROWN of Ohio. I thank Senator INHOFE for the sensible nature of his words in terms of the difference between a Presidential and a congressional earmark. I think the Senator brought good sense to this, and I appreciate his words.

AMENDMENT NO. 1481

Madam President, I rise in support of amendment No. 1481, cosponsored by Senator MERKLEY, our amendment to the STOCK Act. I thank Senator GILLIBRAND for her good work on managing this legislation.

USA Today had an editorial from Tuesday that said:

> If lawmakers were really concerned with ethics, they'd put their equity holdings in blind trusts, so they wouldn't have the obvious conflict of interest that comes from setting the rules for the companies they own.
>
> Banking committee members wouldn't invest in financial institutions, Armed Services Committee members wouldn't invest in defense contracts, and energy committee members wouldn't invest in oil companies.

How simple is that? How straightforward is that? How right is that? These stories simply don't reflect well on the world's greatest deliberative body. Most of us think these investments don't affect our decisions here, and they probably don't, but isn't it time we held ourselves to a higher standard?

Senator MERKLEY and I are proposing the Putting the People's Interests First Act as an amendment to the STOCK Act. It would require Senators and their senior staff who are subject to financial disclosure—no more than two or three or four of our staff people in each office; the most well paid, those in the highest ranking decision-making position—to sell individual stocks that create conflicts or to put their investments in blind trusts or to invest in only widely held mutual funds.

No one is required to avoid equities. We could still invest in broad-based mutual funds or exchange-traded funds. You can keep your ownership interest in your family farm or small business. I will repeat that: In no way does this affect your ownership in your family farm or small business. If you are setting up a blind trust, you can instruct the trustee to hold onto your stock in your family company. This rule would be similar to steps that have already been taken to address financial conflicts of interest or at least the appearance of financial conflicts.

Senate Ethics rule 37.7 requires committee staff making more than $25,000 per year—way more strict than our amendment in that way—''to divest himself [or herself] of any substantial holdings which may be directly affected by the actions of the committee for which he works.''

The Armed Services Committee requires staff and spouses and dependents to divest themselves of stock in companies doing business with the Department of Defense and the Department of Energy. The committee does permit the use of blind trusts.

When asked about a requirement to divest, former Defense Secretary William Perry said:

> That was very painful, but I do not disagree with the importance of doing this. The potential of corruption is very high. It keeps our government clean.

In the executive branch, Federal rules and Federal criminal law generally prohibit employees, their spouses, and their children from owning stock in companies they regulate. All Senator MERKLEY and I are saying is that Members of the Senate should hold themselves to the same standard we already require of much of our committee staff and executive branch employees. Our staff's requirements are more severe than ours, and we are the ones whose names are on the ballot, we are the ones who are sworn in to do the bidding of the American people. We are the 100 people in this so-called exclusive club and yet we are going to have different rules for us than we do for a $30,000-a-year staff person? That hardly seems right.

Some argue that selling all of our stock will make us lose touch with the rest of society. That kind of thinking falls on deaf ears for most Americans. The ranking member of the House Financial Services Committee doesn't invest in stocks. Instead he invests in State and local bonds with a small amount directed into mutual funds. When asked, Congressman FRANK of Massachusetts said: ''I get a steady 4.5 percent, and I help my state in the process. I'm a patriot, and I'm making money too.''

Why should Members of the Senate who own stock in oil companies vote on issues that affect the oil industry? Why should Members of the Senate who might own stock in a pharmaceutical company vote on issues that affect health care, on a generic drug bill or on a biologics bill or on Medicare or Medicaid? Appearances matter. Right now the American people don't trust that we are acting in the Nation's best interest far too many times. Investing in broadly held funds or a blind trust will keep us in touch with society. It is not a retreat from the U.S. economy. Instead it will keep us from picking winners and losers. It will show the public that our focus is on policies that will help grow the economy. Again, I am not accusing any of my colleagues, if they own an oil stock, of voting for more tax breaks for the oil industry. I am not saying they do that; I am saying there is the appearance that some of them might do it.

We need to remember that public service is a privilege. Folks around Washington are already paid well in these jobs. There is no reason they need to be buying and selling stocks in small or multimillion-dollar portfolios.

When asked about the fact that Senate Armed Services Committee conflict-of-interest rules apply only to staff and Department of Defense appointees—but not to Senators—again, when asked about the fact that the Senate Armed Services Committee conflict-of-interest rules apply to staff people—and, again, not necessarily highly paid staff—and Department of Defense appointees, President Bush's Deputy Secretary of Defense, Gordon England, said: ''I think Congress should abide by the same rules we impose on other people.''

No kidding. Really.

In a State of the Union Message, the President said: ''Let's limit any elected official from owning stocks in industries they impact.''

As we cast votes, we all—the 100 Members of the Senate—have an impact on all kinds of industries every day, on all our economies.

I agree with Under Secretary England. I agree with President Obama. I agree with Senator MERKLEY as we offer this amendment. It is simple and direct. The public should expect nothing less from us.

Thank you.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 1493 TO AMENDMENT NO. 1470

Mr. GRASSLEY. Before I speak on the amendment, I ask unanimous consent that the pending amendment be set aside to call up my amendment No. 1493 and make that the pending amendment.

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

The clerk will report.

The legislative clerk read as follows:

> The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 1493.

Mr. GRASSLEY. 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 require disclosure of political intelligence activities under Lobbying Disclosure Act of 1995)

At the end of the amendment, insert the following:

SEC. ___. DISCLOSURE OF POLITICAL INTELLIGENCE ACTIVITIES UNDER LOBBYING DISCLOSURE ACT.

(a) DEFINITIONS.—Section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602) is amended—

(1) in paragraph (2)—

(A) by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''; and

(B) by inserting after ''lobbyists'' the following: ''or political intelligence consultants''; and

(2) by adding at the end the following new paragraphs:

''(17) POLITICAL INTELLIGENCE ACTIVITIES.—The term 'political intelligence activities' means political intelligence contacts and efforts in support of such contacts, including preparation and planning activities, research, and other background work that is intended, at the time it is performed, for use in contacts, and coordination with such contacts and efforts of others.

''(18) POLITICAL INTELLIGENCE CONTACT.—

''(A) DEFINITION.—The term 'political intelligence contact' means any oral or written communication (including an electronic communication) to or from a covered executive branch official or a covered legislative branch official, the information derived from which is intended for use in analyzing securities or commodities markets, or in informing investment decisions, and which is made on behalf of a client with regard to—

''(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

''(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government; or

''(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license).

''(B) EXCEPTION.—The term 'political intelligence contact' does not include a communication that is made by or to a representative of the media if the purpose of the communication is gathering and disseminating news and information to the public.

''(19) POLITICAL INTELLIGENCE FIRM.—The term 'political intelligence firm' means a person or entity that has 1 or more employees who are political intelligence consultants to a client other than that person or entity.

''(20) POLITICAL INTELLIGENCE CONSULTANT.—The term 'political intelligence consultant' means any individual who is employed or retained by a client for financial or other compensation for services that include one or more political intelligence contacts.''.

(b) REGISTRATION REQUIREMENT.—Section 4 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting after ''whichever is earlier,'' the following: ''or a political intelligence consultant first makes a political intelligence contact,''; and

(ii) by inserting after ''such lobbyist'' each place that term appears the following: ''or consultant'';

(B) in paragraph (2), by inserting after ''lobbyists'' each place that term appears the following: ''or political intelligence consultants''; and

(C) in paragraph (3)(A)—

(i) by inserting after ''lobbying activities'' each place that term appears the following: ''and political intelligence activities''; and

(ii) in clause (i), by inserting after ''lobbying firm'' the following: ''or political intelligence firm'';

(2) in subsection (b)—

(A) in paragraph (3), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities'';

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by inserting after ''lobbying activities'' the following: ''or political intelligence activities''; and

(ii) in subparagraph (C), by inserting after ''lobbying activity'' the following: ''or political intelligence activity'';

(C) in paragraph (5), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities'';

(D) in paragraph (6), by inserting after ''lobbyist'' each place that term appears the following: ''or political intelligence consultant''; and

(E) in the matter following paragraph (6), by inserting ''or political intelligence activities'' after ''such lobbying activities'';

(3) in subsection (c)—

(A) in paragraph (1), by inserting after ''lobbying contacts'' the following: ''or political intelligence contacts''; and

(B) in paragraph (2)—

(i) by inserting after ''lobbying contact'' the following: ''or political intelligence contact''; and

(ii) by inserting after ''lobbying contacts'' the following: ''and political intelligence contacts''; and

(4) in subsection (d), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''.

(c) REPORTS BY REGISTERED POLITICAL INTELLIGENCE CONSULTANTS.—Section 5 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604) is amended—

(1) in subsection (a), by inserting after ''lobbying activities'' the following: ''and political intelligence activities'';

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by inserting after ''lobbying activities'' the following: ''or political intelligence activities'';

(ii) in subparagraph (A)—

(I) by inserting after ''lobbyist'' the following: ''or political intelligence consultant''; and

(II) by inserting after ''lobbying activities'' the following: ''or political intelligence activities'';

(iii) in subparagraph (B), by inserting after ''lobbyists'' the following: ''and political intelligence consultants''; and

(iv) in subparagraph (C), by inserting after ''lobbyists'' the following: ''or political intelligence consultants'';

(B) in paragraph (3)—

(i) by inserting after ''lobbying firm'' the following: ''or political intelligence firm''; and

(ii) by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''; and

(C) in paragraph (4), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''; and

(3) in subsection (d)(1), in the matter preceding subparagraph (A), by inserting ''or a political intelligence consultant'' after ''a lobbyist''.

(d) DISCLOSURE AND ENFORCEMENT.—Section 6(a) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1605) is amended—

(1) in paragraph (3)(A), by inserting after ''lobbying firms'' the following: '', political intelligence consultants, political intelligence firms,'';

(2) in paragraph (7), by striking ''or lobbying firm'' and inserting ''lobbying firm, political intelligence consultant, or political intelligence firm''; and

(3) in paragraph (8), by striking ''or lobbying firm'' and inserting ''lobbying firm, political intelligence consultant, or political intelligence firm''.

(e) RULES OF CONSTRUCTION.—Section 8(b) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1607(b)) is amended by striking ''or lobbying contacts'' and inserting ''lobbying contacts, political intelligence activities, or political intelligence contacts''.

(f) IDENTIFICATION OF CLIENTS AND COVERED OFFICIALS.—Section 14 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1609) is amended—

(1) in subsection (a)—

(A) in the heading, by inserting ''OR POLITICAL INTELLIGENCE'' after ''LOBBYING'';

(B) by inserting ''or political intelligence contact'' after ''lobbying contact'' each place that term appears; and

(C) in paragraph (2), by inserting ''or political intelligence activity, as the case may be'' after ''lobbying activity'';

(2) in subsection (b)—

(A) in the heading, by inserting ''OR POLITICAL INTELLIGENCE'' after ''LOBBYING'';

(B) by inserting ''or political intelligence contact'' after ''lobbying contact'' each place that term appears; and

(C) in paragraph (2), by inserting ''or political intelligence activity, as the case may be'' after ''lobbying activity''; and

(3) in subsection (c), by inserting ''or political intelligence contact'' after ''lobbying contact''.

(g) ANNUAL AUDITS AND REPORTS BY COMPTROLLER GENERAL.—Section 26 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1614) is amended—

(1) in subsection (a)—

(A) by inserting ''political intelligence firms, political intelligence consultants,'' after ''lobbying firms''; and

(B) by striking ''lobbying registrations'' and inserting ''registrations'';

(2) in subsection (b)(1)(A), by inserting ''political intelligence firms, political intelligence consultants,'' after ''lobbying firms''; and

(3) in subsection (c), by inserting ''or political intelligence consultant'' after ''a lobbyist''.

Mr. GRASSLEY. Madam President, the Wall Street Journal recently reported that political intelligence is an approximately $100 million industry. The article also says that expert networks employ over 2,000 people to do political intelligence in Washington, DC.

We have to say approximately because no one truly knows how many people work in this industry. We don't know from whom they seek information, what happens to that information, and how much they get paid. This is a problem if one believes in transparency in government and if one believes in the purposes behind this legislation, as I do—the underlying legislation—that Members of the Senate and Congress should not benefit from insider trading information.

So we have people in this city or people who come into this city to get information on what Congress might do or what their regulators might do that might affect the stock in some company or something, and this political intelligence information is gathered and given to people who presumably profit from it or I guess these people wouldn't be employed in the first place. So there is a growing unregulated industry with no transparency. If a lobbyist has to register in order to advocate for a school or a church or a private corporation, shouldn't the same lobbyist have to register if he or she is seeking and getting inside information that ends up in making people a profit? This is especially true if that information would make millions for a hedge fund or a private equity firm.

We have current law. Under current law, this is not the case. We have no registration of these people and we don't know who they are. So we go back to amendment No. 1493. My amendment merely brings sunlight to this unregulated area. It defines what a political intelligence lobbyist is and requires that person or firm to register. In other words, it requires them to do what, under the 1995 law, every lobbyist has to do.

I understand some would say there have not been hearings on this subject and that it should be studied first. But there isn't much that is complicated about this amendment. It is pretty simple. If a person seeks information from Congress in order to make money, the American people have a right to know the name of that person and who that person is selling that information to. That is just pretty basic good government, isn't it? It is the same as if a person is a lobbyist for a piece of legislation under laws going back to 1946 and amended since then, they have to register. The public has a right to know who the lobbyist is, whom they are working for, and what they are lobbying for or against.

This amendment isn't just helpful to the American people, though. It isn't just helpful to make people responsible, because the more transparency we have the more accountability there is and the more openness we have in government the better off we are. So I make a case to help the American people, yes. But it is also going to help Members of Congress and our staff who are trying to decipher their duties under this proposed legislation.

Senators have raised the question: How will we know if the people we speak to trade on what we say? So to answer that question, we require the people doing it to be responsible. So we achieve more transparency in government, and we even help Members of Congress and our staff because these political intelligence people are pretty smart. They know where to get the information because they come to us and ask questions, but we might not know why they are asking the questions. So it is going to help Members of Congress and our staff as well. By requiring lobbyists who sell information to stock traders to register, Members and staff then have an easy way to track who these people are and to whom they would sell their information. This strengthens the bill, from my point of view, and helps Members and staff comply with its requirements.

So I hope we can pass this amendment soon and bring light and transparency to this growing industry and, when we are talking to someone, know who they are, what they seek, whom they are working for, et cetera.

With that, I yield the floor, and 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. SHELBY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 1491

Mr. SHELBY. Madam President, I rise again today to speak on behalf of fairness. We have heard quite a bit from the President on the campaign trail about fairness. But it appears there is no interest in fairness when it comes to transparency for the executive branch.

The bill we are currently debating in the Senate will subject Congress to additional reporting requirements for certain financial transactions. The goal is to ensure that Members of Congress and congressional staff are not using their unique access to confidential information for personal gain. That goal is worthy.

I believe this is an appropriate goal, and one I fully support. I do not understand, however, why the additional reporting requirements do not extend to members of the executive branch who arguably have even greater access to such confidential information than Members of Congress and their staffs do.

It only seems fair that executive branch officials, who are already required to file annual financial reports, as we are, also be directed to meet the same additional reporting requirements being imposed on the legislative branch.

I have yet to hear a compelling argument against equity between the branches. Some people have argued that the executive branch has other ways to deal with insider trading. Think about it. But none of those will subject executive branch employees to the same public scrutiny as this legislation would. I believe what is good for the goose, it seems to me, should be good for the gander. We have heard that all of our life.

I understand there is a willingness on the other side to expand the reporting requirements, but it would fall far short of parity.

Some have said here it would cost too much. But if we are willing to expand the population of executive branch officials required to report publicly, then any further expansion will only present marginal additional costs.

Currently, less than 1 percent of the executive branch workforce is required to file financial disclosure statements. The other 99 percent are not. My parity amendment will not expand that universe. It will only require them to meet the same reporting standards that will apply to the Congress itself.

As I understand it, the Democratic alternative to my amendment would produce some bizarre results. For example, a Senate office administrator who meets the reporting threshold would be required to report publicly as directed in this bill, but the head of enforcement at the Securities and Exchange Commission would not. That is bizarre. A Senate scheduler may have to make additional public disclosures, but the General Counsel of the Federal Reserve would not. This is not fair, and I believe it is unacceptable.

My amendment simply says if you are an executive branch or independent agency official and you currently file financial disclosure reports, you will have to comply with the same public reporting requirements contained in this bill that we plan to impose on the Congress.

My amendment also contains the same military personnel exemption that the Democratic alternative does, as well as the same 2-year implementation provision.

My amendment is simple, fair, and deserves the support of every Member of this body. If my friends on the other side of the aisle believe in fairness, this would be a very good way to show it.

I yield the floor.

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. GILLIBRAND. Madam 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. 1489, AS MODIFIED, AND 1485, AS MODIFIED

Mrs. GILLIBRAND. Madam President, on behalf of Senator BOXER, I ask unanimous consent that the Boxer-Isakson amendment No. 1489 be modified with the changes that are at the desk; that the order for a Collins side-by-side amendment be vitiated; that the Paul amendment No. 1485 be modified with the changes that are at the desk; further, that the order for the Lieberman side-by-side amendment to the Paul amendment be vitiated.

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

The amendments, as modified, are as follows:

AMENDMENT NO. 1489, AS MODIFIED

(Purpose: To require full and complete public disclosure of the terms of home mortgages held by Members of Congress, the President, the Vice President, and executive branch officers nominated or appointed to a position by the President, by and with the advice and consent of the Senate)

At the end, add the following:

SECTION 11. REQUIRING MORTGAGE DISCLOSURE.

Section 102(a)(4)(A) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended by striking ''spouse; and'' and inserting the following: ''spouse, except that this exception shall not apply to a reporting individual—

''(i) described in paragraph (1), (2), or (9) of section 101(f);

''(ii) described in section 101(b) who has been nominated for appointment as an officer or employee in the executive branch described in subsection (f) of such section, other than—

''(I) an individual appointed to a position—

''(aa) as a Foreign Service Officer below the rank of ambassador; or

''(bb) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O-6 or below; or

''(II) a special government employee, as defined under section 202 of title 18, United States Code; or

''(iii) described in section 101(f) who is in a position in the executive branch the appointment to which is made by the President and requires advice and consent of the Senate, other than—

''(I) an individual appointed to a position—

''(aa) as a Foreign Service Officer below the rank of ambassador; or

''(bb) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O-6 or below; or

''(II) a special government employee, as defined under section 202 of title 18, United States Code; and''.

AMENDMENT NO. 1485, AS MODIFIED

(Purpose: To extend the transaction reporting requirement to judicial officers and senior executive branch employees)

On page 7, strike lines 6 through 9, and insert the following:

''(j)(1) Not later than 30 days after any transaction required to be reported under section 102(a)(5)(B), a Member of Congress or officer or employee of Congress, a judicial officer, or a senior executive branch official shall file a report of the transaction.

''(2) In this subsection, the term 'senior executive branch official' means—

''(A) the President;

''(B) the Vice President; and

''(C) individuals serving in full-time, paid positions required to be appointed by the President with the advice and consent of the Senate but does not include members of the armed services, foreign service, public health service, or the officer corps of the National Oceanic and Atmospheric Administration.''.

AMENDMENTS NOS. 1511 AND 1505 TO AMENDMENT NO. 1470

Mrs. GILLIBRAND. Madam President, I ask unanimous consent to set aside the pending amendment so that I may call up on behalf of Senator LIEBERMAN the side-by-side amendment to the Shelby amendment No. 1491 and on behalf of Senator PORTMAN his amendment No. 1505.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mrs. GILLIBRAND], for Mr. LIEBERMAN, proposes an amendment numbered 1511 to amendment No. 1470.

The Senator from New York [Mrs. GILLIBRAND], for Mr. PORTMAN, proposes an amendment numbered 1505 to amendment No. 1470.

The amendments are as follows:

AMENDMENT NO. 1511

(Purpose: To extend the STOCK Act to ensure that the reporting requirements set forth in the STOCK Act apply to the executive branch and independent agencies)

On page 7, strike lines 6 through 9, insert the following:

''(j) Not later than 30 days after any transaction required to be reported under section 102(a)(5)(B), the following persons, if required to file a report under any other subsection of this section subject to any waivers and exclusions, shall file a report of the transaction:

''(1) A Member of Congress.

''(2) An officer or employee of Congress required to file a report under this section.

''(3) The President.

''(4) The Vice President.

''(5) Each employee appointed to a position in the executive branch, the appointment to which requires advice and consent of the Senate, except for—

''(A) an individual appointed to a position—

''(i) as a Foreign Service Officer below the rank of ambassador; or

''(ii) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O-6 or below; or

''(B) a special government employee, as defined under section 202 of title 18, United States Code.

''(6) Any employee in a position in the executive branch who is a noncareer appointee in the Senior Executive Service (as defined under section 3132(a)(7) of title 5, United States Code) or a similar personnel system for senior employees in the executive branch, such as the Senior Foreign Service, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government.

''(7) The Director of the Office of Government Ethics.

''(8) Any civilian employee, not described in paragraph (5), employed in the Executive Office of the President (other than a special government employee) who holds a commission of appointment from the President.''.

At the end insert the following:

SEC. ___. EXECUTIVE BRANCH REPORTING.

Not later than 2 years after the date of enactment of this Act, the President shall—

(1) ensure that financial disclosure forms filed by officers and employees referred to in section 101(j) of the Ethics in Government Act of 1978 (5 U.S.C. App.) are made available to the public as required by section 8(a) on appropriate official websites of agencies of the executive branch; and

(2) develop systems to enable electronic filing and public access, as required by section 8(b), to the financial disclosure forms of such individuals.

AMENDMENT NO. 1505

(Purpose: To clarify that political intelligence includes information gathered from executive branch employees, Congressional employees, and Members of Congress)

On page 8, lines 23 and 24, strike ''executive branch and legislative branch officials'' and insert ''an executive branch employee, a Member of Congress, or an employee of Congress''.

Mrs. GILLIBRAND. Madam President, we here in the Senate are so close to doing something so basic, so common sense to begin restoring the faith and trust the American people have with this institution. I am encouraged that we have found more to agree on today than that which we disagree on, so we can bring this bill on the floor to a vote.

I thank Leader REID for his extraordinary perseverance and leadership on this issue. I also thank Chairman LIEBERMAN and Ranking Member COLLINS for their vision and their hard work in bringing this strong piece of legislation to the floor. I also thank Senator SCOTT BROWN and our other cosponsors who have worked so hard to do what is right for the American people. And, of course, I thank my colleagues on the other side of the aisle who have worked with us in good faith to bring this legislation to fruition.

We have tried to focus on the specific task at hand, and that is closing loopholes to ensure that Members of Congress play by the exact same rules as every other American. While there are some amendments today that will not meet that test, there are others that will make this bill stronger, and I believe the final product will have teeth.

This sorely needed bill would establish for the first time a clear fiduciary responsibility to the people we serve—removing any doubt that both the SEC and the CFTC are empowered to investigate and prosecute cases involving insider trading of securities from nonpublic information that we have access to when we do our jobs.

We are entrusted with a profound responsibility to the American people: to look out for their best interests, not to do what is in our financial interest. Let's show the people who have sent us here that we as a body can come together and do the right thing.

Today, we are taking a step forward to show them we are worthy of their trust. I encourage all of my colleagues to take this step with us today.

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

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

Mr. LIEBERMAN. Madam President, in 6 or 7 minutes the Senate will begin a series of votes on the matter before us, the STOCK Act. I want to take a few moments to restate the underlying

main purpose of the legislation, which is to respond to the public concern, informed by testimony before our committee from experts on securities law, that it is not totally clear that Members of Congress and our staffs are covered by anti-insider trading laws enforced by the SEC. The No. 1 accomplishment of this proposal will be to make that crystal clear.

We are not exempt from that law; we should not be exempt. I presume most Members of Congress have assumed we have never been exempt. But this will make it clear if anybody crosses the line, they cannot defend themselves by saying that Members of Congress are not covered by the law.

We have also added in committee a couple of provisions which embrace the old but still important notion that sunshine is the best disinfectant in government by requiring that the annual financial disclosure reports we file will now be filed electronically and will therefore be available on the Internet. Right now, these are public documents. When they are filed in the Office of the Secretary of the Senate, people have to go there and make copies of them to see them. As Senator BEGICH, our colleague from Alaska, said: That is not easy if you are an Alaskan. This will bring that system up to date.

The third part—which I know is controversial for some, but I think it is sensible—is to require that within 30 days of any stock trades, disclosure forms must be filed with the Senate and also online. I can tell you that the Securities and Exchange Commission has made clear in testimony before the House committee and in discussions with our staff that that kind of periodic requirement for disclosure of trades in stock and securities will help them do the job we want them to do to make sure that insider trading laws are not being violated and, of course, will keep the public, our constituents, informed of what we are about.

A number of amendments are up. As Senator REID said, I hope we don't have rollcall votes on all of them. I think a number of them will receive unanimous support on both sides. I hope we can adopt them by voice.

There is one amendment, Senator SHELBY's amendment No. 1491, to which, as part of the agreement, I filed a side-by-side, as it were. I support the goal that Senator SHELBY has of holding the executive branch accountable in ways similar to the way we are; that is, the amendment, generally speaking, would extend the 30-day reporting requirement, disclosure requirement, to a very large number of executive branch employees. That, to me, is the problem. It is too broad. It would create a cost and an unnecessary reporting system for many executive branch employees.

I want to point out here that when it comes to avoiding and preventing conflicts of interest, the executive branch is probably well ahead of the legislative branch. The ethics rules requirement and guidance put forward over the years by the Office of Government Ethics at the agencies are extensive and address a wide range of potential conflicts of interest and/or improprieties. They have teeth, criminal sanctions.

For instance, high-level executive branch employees already file financial disclosure forms that face a very extensive system of agency review. These agency officials and career civil servants are often forced to divest themselves of their stock holdings if they seem to be in conflict with their responsibilities or to recuse themselves, not to be involved in matters in order to minimize potential conflicts of interest. That is a much different standard than we impose on ourselves, which is the standard of disclosure.

I have introduced a version of Senator SHELBY's amendment, which I think achieves his goal in a significant way but not so broadly. Rather than the tens of thousands of people encompassed in the Shelby amendment, mine is targeted at policymakers most equivalent to those of us in Congress and those who work with us; that is, positions in our government that are Senate-confirmed and also certain high-level White House and agency staff who might not be Senate-confirmed but are policymakers. These individuals are public officials with visible high-profile roles, and the extra scrutiny that comes with increased reporting requirements seems to be more appropriate for this group—including the President, Vice President, appointees in the White House, the so-called policy czars, special assistants to the President, as well as members of the Federal Reserve Board.

I hope we can take this significant step to achieve what Senator SHELBY had in mind, but not, if I can put it this way, overdo it in a way that will actually, according to comments we have had from people in the executive branch, get in the way of the existing very tough ethics rules they live under now.

I yield the floor at this point.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, first, let me commend the chairman of our committee, Senator LIEBERMAN. As always, it has been a great pleasure to work with him to produce this bill. I also wish to commend the author of the bill, Senator SCOTT BROWN, who was the first to introduce this legislation in the Senate, and also praise the work of the Senator from New York, Mrs. GILLIBRAND, for her contributions.

The STOCK Act is intended to affirm that Members of Congress are not exempt from our laws prohibiting insider trading. There are disputes among the experts about whether this legislation is necessary, but we feel we should send a very strong message to the American public that we understand Members of Congress are not exempt from insider trading laws, and that is exactly what this bill does.

We need to reassure a skeptical public that we understand elective office is a place for public service, not for private gain. Underscoring that important message is clearly the purpose of this bill, and that is why I support it.

I thank the Chair.

AMENDMENTS NOS. 1478, 1477, 1474, 1476, 1490, 1492, AND 1503 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, the following amendments are withdrawn:

Amendment No. 1478, amendment No. 1477, amendment No. 1474, amendment No. 1476, amendment No. 1490, amendment No. 1492, and amendment No. 1503.

AMENDMENT NO. 1482

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 1482, offered by the Senator from Connecticut, Mr. LIEBERMAN.

Mr. LIEBERMAN. Madam President, this is a highly technical amendment. It simply says the GAO report, required by the underlying bill on the question of political intelligence, be sent not only to the Committee on Government Oversight in the House but also to the Judiciary Committee.

If there is no objection, I urge the adoption of the amendment. I don't believe there is any opposition and, therefore, no need for a rollcall vote.

The PRESIDING OFFICER (Mr. SANDERS). Is there further debate?

If not, the question is on agreeing to amendment No. 1482.

The amendment was agreed to.

AMENDMENT NO. 1484

The PRESIDING OFFICER. The question is on the Paul amendment, No. 1484. There is 2 minutes of debate, equally divided, on this amendment.

The Senator from Kentucky.

Mr. PAUL. Mr. President, I rise in support of this amendment. This amendment would strike the underlying bill and would replace it with an affirmation that we are not exempt from insider trading and that each Senator would sign a statement each year affirming they did not participate in insider trading.

I think this is the way to go. I think the American people want to be sure we are not exempt. I think this is a good way to do it without creating a bureaucracy and a nightmare that may well have many unintended consequences.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I respectfully oppose the amendment. It would, as the Senator from Kentucky, with his characteristic directness said, strike the entire bill. The affirmation by Members they have not violated insider trading laws is, in my opinion, not enough. In the opinion of the SEC, it is not enough because it doesn't establish the duty of trust this underlying bill does that is required to guarantee charges against a Member of Congress or staff on insider trading

will not be successfully defended against on the argument that Members are not covered.

I yield the rest of my time to my friend from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I too am opposed to the amendment offered by Senator PAUL. I do think the idea of a certification is a good one, but, unfortunately, Senator PAUL's amendment would strike the provisions of the bill that affirm the duty we have to the American people and that scholars who testified before the committee said was necessary.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The question is on agreeing to the amendment. The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Alabama (Mr. SESSIONS).

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

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

[Rollcall Vote No. 4 Leg.]

YEAS—37

Alexander	Crapo	Moran
Ayotte	DeMint	Nelson (NE)
Barrasso	Enzi	Paul
Begich	Graham	Risch
Blunt	Hatch	Roberts
Burr	Hoeven	Shelby
Chambliss	Johnson (SD)	Thune
Coats	Johnson (WI)	Toomey
Coburn	Kyl	Warner
Cochran	Leahy	Webb
Conrad	Lee	Wicker
Corker	Lugar	
Cornyn	McConnell	

NAYS—61

Akaka	Harkin	Murray
Baucus	Heller	Nelson (FL)
Bennet	Hutchison	Portman
Bingaman	Inhofe	Pryor
Blumenthal	Inouye	Reed
Boozman	Isakson	Reid
Boxer	Johanns	Rockefeller
Brown (MA)	Kerry	Rubio
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Snowe
Casey	Levin	Stabenow
Collins	Lieberman	Tester
Coons	Manchin	Udall (CO)
Durbin	McCain	Udall (NM)
Feinstein	McCaskill	Vitter
Franken	Menendez	Whitehouse
Gillibrand	Merkley	Wyden
Grassley	Mikulski	
Hagan	Murkowski	

NOT VOTING—2

Kirk	Sessions

The amendment (No. 1484) was rejected.

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

Ms. COLLINS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1487

The PRESIDING OFFICER. Under the previous order, there is 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1487, offered by the Senator from Kentucky, Mr. PAUL. This amendment is subject to a 60-vote threshold.

The Senator from Kentucky is recognized.

Mr. PAUL. Mr. President, this amendment would say that those in the executive branch who decide loans and grants, if they have a self-interest in the company or if their family has a self-interest in the company, they should not be making decisions awarding grants and awarding loans. I think the idea that you should not make money off of government is an important one, but it is not just Congress that this should apply to; this should apply to the executive branch. We should not have hundreds of millions of dollars in loans—even billions of dollars in loans—dispensed by people who used to work for that company or whose family still works for the company.

I yield my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. This is one of a series of amendments in which our colleagues are applying ethics rules to the executive branch although the bill, of course, is focused on Members of Congress. In this case, this applies probably the harshest penalty that has ever been applied to members of the executive branch. The fact is, executive branch employees are already subject to an effective, in some ways broader ethics regime than we face now. It is backed up by criminal sanctions. As an example, executive branch employees file financial disclosure forms. Agency ethics officials who examine them can compel divestiture of holdings. They can require the individual to recuse himself from certain matters and, if recusal is not sufficient, the agency can reassign the individual.

In this case, Senator PAUL would say that an executive branch employee is forbidden from holding a position in which they or their family have any financial interest of $5,000 or more, so I oppose the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a second?

There appears to be a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—48

Alexander	Enzi	McConnell
Ayotte	Graham	Menendez
Barrasso	Grassley	Moran
Blunt	Hatch	Nelson (NE)
Boozman	Heller	Nelson (FL)
Burr	Hutchison	Paul
Cantwell	Inhofe	Risch
Carper	Isakson	Roberts
Casey	Johnson (WI)	Rubio
Chambliss	Klobuchar	Sessions
Coats	Kyl	Shelby
Coburn	Lee	Snowe
Corker	Levin	Stabenow
Cornyn	Lugar	Thune
Crapo	McCain	Toomey
DeMint	McCaskill	Vitter

NAYS—51

Akaka	Gillibrand	Murray
Baucus	Hagan	Portman
Begich	Harkin	Pryor
Bennet	Hoeven	Reed
Bingaman	Inouye	Reid
Blumenthal	Johanns	Rockefeller
Boxer	Johnson (SD)	Sanders
Brown (MA)	Kerry	Schumer
Brown (OH)	Kohl	Shaheen
Cardin	Landrieu	Tester
Cochran	Lautenberg	Udall (CO)
Collins	Leahy	Udall (NM)
Conrad	Lieberman	Warner
Coons	Manchin	Webb
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wicker
Franken	Murkowski	Wyden

NOT VOTING—1

Kirk

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

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

Mrs. COLLINS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1511

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1511 offered by the Senator from Connecticut, Mr. LIEBERMAN.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, this is a side-by-side with an amendment offered by my friend from Alabama. The question is, How many employees of the executive branch of government should be required to electronically file their disclosure statements? I believe, respectfully, Senator SHELBY's amendment requires maybe more than 300,000 Federal employees, including many who filed confidential disclosure statements.

This amendment would include people in the Federal executive branch who hold positions equivalent to those of us in Congress who are policymakers, and that includes the President, the Vice President, appointees in the White House, members of the Federal Reserve Board, and Senior Executive Service. It is the difference between applying this requirement to 2,000 executive employees or more than 300,000 Federal employees.

I yield the remainder of my time.

The PRESIDING OFFICER (Mrs. SHAHEEN). There is no time remaining.

The Senator from Alabama.

Mr. SHELBY. Madam President, the Lieberman amendment is a side-by-side with the Shelby amendment. This Lieberman amendment would create loopholes, disparity, and it undermines the true transparency. I encourage my colleagues to oppose it.

On the other hand, my amendment would be a side-by-side, and it creates parity, fairness, and true transparency. Without transparency the American people will be left in the dark. Also, the Senator from Connecticut is talking about who would have to file these. It will be the same people who have to file disclosures now. Why should they be exempt? My amendment would make it a level playing field. It makes a lot of sense. It is fair, it is honest, and the executive branch should not be excluded for any reason I can think of.

I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. The yeas and nays have been requested.

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. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 81, nays 18, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—81

Akaka	Gillibrand	Merkley
Alexander	Graham	Mikulski
Ayotte	Grassley	Murkowski
Baucus	Hagan	Murray
Begich	Harkin	Nelson (NE)
Bennet	Hatch	Nelson (FL)
Blumenthal	Heller	Paul
Boozman	Hoeven	Pryor
Boxer	Hutchison	Reed
Brown (MA)	Inhofe	Reid
Brown (OH)	Inouye	Risch
Burr	Isakson	Roberts
Cantwell	Johanns	Rockefeller
Cardin	Johnson (SD)	Rubio
Carper	Kerry	Sanders
Casey	Klobuchar	Schumer
Coats	Kohl	Shaheen
Cochran	Kyl	Snowe
Collins	Landrieu	Stabenow
Conrad	Lautenberg	Tester
Coons	Leahy	Thune
Corker	Levin	Udall (CO)
Cornyn	Lieberman	Udall (NM)
Crapo	Manchin	Warner
Durbin	McCain	Webb
Feinstein	McCaskill	Whitehouse
Franken	Menendez	Wyden

NAYS—18

Barrasso	Enzi	Portman
Bingaman	Johnson (WI)	Sessions
Blunt	Lee	Shelby
Chambliss	Lugar	Toomey
Coburn	McConnell	Vitter
DeMint	Moran	Wicker

NOT VOTING—1

Kirk

The amendment was agreed to.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1491

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 1491, as modified, offered by the Senator from Alabama, Mr. SHELBY.

The Senator from Maine.

Ms. COLLINS. Madam President, first, I wish to commend Senator PAUL and Senator SHELBY for raising the issue of extending these requirements to the executive branch. I agree with them. I supported the amendment offered by Senator LIEBERMAN, but I also encourage my colleagues to support the amendment offered by Senator SHELBY. It would take in the independent regulatory agencies, and it goes a little bit deeper into the executive branch. So I think both principles are correct—that the kind of disclosures we are going to be required to make should also apply to high-level executive branch employees.

I thank both the Senator from Kentucky and the Senator from Alabama for their leadership.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Madam President, I appreciate the remarks of the Senator from Maine. She is urging people to vote yea on the Shelby amendment. I appreciate that. It is a good amendment, and I will do the same thing: Vote yea.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I respectfully ask for a ''no'' vote.

As I indicated in support of the side-by-side I offered, executive branch employees are now under very tough ethics regulations requiring, in many cases, divestiture or recusal, and this adds a good requirement which is for some of them to file electronically the disclosure statements they have to make. But the amendment we just passed—mine—would add that requirement to 2,000 of the top-level policymakers in our Federal Government. Senator SHELBY's amendment would extend that to more than 300,000 Federal employees, including some, by our count in the Office of Government Ethics, drivers and secretaries.

In addition to the burden it would place on them unduly, we are asking agencies to stretch personnel and resources to fulfill a totally new requirement when, in fact, we want them to save money and not figure out ways to spend more money.

I respectfully ask my colleagues to vote no.

The PRESIDING OFFICER. The question is on agreeing to the Shelby amendment No. 1491, as modified.

Mr. SHELBY. 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 proceeded to call the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—58

Alexander	Hatch	Nelson (NE)
Ayotte	Heller	Nelson (FL)
Barrasso	Hoeven	Paul
Blunt	Hutchison	Portman
Boozman	Inhofe	Pryor
Brown (MA)	Isakson	Risch
Burr	Johanns	Roberts
Cantwell	Johnson (WI)	Rubio
Chambliss	Kerry	Sessions
Coats	Klobuchar	Shaheen
Coburn	Kyl	Shelby
Cochran	Lee	Snowe
Collins	Lugar	Stabenow
Corker	Manchin	Thune
Cornyn	McCain	Toomey
Crapo	McCaskill	Vitter
DeMint	McConnell	Wicker
Enzi	Merkley	Wyden
Graham	Moran	
Grassley	Murkowski	

NAYS—41

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

NOT VOTING—1

Kirk

The amendment (No. 1491), as modified, was agreed to.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1485 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1485, offered by the Senator from Kentucky, Mr. PAUL.

The Senator from Kentucky.

Mr. PAUL. Madam President, I think the issue has already been addressed by previous amendments. I thank the chairman and the minority ranking member for their addressing this problem.

I ask unanimous consent that the amendment, as modified, be withdrawn.

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

Mr. LIEBERMAN. Madam President, I thank the Senator from Kentucky. I would urge others with amendments

listed here to think of following that example. But certainly as I look at the next four amendments, I think they are all noncontroversial. I would urge their sponsors to have the 2 minutes of debate, and, hopefully, let's have a voice vote so we can proceed.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 1489

Mrs. BOXER. Madam President, I believe my amendment is next.

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Boxer amendment No. 1489.

Mrs. BOXER. Madam President, I would be delighted to take a voice vote on this amendment, which I am proud to say was written by myself and Senator ISAKSON. I am very pleased Senator COLLINS suggested the modification.

All this amendment does is broaden the mortgage disclosure requirements on all of us—Members of Congress—and it does the same thing for the President, the Vice President, and the executive branch employees who are subject to the advice and consent of the Congress.

I think it is fair, I think it is wise, and I think we have had issues that require this to be done.

With that, I yield back my time to Senator COLLINS.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I am very pleased the Senator from California has agreed to modify her amendment to apply it to the executive branch. I thank her very much for her cooperation, and I would suggest the amendment be adopted, as modified, by a voice vote.

Mrs. BOXER. Madam President, I ask for a voice vote.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I ask unanimous consent to vitiate the 60-vote requirement on this amendment.

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

The question is on agreeing to the amendment.

The amendment (No. 1489), as modified, was agreed to.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1505

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, the next amendment is one from Senator PORTMAN. It is No. 1505. It is truly a technical amendment. I do not believe it needs a rollcall vote. I would suggest, with the concurrence of the chairman, that we vitiate the yeas and nays and adopt it by a voice vote.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1505) was agreed to.

Mr. PORTMAN. Madam President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

AMENDMENT NO. 1510 TO AMENDMENT NO. 1470

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Enzi amendment No. 1510.

Ms. COLLINS. Madam President, this is a very good amendment that Senator ENZI has offered. It recognizes the fact that we do not control trades that happen within mutual funds. Thus, there is not a need for reporting every 30 days; rather, we should keep the annual reporting requirement.

It has been cleared by both sides. I do not believe it requires a rollcall vote. I would suggest that we vitiate any rollcall vote that was suggested and adopt it by a voice vote, with the concurrence of the chairman of the committee.

Mr. LIEBERMAN. Madam President, this is a good amendment. I support it.

Ms. COLLINS. Madam President, on behalf of Senator ENZI, I call up the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. ENZI, proposes an amendment numbered 1510 to amendment No. 1470.

The amendment is as follows:

(Purpose: To clarify that the transaction reporting requirement is not intended to apply to widely held investment funds)

At the end of the amendment, insert the following:

SEC. _____. TRANSACTION REPORTING REQUIREMENTS.

The transaction reporting requirements established by section 101(j) of the Ethics in Government Act of 1978, as added by section 6 of this Act, shall not be construed to apply to a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

(1)(A) the fund is publicly traded; or

(B) the assets of the fund are widely diversified; and

(2) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1510) was agreed to.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

AMENDMENT NO. 1498

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Blumenthal amendment No. 1498.

The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Madam President, I would like to take a moment to commend Senator BLUMENTHAL and Senator KIRK. As you all know, Senator KIRK is battling to come back with us. As a gesture and also because it is a good-government measure, this particular amendment, No. 1498, extends the number and types of felonies for which Members of Congress and executive branch employees or an elected State or local government official can lose his or her pension. This is a good-government amendment and an appropriate way to honor our colleague, Senator KIRK, whom we wish a speedy recovery.

I ask to have the yeas and nays by voice vote.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Madam President, I wish to join in acknowledging Senator KIRK's contribution to this amendment. The reason I have offered it is very simply to send a message and have the effect that no corrupt elected official, no official convicted of a felony in connection with his official duties as a Member of Congress should receive one dime of taxpayer money. And that breach of law should have consequences.

I join in asking for a voice vote.

Mr. BROWN of Massachusetts. Madam President, I ask unanimous consent to vitiate the 60-vote threshold on this amendment.

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

The question is on agreeing to the amendment.

The amendment (No. 1498) was agreed to.

Mr. BROWN of Massachusetts. Madam President, I move to reconsider the vote.

Mr. LIEBERMAN. Madam President, I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

AMENDMENT NO. 1472

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Toomey amendment No. 1472.

The Senator from Pennsylvania.

Mr. TOOMEY. Madam President, I rise in support of my amendment. I wish to thank Senator MCCASKILL for cosponsoring this amendment and for her support on this ban on earmarks.

What this amendment does is it would codify the current moratorium that is in place. I commend the majority Senators for extending that moratorium, but let's just codify this now, put this in place, and end this process that lacks any transparency. This is a surgical point of order that would not be held against the entire bill but, rather, just the specific earmark.

Unlike the next amendment, which would allow earmarks on authorization

bills and would permit, for instance, earmarking of the ''bridge to nowhere'' and would only forbid earmarks on appropriations bills, this would be a ban on earmarks of all kinds.

Some suggest that we would be ceding our constitutional control of the purse strings. This is clearly not true. Most of all government spending is not earmarked. Most discretionary spending is not earmarked. That doesn't mean we have ceded our authority to the executive branch. The fact is, we define the terms and the rules under which the spending can occur. That is appropriate, but it ought to happen under scrutiny and should be subject to full review.

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

The Senator from Hawaii.

Mr. INOUYE. Madam President, this amendment does not save any money. It does not reduce the deficit. It simply gives additional power to the President and thereby weakens the legislative branch.

The reality is that without these earmarks, we find ourselves at the mercy of bureaucrats to ensure that our local needs are fulfilled. No one in this Chamber believes that a bureaucrat here in Washington knows better or understands the needs of their home State as well as they do.

So I say again, Madam President, the voluntary moratorium is now 100 percent successful. It will continue in fiscal year 2013.

I urge my colleagues to vote against the Toomey amendment.

Mr. MCCAIN. Mr. President, I come to the floor today to speak in support of Senator TOOMEY's amendment to permanently ban the use of earmarks in Congress. The underlying bill, the STOCK Act, was designed to end a corrupt practice in Congress. I fully support that goal. But if we are serious about ending corruption in Congress, then we must begin by permanently banning earmarks. It is my belief that these two issues go hand and hand.

One of the most blatant examples of the corruption that stems from earmarking is the case of former U.S. Representative Randy Cunningham who now sits in a Federal penitentiary today for selling earmarks. Among the $2.4 million in bribes Cunningham admitted receiving were the sale of his house at an inflated price, the free use of a yacht, a used Rolls-Royce, antique furniture, Persian rugs, jewelry, and a $2,000 contribution for his daughter's college graduation party. In return, he earmarked untold millions of dollars and pressured the Department of Defense to award contracts to his co-conspirators.

Year after year I have been coming to the Senate floor to speak out against the corrupt practice of Congressional earmarking and I have been joined by many of my colleagues such as Senators COBURN and MCCASKILL. Even President Obama called for a ban on earmarks in last year's State of the Union speech. The time has come to end this practice once and for all, permanently.

Let me be clear, both Republicans and Democrats have been guilty of wasting valuable taxpayer dollars on these pet projects. And as the moratorium on earmarking expires at the end of this year, we must move forward with a permanent ban to protect the American taxpayer.

Let me remind my colleagues about our current fiscal situation. Our National debt now stands at over $15 trillion and our deficit stands at $1.3 trillion. In fact, this is the fourth year in a row with deficits over a trillion dollars. Unemployment in our country stands at 8.5 percent and according to CBO, unemployment is expected to remain above 8 percent until 2015. Given these dismal economic numbers, are we prepared to tell the American people that we want to go back to the corrupt practice of earmarking and spend their hard-earned tax dollars on pork barrel projects that have little purpose other than to improve the re-election prospects of their authors?

Some of my colleagues are ''happy'' with their earmarking pasts and have justified carrying on the practice by saying that they only account for a small percentage of our annual budget. That may be the case—but is that really reason enough to continue a practice that breeds corruption? I am very aware that earmarks consume a very small percentage of a budget measured in the trillions. But given the serious problems confronting American families, many of whom wake up every morning wondering if they will lose their job or their house, it is appalling that Congress will not stir itself to relinquish any of its self-serving prerogatives in solidarity with the people we serve, who have had to tighten their own budgets, change their spending habits and restrain their ambitions. It is all the more offensive given that we have had in recent times all the evidence we should require to understand that earmarks are so closely tied to acts of official corruption.

In a report titled ''Why Earmarks Matter'' The Heritage Foundation wrote:

> They Invite Corruption: Congress does have a proper role in determining the rules, eligibility and benefit criteria for federal grant programs. However, allowing lawmakers to select exactly who receives government grants invites corruption. Instead of entering a competitive application process within a federal agency, grant-seekers now often have to hire a lobbyist to win the earmark auction. Encouraged by lobbyists who saw a growth industry in the making, local governments have become hooked on the earmark process for funding improvement projects.
>
> They Encourage Spending: While there may not be a causal relationship between the two, the number of earmarks approved each year tracks closely with growth in Federal spending.
>
> They Distort Priorities: Many earmarks do not add new spending by themselves, but instead redirect funds already slated to be spent through competitive grant programs or by states into specific projects favored by an individual member. So, for example, if a member of the Nevada delegation succeeded in getting a $2 million earmark to build a bicycle trail in Elko in 2005, then that $2 million would be taken out of the $254 million allocated to the Nevada Department of Transportation (DOT) for that year. So if Nevada had wanted to spend that money fixing a highway in rapidly expanding Las Vegas, thanks to the earmark, they would now be out of luck.

If we want to show the American public that we are really serious about preventing corruption in Congress than we owe it to the American people to completely ban all earmarks in Congress. Senator TOOMEY's amendment proposes to do just that and I encourage my colleagues to support his amendment.

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

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

The Senator from Oklahoma.

Mr. INHOFE. Madam President, I wanted to inquire, is there any time remaining?

The PRESIDING OFFICER. There is no time remaining.

Mr. INHOFE. Madam President, I ask unanimous consent that I be recognized for 1 minute.

The PRESIDING OFFICER. Without objection, so ordered.

Mr. DURBIN. Reserving the right to object. I withdraw that reservation.

Mr. TOOMEY. Madam President, reserving the right to object, if the Senator will grant 1 minute on his amendment, then I will not object.

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

The Senator from Oklahoma.

Mr. INHOFE. Madam President, first of all, I appreciate the opportunity to be heard.

I agree with what the author, Senator TOOMEY, is trying to do in terms of what most people think of as an earmark. The problem is this: You can vote for this if you are voting for and are against all earmarks as it is defined. It depends on how you do it. In the House, it is defined, under their rules, and it has been defined here as any type of appropriation or authorization. I would suggest to you, if you get the Constitution and look up article I, section 9, it says that is what we are supposed to be doing here.

So if I knew that my next amendment would pass, which defines an earmark as an appropriation that has not been authorized, which I know Senator TOOMEY and several others agree would be a good idea, then I would be wholeheartedly in support of this. So obviously we should have had that vote first. So I would vote against this even though I agree with what they are trying to do. But my next amendment is going to be the one that is necessary.

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

The question is on agreeing to the amendment. This amendment has a 60-vote threshold.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 40, nays 59, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—40

Ayotte	Graham	Nelson (FL)
Barrasso	Grassley	Paul
Bennet	Hagan	Portman
Boozman	Hatch	Risch
Brown (MA)	Heller	Rubio
Burr	Isakson	Snowe
Chambliss	Johanns	Stabenow
Coats	Johnson (WI)	Thune
Coburn	Kyl	Toomey
Corker	Lee	Udall (CO)
Cornyn	McCain	Vitter
Crapo	McCaskill	Warner
DeMint	McConnell	
Enzi	Moran	

NAYS—59

Akaka	Gillibrand	Murkowski
Alexander	Harkin	Murray
Baucus	Hoeven	Nelson (NE)
Begich	Hutchison	Pryor
Bingaman	Inhofe	Reed
Blumenthal	Inouye	Reid
Blunt	Johnson (SD)	Roberts
Boxer	Kerry	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Sessions
Carper	Lautenberg	Shaheen
Casey	Leahy	Shelby
Cochran	Levin	Tester
Collins	Lieberman	Udall (NM)
Conrad	Lugar	Webb
Coons	Manchin	Whitehouse
Durbin	Menendez	Wicker
Feinstein	Merkley	Wyden
Franken	Mikulski	

NOT VOTING—1

Kirk

The PRESIDING OFFICER. Under the previous order, requiring 60 votes for the adoption of this amendment, the amendment is rejected.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1500

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided, with 1 minute controlled by the Senator from Pennsylvania, Mr. TOOMEY, on amendment No. 1500, offered by the Senator from Oklahoma, Mr. INHOFE. This amendment is also subject to a 60-vote threshold.

Mr. INHOFE. Madam President, I have the utmost respect for Senator TOOMEY and what he is trying to do. To me, this amendment is compatible with what he is trying to do. It merely defines an earmark as an appropriation that has not been authorized.

My junior Senator said on the Senate floor a year ago that, in a way that is good, because if a bad earmark comes up, we have two shots at it—one on authorization and one on appropriation. Senator TOOMEY, Senator MCCAIN, and others have been supportive of the idea that we should go back to authorizing.

We have been fighting this battle since 1816, and it is time we end it. This is a way of doing it, merely defining it as an earmark that hasn't been authorized. I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Madam President, I point out that the Constitution doesn't make a distinction between an authorizing committee and an appropriating committee. I don't think we ought to be having the discussion and argument over who gets the earmark and who doesn't. It is the process that is flawed. It is the process that doesn't have the kind of scrutiny and the transparency and is not subject to competition the way it ought to be before taxpayer dollars are spent. So my objection is to this process wherever this occurs in the Senate or the House.

While I respect the intentions of my colleague from Oklahoma, I disagree with him. I suggest a ''no'' vote.

Mr. INHOFE. Madam President, I further say that after the stimulus bill, all of the 102 most egregious votes last year—or earmarks, not one was a congressional earmark. They were all bureaucratic earmarks. If we don't do our constitutional job under article I, section 9 of the Constitution, the President will be doing our job.

The PRESIDING OFFICER. The Senator's time has expired. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 26, nays 73, as follows:

[Rollcall Vote No. 9 Leg.]

YEAS—26

Alexander	Corker	Portman
Begich	Graham	Roberts
Blunt	Hutchison	Sessions
Boxer	Inhofe	Shelby
Brown (MA)	Isakson	Snowe
Casey	Kohl	Stabenow
Chambliss	Kyl	Thune
Cochran	Murkowski	Wicker
Collins	Nelson (FL)	

NAYS—73

Akaka	Conrad	Hoeven
Ayotte	Coons	Inouye
Barrasso	Cornyn	Johanns
Baucus	Crapo	Johnson (SD)
Bennet	DeMint	Johnson (WI)
Bingaman	Durbin	Kerry
Blumenthal	Enzi	Klobuchar
Boozman	Feinstein	Landrieu
Brown (OH)	Franken	Lautenberg
Burr	Gillibrand	Leahy
Cantwell	Grassley	Lee
Cardin	Hagan	Levin
Carper	Harkin	Lieberman
Coats	Hatch	Lugar
Coburn	Heller	Manchin
McCain	Pryor	Toomey
McCaskill	Reed	Udall (CO)
McConnell	Reid	Udall (NM)
Menendez	Risch	Vitter
Merkley	Rockefeller	Warner
Mikulski	Rubio	Webb
Moran	Sanders	Whitehouse
Murray	Schumer	Wyden
Nelson (NE)	Shaheen	
Paul	Tester	

NOT VOTING—1

Kirk

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Mr. President, I ask unanimous consent to vitiate the 60-vote requirement threshold on amendment No. 1471 and amendment No. 1483.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BROWN of Massachusetts. I would also ask unanimous consent to have the yeas and nays by voice vote on amendment No. 1471 and amendment No. 1483 as well.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1471

Mr. BROWN of Massachusetts. Mr. President, further, before I yield to Senator MCCAIN, I would like to briefly set up amendment No. 1471.

Fannie and Freddie have cost the American taxpayers billions of dollars. This year, they paid exorbitant bonuses to their executives.

I wish to commend Senator MCCAIN for his work on this very important issue and his leadership, and I encourage everybody to vote yes on it.

I now yield to Senator MCCAIN.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I don't have anything more to say. On behalf of myself and Senator ROCKEFELLER, I offer this amendment.

I yield the floor.

Mr. LIEBERMAN. Through the Chair, I was going to ask my friend from Arizona if he is feeling all right.

The PRESIDING OFFICER. The Senator looks just fine.

Mr. LIEBERMAN. He does.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1471) was agreed to.

Mr. BROWN of Massachusetts. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 1483

Mr. LEAHY. Mr. President, am I correct that amendment No. 1483, the Leahy-Cornyn amendment, is next?

The PRESIDING OFFICER. The amendment is now pending.

SECTIONS 205 AND 211

Mr. LEVIN. Mr. President, Senator LEAHY and Senator CORNYN have introduced a rather substantial amendment to the STOCK Act that would strengthen the tools that prosecutors and investigators use to detect and prosecute corruption by public officials. I would like to ask my colleagues a few clarifying questions about how their amendment achieves this laudable goal.

Mr. LEAHY. We would be happy to answer the Senator's questions.

Mr. LEVIN. My first question refers to section 205 of your amendment, covering bribery and graft. What is the purpose of including the phrase ''former public official''? How is it possible to bribe a former public official?

Mr. LEAHY. You cannot bribe a former public official, at least not under the terms of this amendment. Section 205 does ensure that when a public official accepts a bribe in return for taking an official act, the official cannot escape liability by leaving public service before the bribe is received or discovered.

Mr. LEVIN. Under section 205, an ''official act'' can refer to any matter which may ''at any time be pending.'' What prevents this definition from being overbroad and covering matters that a former public official, for example, never anticipated would be pending?

Mr. LEAHY. The former public official must accept the bribe or gratuity ''for or because of'' the official act. If the public official does not know that a matter is pending, the public official cannot accept a bribe ''for or because'' of it.

Mr. LEVIN. Section 205 also refers to an official's ''place of trust and profit.'' What is a ''place of trust and profit''?

Mr. LEAHY. This phrase is in the current bribery and gratuities statute and has been part of the law for decades. Our amendment does not change its definition or the scope of its use. It appears in section 205 because of the way that the amendment is drafted, and it is interpreted consistent with the extensive body of case law on corruption.

Mr. LEVIN. I thank my colleague. Turning to section 211 of your amendment, the ''Prohibition on Undisclosed Self-Dealing By Public Officials,'' what is purpose of codifying this prohibition?

Mr. LEAHY. Without this codification, there is no Federal law prohibiting certain public officials from acting in their own financial interest, at the expense of the public, and in violation of existing State and local law.

Mr. LEVIN. Why is it necessary to make it a Federal crime for a local official to engage in undisclosed self-dealing?

Mr. LEAHY. This is an area where there is a particular Federal interest because if the corrupt official is in State or local law enforcement, there may be no other way to ferret out the corruption. In fact, in Skilling v. United States, the Supreme Court invited Congress to criminalize undisclosed self-dealing in the specific and narrowly tailored way we do today.

Mr. LEVIN. Does this amendment create the potential for arbitrary or politically motivated prosecutions of local officials?

Mr. LEAHY. No, it does not. Criminal liability only attaches when the public official acts with fraudulent intent and does so in knowing violation of existing rules and regulations.

Mr. LEVIN. Why isn't there a magnitude requirement for the financial interest underlying undisclosed self-dealing? If one just reads this section, it appears as though even a trivial, attenuated financial benefit could lead to a violation.

Mr. LEAHY. A trivial, attenuated financial benefit could not lead to this violation because the public official must still act knowingly and with fraudulent intent to receive the benefit, and they must do so in violation of existing law. For example, if State ethics rules do not require disclosure of financial interests below a certain threshold, then undisclosed self-dealing—even with fraudulent intent—below that threshold could not be charged under this statute. Moreover, the amendment requires the public official to act for the purpose of benefiting a financial interest.

Mr. LEVIN. Suppose a local official has not disclosed, as required by a local ordinance, that he owns a home in a targeted improvement district in his county. Then this official votes to install street lights in his town, which lowers crime, improves commerce, and consequently increases the value of his and other homes. Has he committed a Federal offense?

Mr. LEAHY. No, the local official has not committed a Federal offense in the hypothetical you describe. Criminal liability under Federal law only exists if the official knowingly fails to disclose the interest and further intentionally acts to benefit that financial interest and does so with the fraudulent intent required of the mail and wire fraud statute. In the hypothetical you describe, there is no fraud and therefore no criminal activity.

Mr. LEVIN. I thank my colleague for his helpful explanation. There is one more issue I would like to discuss. Section 211 of your amendment includes a definition of ''material information.'' I want to be absolutely clear that this definition is specific to section 211 and is in no way intended to provide any meaning to the phrase ''material information'' as used elsewhere in the STOCK Act or anywhere else in law.

Mr. LEAHY. Senator CORNYN and I worked hard to ensure that our amendment addresses the issue of undisclosed self-dealing in a narrow and precise manner. To make sure there are no ambiguities in the updated honest services statute our amendment creates, we carefully defined the term ''material information'' and made sure we did so in such a way that our definition would apply only to the precise section of the Criminal Code where the new undisclosed self-dealing provision will appear.

Mr. LEVIN. One question that has arisen is whether the definition of ''material information'' in the new Criminal Code section your amendment creates is intended to or could affect other parts of the STOCK Act since the same term also appears in a very different context in other parts of the bill.

Mr. LEAHY. Our definition will have no effect on the term ''material information'' as it appears in other parts of the STOCK Act because it is drafted to apply only to the new Criminal Code provision and not to other criminal laws or the Federal securities laws. On page 12, line 11 of amendment 1483, it says ''definitions—as used in this section:'' and then provides a set of definitions which includes ''material information.'' That provision very clearly applies the definition only to that new Criminal Code section, not to the rest of title 18, to the remainder of the STOCK Act, or to Federal securities law. In fact, this language was drawn from S. 401, the Leahy-Cornyn Public Corruption Prosecutions Improvement Act, and it is the legislative history of that bill and not that of the STOCK Act, that will apply when our amendment is interpreted.

Mr. LEVIN. I thank the Senator for that clarification. In addition to the precise wording of amendment 1483 and clear congressional intent that the phrase used in the new Criminal Code section not be imported to Federal securities law, the definition actually used in your amendment has no applicability or relevance to the materiality considerations that arise in insider trading cases.

I ask Senator CORNYN, does he agree with Senator LEAHY regarding our discussion of the amendment?

Mr. CORNYN. I agree.

Mr. LEVIN. I thank both of my colleagues for working with me to address my questions about the Leahy-Cornyn amendment.

Mr. COBURN. Mr. President, I rise to express my concerns about amendment No. 1483 to the STOCK Act. While we all oppose public corruption and recognize the need for tough laws in this area, I believe this amendment may blur the line between innocent behavior and criminal public corruption offenses. This amendment expands the Federal criminal gratuities statute to cover the gift of anything of value, over $1,000, that is given to a public official simply because of their status as a public official. A unanimous Supreme Court in United States v. Sun-Diamond Growers of California interpreted the honest services law to require the government to actually prove a link between the thing of value given and the specific act. The Court said the thing of value must be given ''for or because

of'' an official act. I am concerned that expanding the crime to include items given merely on the basis of the public official's status goes too far and criminalizes some legitimate conduct.

However, my primary concern with this amendment is the section that gives the Federal Government the authority to interpret, prosecute, and enforce State and local laws. I believe this provision violates the basic principles of federalism embodied in our Constitution. Amendment No. 1483 expands the definition of ''scheme or artifice to defraud'' in Federal criminal law to include the ''undisclosed self-dealing'' of an ''officer, employee, or elected or appointed representative, or person acting for or on behalf of the United States, a State, or a subdivision of a State, or any department, agency or branch of government.'' The amendment defines ''undisclosed self-dealing'' as an official act that furthers or benefits a financial interest of the official or certain family members and associates of the official. Undisclosed self-dealing also occurs when the official knowingly falsifies, conceals, or covers up material information that is required to be disclosed by any Federal, State, or local statute, rule, regulation, or charter or the knowing failure to disclose material information in a manner that is required by a Federal, State, or local statute, rule, regulation, or charter. Thus, this provision makes it a Federal crime for a State or local official to fail to comply with a State or local law, including the mere filing requirements of State or locality. This provision gives the Federal Government the power to enforce State and local laws.

I do not believe our Founders intended for Federal prosecutors to be able to bring Federal criminal cases against State or local officials based on that official allegedly breaking or failing to comply with a State or local law, and the Founders did not intend for Federal judges and Federal courts to be interpreting the State or local laws, expect in limited circumstances. Corruption of State and local officials is a serious problem, but it is not the Federal Government's problem to solve. For these other reasons, I oppose this amendment in its current form.

Mr. LEAHY. Mr. President, the Leahy-Cornyn amendment is drawn from our Public Corruption Prosecution Improvements Act. Our bill has been supported by the United States Department of Justice in a March 2009 letter, and this amendment is supported by the National Taxpayers Union, the FBI Agents Association, the National Association of Assistant United States Attorneys, the nonpartisan Campaign Legal Center, the League of Women Voters, Citizens for Responsibility and Ethics in Washington, Common Cause, and Democracy 21. I am working with Senator CORNYN, the lead Republican cosponsor of our bill and this amendment. We thank Senators CASEY and KIRK for cosponsoring this amendment.

This amendment will provide investigators and prosecutors with the tools they need to hold officials at all levels of government accountable when they act corruptly by closing legal loopholes. This amendment, which reflects a bipartisan, bicameral agreement, will strengthen and clarify key aspects of Federal criminal law and help investigators and prosecutors attack public corruption nationwide. The Senate Judiciary Committee has now reported this bill with bipartisan support in three successive Congresses. The House Judiciary Committee recently reported a companion bill unanimously. It is time for Congress to act to pass serious anti-corruption legislation.

Importantly, the amendment includes a fix to reverse a major step backward in the fight against fraud and corruption. In Skilling v. United States, the Supreme Court sided with a former executive from Enron and greatly narrowed the honest services fraud statute, a law that has been used for decades as a crucial weapon to combat public corruption and self-dealing. The Court's decision leaves corrupt conduct unchecked. Most notably, the Court's decision would leave open the opportunity for state and Federal public officials to secretly act in their own financial self-interest, rather than in the interest of the public. This amendment closes this gaping hole in our anti-corruption laws.

The amendment includes several other provisions designed to tighten existing law. It fixes the gratuities statute to make clear that public officials must not be bought. It reaffirms that public officials may not accept anything worth more than $1,000, other than what is permitted by existing rules and regulations, given to them because of their official position. It strengthens key sentences and gives prosecutors and investigators time to make complex and difficult cases.

As a former State prosecutor, I am sensitive to the dangers of creating too many Federal crimes. In the area of public corruption, however, sometimes it is only the Federal government that can effectively pursue complex corruption matters. Conflicts and relationships can make it difficult for State and local law enforcement, and these matters can require extensive resources that cannot be diverted from hard-pressed local budgets. This Federal law stands as a backstop to help ensure against public corruption.

I also know how important it is that our criminal laws be fair and precise, giving sufficient notice to those who may break the law. It is in that spirit that Senator CORNYN and I, working with Congressmen SENSENBRENNER and QUIGLEY, have refined this legislation. We have made it careful and precise and built in important safeguards. This amendment will only target corrupt conduct.

Right now, a mayor who takes a $1,000 payment to award a contract to a specific company can be prosecuted for corruption, but a mayor who conceals his interest in a company, awards a contract, and secretly makes $1 million out of the deal likely cannot be prosecuted. A contracting officer who accepts thousands of dollars in gifts from a frequent bidder hoping for favorable treatment on some unspecified future contract likely cannot be prosecuted. The Department of Justice has been dismissing counts and cases because of these gaps in the law. It is time to fix them.

If we are serious about addressing the kinds of egregious misconduct that we have witnessed in recent years in high-profile public corruption cases, Congress should enact meaningful legislation to give investigators and prosecutors the tools they need to enforce our laws. Public corruption erodes the faith the American people have in those who are given the privilege of public service. This amendment will help us to take real steps to restore confidence in government by rooting out criminal corruption.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I hope our colleagues will support this amendment that Senator LEAHY and I have worked on. This is an expansion of our Public Corruption and Prosecution Improvements Act which passed the Judiciary Committee last year.

Mr. President, I am proud to co-sponsor this important amendment with Senator PATRICK LEAHY, the distinguished chairman of the Judiciary Committee.

Our amendment is drawn from bipartisan, bicameral legislation—including our Public Corruption Prosecution Improvements Act, which passed the Judiciary Committee last year.

Public corruption is not a Republican or Democratic problem. It is a Washington, DC, problem. And it is a problem in statehouses and city halls across this country. Our citizens deserve to be governed by the rule of law, not the rule of man. Unfortunately, human nature being what it is, a few rotten apples have a tendency to spoil the bunch.

The amendment we will vote on today will strengthen the enforcement of U.S. Federal laws aimed at combating betrayals of public dollars and the public trust. Our amendment does this by making clarifications to public corruption laws and by giving prosecutors precise tools to use in their battle against corrupt officials.

Our amendment increases the maximum punishments on several offenses, including theft and embezzlement of federal funds, bribery, and a number of corrupt campaign contribution practices. For example, it cracks down on theft or bribery related to entities that receive Federal funds, by increasing the maximum sentence for a conviction from 10 to 15 years and lowering the threshold that prosecutors must prove, from $5,000 to $1,000.

It also clarifies the law in response to several court decisions narrowly interpreting the public corruption statutes. For example, the bill revises the definitions of ''illegal gratuities'' and ''official acts,'' clarifying that an entire ''course of conduct'' can be the result of bribery.

Federal investigators who seek to root out corrupt officials will benefit from new tools provided in this legislation. The bill would extend the statute of limitations on certain serious public corruption offenses, giving prosecutors more time to investigate and build a case.

And it expands the criminal venue provisions, allowing prosecutors to bring the case against corrupt officials in any district where some part of the corruption occurred. The bill similarly expands the venue for perjury and obstruction of justice.

I would like to take a minute or two to address concerns that I have heard, including from some on my side of the aisle.

One criticism I have heard is that this legislation ignores federalism principles.

This concern is directed at a portion of the amendment clarifying that the mail and wire fraud statute applies to any public official who uses the interstate mails or wires to advance a fraudulent scheme involving illegally undisclosed self-dealing.

The Supreme Court has interpreted the mail and wire fraud statutes more narrowly—asking that Congress clarify the definition of illegally undisclosed self-dealing.

Under this amendment, the Federal government would only be able to prosecute State officials where they can show, beyond a reasonable doubt, that the State official in question had knowingly or intentionally violated relevant State laws concerning the disclosure of material financial interests.

In other words, this legislation expressly defers to the States to determine what financial disclosures their public officials should be required to make.

Additionally, this provision would require the Federal government to show that the State official in question had engaged in an official act for the material purpose of benefitting the illegally concealed financial interest that they knowingly or intentionally failed to disclose.

Finally, the Federal government would have to show that the course of conduct included a constitutionally-sufficient federal nexus via use of the interstate mails or wires to perpetrate the fraud.

As for federalism principles generally, it is important to note that, under current law, the Federal government still has the authority to prosecute corrupt State officials for bribery and kickback schemes under the mail and wire fraud statutes.

This amendment simply updates and clarifies the honest services fraud statute to reach corrupt conduct—i.e., undisclosed self-dealing—that Congress intended to be part of the criminal law.

Some opponents of this amendment believe that we should repeal portions of current law so that the Federal government has no role whatsoever in rooting out public corruption at the State and local level. I fundamentally disagree.

Consider the all-too-common case of a corrupt State governor or State judge that local prosecutors are loathe to indict—or even investigate—for fear of reprisal.

Finally, I have heard some ask: Would this legislation criminalize the giving of baseball caps, jerseys, or other ceremonial gifts to Members of Congress?

The answer is very simple: No, it would not.

First, the amendment would only apply to status gratuities worth more than $1,000. Second, the amendment would also require prosecutors to prove that the government official in question knowingly accepted the illegal gratuity in violation of the relevant ethics rules or regulations governing their conduct.

I urge my colleagues to support the amendment. I look forward to engaging with any of my colleagues who have concerns or questions.

I thank Chairman LEAHY for his leadership on this and other legislation we have crafted together. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I wish to briefly thank the Senators from Vermont and Texas for this amendment. It strengthens the bill, as does the preceding amendment offered by Senator MCCAIN, and I urge its adoption.

The PRESIDING OFFICER. The question is agreeing to the amendment.

The amendment (No. 1483) was agreed to.

AMENDMENT NO. 1473

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Coburn amendment.

The Senator from Oklahoma.

Mr. COBURN. This is a simple, bipartisan amendment, and we have voted on an identical amendment before, 63 yeas, 33 nays. My colleague, the Senator from Colorado, has been gracious enough to support this amendment. This is straightforward. We just need to know what we are doing when we do it. It requires the CRS to show us if we have duplicated anything before a bill comes before the Senate.

I yield to my colleague from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I rise in support of amendment No. 1473. Senator COBURN and I have introduced this critical amendment to curb Congressional temptations to create more programs, laws and regulations, without first analyzing what already exists. Senator HATCH and I have also introduced legislation to create an official ''Unauthorizing Committee'' that would reinstitute a committee in Congress to rid our government of outdated and ineffective laws.

In the next few weeks, the GAO will release a report showing the extent of the wasteful and duplicative programs in the federal government. It shows that too often Congress focuses on creating new programs and regulations while neglecting our important role of overseeing and reforming existing laws. Our amendment would require that any new bill that is reported from committee contain an analysis from the Congressional Research Service determining if the bill creates any new federal program, office, or initiative that would overlap existing programs. Opponents worry that this amendment will slow the legislative process, but I believe that we must first pursue informed legislating and efficient government.

Senator COBURN and I don't always agree on the reach of government and the investments we ought to make, but we agree that our government ought to be smart, it ought to be efficient, and we shouldn't have duplication. This amendment would see us to that goal. Sixty-three of us voted for this amendment last year. Let's get 63 votes and more.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I respectfully oppose the amendment put in by my two friends. This would amend the Senate rules to make it out of order for the Senate to proceed to any bill or joint resolution unless the committee of jurisdiction has posted on its Web site a CRS analysis of whether the bill would create a new program, office, or initiative that duplicates or overlaps an existing one. So it sounds pretty good on the surface, but there are two problems. One is that CRS tells us it would be hard-pressed to carry out this responsibility, certainly in a timely manner. The second results from the first, which is that this would be another way to slow legislation because it did not yet have the CRS analysis.

A final point is this: The committees of jurisdiction ought to be making their own judgment and probably know better than CRS whether they are creating a new program that duplicates or overlaps an existing one.

So, respectfully, I would urge a ''no'' vote.

Mr. COBURN. Mr. President, I ask unanimous consent for an additional 30 seconds.

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

Mr. COBURN. I have the greatest respect for my chairman on homeland security. I love him dearly.

GAO has already told us we are not doing our job. The first study of the Federal Government showed $100 billion worth of duplication. The second

study is coming. CRS will have this easy because GAO will have already shown them where all the duplication is.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

This amendment does require a two-thirds threshold.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

The yeas and nays resulted—yeas 60, nays 39, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—60

Alexander	Graham	Murkowski
Ayotte	Grassley	Nelson (NE)
Barrasso	Hatch	Nelson (FL)
Begich	Heller	Paul
Bennet	Hoeven	Portman
Blunt	Hutchison	Pryor
Boozman	Inhofe	Risch
Brown (MA)	Isakson	Roberts
Burr	Johanns	Rubio
Casey	Johnson (WI)	Sessions
Chambliss	Klobuchar	Shelby
Coats	Kyl	Snowe
Coburn	Lee	Stabenow
Cochran	Lugar	Tester
Collins	Manchin	Thune
Corker	McCain	Toomey
Cornyn	McCaskill	Udall (CO)
Crapo	McConnell	Vitter
DeMint	Merkley	Warner
Enzi	Moran	Wicker

NAYS—39

Akaka	Franken	Menendez
Baucus	Gillibrand	Mikulski
Bingaman	Hagan	Murray
Blumenthal	Harkin	Reed
Boxer	Inouye	Reid
Brown (OH)	Johnson (SD)	Rockefeller
Cantwell	Kerry	Sanders
Cardin	Kohl	Schumer
Carper	Landrieu	Shaheen
Conrad	Lautenberg	Udall (NM)
Coons	Leahy	Webb
Durbin	Levin	Whitehouse
Feinstein	Lieberman	Wyden

NOT VOTING—1

Kirk

The PRESIDING OFFICER. On this vote the yeas are 60, the nays are 39. Two thirds of the Senators voting not having voted in the affirmative, the amendment is rejected.

The Senator from Connecticut.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1488

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1488, offered by the Senator from South Carolina, Mr. DEMINT. This amendment is subject to a 60-vote threshold.

Mr. DEMINT. Mr. President, it is unfortunate that the actions of a few make it necessary for us to create more rules for the many honest people who serve in Congress, but we must reassure Americans that we are here to serve them and not ourselves. Congressmen and Senators have lots of power and we know that power corrupts. The longer we stay in office the more power we have. Unfortunately, we have seen that power, over a period of time, creates more opportunity and temptation for us to benefit ourselves rather than our constituents.

All of the cases of corruption and bribery I have seen unfortunately come from more senior Members. No offense to my senior Members, please. But this is one of many reasons why we should have term limits in Congress.

My amendment is not a statute. It is a sense of the Senate that says we should have some form of constitutional limit on our terms in office. We are not specific in the number of years, the number of terms. It is a sense of the Senate that we should have some limit on the amount of time we serve. I encourage my colleagues to at least support this and get the debate started.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, for some Members of Congress, 2 years in office is too long. For some Members of Congress, 20 years in office is not long enough. Who should make that decision? The Constitution in its wisdom says the voters of America make that decision. Let's stand by that Constitution and its language and defeat this sense-of-the-Senate resolution.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 24, nays 75, as follows:

[Rollcall Vote No. 11 Leg.]

YEAS—24

Ayotte	Grassley	Moran
Blunt	Hatch	Paul
Boozman	Heller	Portman
Brown (MA)	Hutchison	Rubio
Coburn	Johanns	Sessions
Corker	Johnson (WI)	Thune
DeMint	Lee	Toomey
Graham	Manchin	Vitter

NAYS—75

Akaka	Cantwell	Crapo
Alexander	Cardin	Durbin
Barrasso	Carper	Enzi
Baucus	Casey	Feinstein
Begich	Chambliss	Franken
Bennet	Coats	Gillibrand
Bingaman	Cochran	Hagan
Blumenthal	Collins	Harkin
Boxer	Conrad	Hoeven
Brown (OH)	Coons	Inhofe
Burr	Cornyn	Inouye
Isakson	McConnell	Sanders
Johnson (SD)	Menendez	Schumer
Kerry	Merkley	Shaheen
Klobuchar	Mikulski	Shelby
Kohl	Murkowski	Snowe
Kyl	Murray	Stabenow
Landrieu	Nelson (NE)	Tester
Lautenberg	Nelson (FL)	Udall (CO)
Leahy	Pryor	Udall (NM)
Levin	Reed	Warner
Lieberman	Reid	Webb
Lugar	Risch	Whitehouse
McCain	Roberts	Wicker
McCaskill	Rockefeller	Wyden

NOT VOTING—1

Kirk

THE PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

AMENDMENT NO. 1493

Under the previous order, there will be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 1493 offered by the Senator from Iowa. This amendment is subject to a 60-vote threshold.

The Senator from Iowa.

Mr. GRASSLEY. This is a good government amendment. Similar to the underlying piece of legislation, it is a good government amendment. The manager is going to tell you it ought to be studied a little bit longer. We have gone for far too long not having enough transparency in government. What my amendment does is it takes these people whom you call political intelligence professionals and has them register just like every lobbyist registers, so it is totally transparent when these people come around to get information from you that they sell to hedge funds. You will know who they are. You don't know that now, and transparency in government is very important if you want accountability.

For the Senators and their staffs who have to abide by these laws, they want to make sure they are not doing anything unethical. They have to know who these people are. They can come around and ask us questions. I don't know how many times each of us has maybe been caught up in this. You give them information, and they have information that people don't have on Wall Street and they sell it. We ought to know what we are being used for, and this gives identity to these people. So I want these people registered like lobbyists.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, there may be a problem.

Mr. GRASSLEY. There is a problem.

Mr. LIEBERMAN. But this amendment doesn't fix it. In the bill before the committee, there was a provision to bring so-called political intelligence under the Lobbying Disclosure Act. Political intelligence is defined as information which is intended for use in analyzing securities or commodity markets or information investment decisions, but what does that mean? Does it apply to a retailer who wants to open new stores and calls the Armed

Services Committee to see whether there is a base that is going to be built in a particular neighborhood? Some would say yes; some would say no. Violation of the Lobbying Disclosure Act carries civil and criminal penalties. We just felt we wanted to get the anti-insider trading provision out quickly and study this more. The bill calls for a GAO study.

Senator COLLINS and I announced we are going to hold a hearing on this question. We need a little more time to do it thoughtfully. We are ultimately dealing with first-amendment rights, and we ought not to legislate until we are prepared to do so in a reasonable way.

I ask my colleagues to oppose this amendment.

Mr. GRASSLEY. Do I have time to tell the Senators not to vote for Wall Street, vote for my amendment?

The PRESIDING OFFICER. There is no time. The question is on agreeing to the amendment.

Mr. GRASSLEY. 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. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

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

[Rollcall Vote No. 12 Leg.]

YEAS—60

Ayotte	Graham	Moran
Barrasso	Grassley	Murkowski
Begich	Hatch	Murray
Bennet	Heller	Nelson (FL)
Blunt	Hoeven	Paul
Boozman	Hutchison	Portman
Brown (OH)	Inhofe	Reed
Cantwell	Isakson	Roberts
Cardin	Johnson (WI)	Rubio
Carper	Kerry	Sanders
Casey	Klobuchar	Sessions
Chambliss	Kohl	Shelby
Coats	Lautenberg	Snowe
Coburn	Leahy	Stabenow
Corker	Lugar	Tester
DeMint	Manchin	Thune
Enzi	McCain	Udall (CO)
Feinstein	McCaskill	Whitehouse
Franken	Menendez	Wicker
Gillibrand	Merkley	Wyden

NAYS—39

Akaka	Crapo	Mikulski
Alexander	Durbin	Nelson (NE)
Baucus	Hagan	Pryor
Bingaman	Harkin	Reid
Blumenthal	Inouye	Risch
Boxer	Johanns	Rockefeller
Brown (MA)	Johnson (SD)	Schumer
Burr	Kyl	Shaheen
Cochran	Landrieu	Toomey
Collins	Lee	Udall (NM)
Conrad	Levin	Vitter
Coons	Lieberman	Warner
Cornyn	McConnell	Webb

NOT VOTING—1

Kirk

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is agreed to.

AMENDMENT NO. 1481

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1481, as modified, offered by the Senator from Ohio, Mr. BROWN. This amendment is subject to a 60-vote threshold.

The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, the amendment Senator MERKLEY and I have proposed would require all Senators and their senior staff to sell individual stocks that create conflicts or to place their investments in blind trusts. You can still invest in broad-based mutual funds. You can keep your ownership interest in your family farm or small business.

If you are setting up a blind trust, you can instruct the trustee to hold on to your stock in your family company.

Current Senate ethics rules require committee staff making more than $25,000 a year to ''divest [themselves] of any substantial holdings which may be directly affected by the actions of the committee for which [they work].''

All Senator MERKLEY and I are saying is, Members of the Senate should hold ourselves to the same standard we already require of our committee staff and executive branch employees.

As Senator MERKLEY said, baseball players cannot bet on their games. We should not be able to hold stock in individual companies and then vote on issues that affect our holdings.

I ask for a ''yes'' vote.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I yield half of the time in opposition to Senator TOOMEY.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I thank the Senator from Maine.

I disagree with the fundamental premise of this amendment. I do not think we should all be forced to divest ourselves of all of our holdings. But I think it is worse than it was characterized by my friend from Ohio—worse in the sense that, as I read the definition of the securities that would be covered and as the securities attorneys have advised us on this—we would be required to divest ourselves even of our investment in a small family-owned business, a business that, perhaps, has absolutely no market whatsoever for the equity, and we would, nevertheless, be forced to sell that where there is no buyer.

I think that is a very unreasonable standard, so I would urge a ''no'' vote on this amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to oppose the amendment. This amendment would take Congress from where we have always been and are going to be after this law passes. In pursuit of disclosure and transparency, sunshine is the best guarantee of integrity. This would be the first time I am aware of that in the legislative branch we would require divestment of personal holdings. For that reason, I oppose the amendment.

Remember, in the underlying bill we have increased the public's access to information about our holdings and our transactions. Ultimately, that knowledge ought to be enough to guarantee the public or to energize the public to make sure we are following the highest ethical norms. Divestment, in my opinion, is a step too far.

Ms. COLLINS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 26, nays 73, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—26

Blumenthal	Klobuchar	Sanders
Brown (MA)	Levin	Shaheen
Brown (OH)	Manchin	Snowe
Carper	McCaskill	Stabenow
Casey	Menendez	Udall (CO)
Franken	Merkley	Udall (NM)
Heller	Murkowski	Whitehouse
Hutchison	Pryor	Wyden
Kerry	Reed	

NAYS—73

Akaka	Durbin	McConnell
Alexander	Enzi	Mikulski
Ayotte	Feinstein	Moran
Barrasso	Gillibrand	Murray
Baucus	Graham	Nelson (NE)
Begich	Grassley	Nelson (FL)
Bennet	Hagan	Paul
Bingaman	Harkin	Portman
Blunt	Hatch	Reid
Boozman	Hoeven	Risch
Boxer	Inhofe	Roberts
Burr	Inouye	Rockefeller
Cantwell	Isakson	Rubio
Cardin	Johanns	Schumer
Chambliss	Johnson (SD)	Sessions
Coats	Johnson (WI)	Shelby
Coburn	Kohl	Tester
Cochran	Kyl	Thune
Collins	Landrieu	Toomey
Conrad	Lautenberg	Vitter
Coons	Leahy	Warner
Corker	Lee	Webb
Cornyn	Lieberman	Wicker
Crapo	Lugar	
DeMint	McCain	

NOT VOTING—1

Kirk

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment, as modified, is rejected.

Under the previous order, the substitute amendment, as amended, is agreed to.

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

The PRESIDING OFFICER. Under the previous order, there will now be 2

minutes of debate equally divided prior to a vote on passage.

Mr. LIEBERMAN. Mr. President, this has been a good, open process. We had a good bill that came in. We made it better. I yield back the remainder of my time.

Ms. COLLINS. Mr. President, I am pleased to have joined Chairman LIEBERMAN in helping bring this important bill to passage today.

I would also like to single out Senator SCOTT BROWN of Massachusetts, who was the first Member of this body to introduce legislation on this topic. His leadership in tirelessly moving this bill forward has been indispensable.

Today, we confirm that Members of Congress are not exempt from the country's insider trading laws. We have sent a strong message to the American people that we affirm that we come to Washington for public service, and not for private gain.

We have added several amendments today which I believe strengthened the bill's focus on transparency. We have also extended several of its provisions to encompass all branches of the Federal Government.

Again, I thank my colleagues for their hard work on the bill. And my thanks to our hard-working staff.

The PRESIDING OFFICER. The question is on passage of the bill, as amended.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—96

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

NAYS—3

Bingaman	Burr	Coburn

NOT VOTING—1

Kirk

The bill (S. 2038), as amended, was passed, as follows:

S. 2038

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 ''Stop Trading on Congressional Knowledge Act of 2012'' or the ''STOCK Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MEMBER OF CONGRESS.—The term ''Member of Congress'' means a member of the Senate or House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

(2) EMPLOYEE OF CONGRESS.—The term ''employee of Congress'' means—

(A) an employee of the Senate; or

(B) an employee of the House of Representatives.

(3) EXECUTIVE BRANCH EMPLOYEE.—The term ''executive branch employee''—

(A) has the meaning given the term ''employee'' under section 2105 of title 5, United States Code; and

(B) includes—

(i) the President;

(ii) the Vice President; and

(iii) an employee of the United States Postal Service or the Postal Regulatory Commission.

(4) JUDICIAL OFFICER.—The term ''judicial officer'' has the meaning given that term under section 109(10) of the Ethics in Government Act of 1978.

SEC. 3. PROHIBITION OF THE USE OF NONPUBLIC INFORMATION FOR PRIVATE PROFIT.

The Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives shall issue interpretive guidance of the relevant rules of each chamber, including rules on conflicts of interest and gifts, clarifying that a Member of Congress and an employee of Congress may not use nonpublic information derived from such person's position as a Member of Congress or employee of Congress or gained from the performance of such person's official responsibilities as a means for making a private profit.

SEC. 4. PROHIBITION OF INSIDER TRADING.

(a) AFFIRMATION OF NON-EXEMPTION.—Members of Congress and employees of Congress are not exempt from the insider trading prohibitions arising under the securities laws, including section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder.

(b) DUTY.—

(1) PURPOSE.—The purpose of the amendment made by this subsection is to affirm a duty arising from a relationship of trust and confidence owed by each Member of Congress and each employee of Congress.

(2) AMENDMENT.—Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1) is amended by adding at the end the following:

''(g) DUTY OF MEMBERS AND EMPLOYEES OF CONGRESS.—

''(1) IN GENERAL.—For purposes of the insider trading prohibitions arising under the securities laws, including section 10(b) and Rule 10b–5 thereunder, each Member of Congress or employee of Congress owes a duty arising from a relationship of trust and confidence to the Congress, the United States Government, and the citizens of the United States with respect to material, nonpublic information derived from such person's position as a Member of Congress or employee of Congress or gained from the performance of such person's official responsibilities.

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

''(A) the term 'Member of Congress' means a member of the Senate or House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico; and

''(B) the term 'employee of Congress' means—

''(i) an employee of the Senate; or

''(ii) an employee of the House of Representatives.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to impair or limit the construction of the existing antifraud provisions of the securities laws or the authority of the Commission under those provisions.''.

SEC. 5. CONFORMING CHANGES TO THE COMMODITY EXCHANGE ACT.

Section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) is amended—

(1) in paragraph (3), in the matter preceding subparagraph (A)—

(A) by inserting ''or any Member of Congress or employee of Congress (defined in this subsection as those terms are defined in section 2 of the Stop Trading on Congressional Knowledge Act of 2012)'' after ''Federal Government,'' the first place it appears;

(B) by inserting ''Member,'' after ''position of the''; and

(C) by inserting ''or by Congress'' before ''in a manner''; and

(2) in paragraph (4)—

(A) in subparagraph (A), in the matter preceding clause (i)—

(i) by inserting ''or any Member of Congress or employee of Congress'' after ''Federal Government,'' the first place it appears;

(ii) by inserting ''Member,'' after ''position of the''; and

(iii) by inserting ''or by Congress'' before ''in a manner'';

(B) in subparagraph (B), in the matter preceding clause (i), by inserting ''or any Member of Congress or employee of Congress'' after ''Federal Government,''; and

(C) in subparagraph (C)—

(i) in the matter preceding clause (i), by inserting ''or by Congress''—

(I) before ''that may affect''; and

(II) before ''in a manner''; and

(ii) in clause (iii), by inserting ''to Congress, or any Member of Congress or employee of Congress'' after ''Federal Government''.

SEC. 6. PROMPT REPORTING OF FINANCIAL TRANSACTIONS.

(a) REPORTING REQUIREMENT.—Section 101 of the Ethics in Government Act of 1978 is amended by adding at the end the following subsection:

''(j) Not later than 30 days after any transaction required to be reported under section 102(a)(5)(B), the following persons, if required to file a report under any other subsection of this section subject to any waivers and exclusions, shall file a report of the transaction:

''(1) A Member of Congress.

''(2) An officer or employee of Congress required to file a report under this section.

''(3) The President.

''(4) The Vice President.

''(5) Each employee appointed to a position in the executive branch, the appointment to which requires advice and consent of the Senate, except for—

''(A) an individual appointed to a position—

''(i) as a Foreign Service Officer below the rank of ambassador; or

''(ii) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O–6 or below; or

''(B) a special government employee, as defined under section 202 of title 18, United States Code.

''(6) Any employee in a position in the executive branch who is a noncareer appointee in the Senior Executive Service (as defined under section 3132(a)(7) of title 5, United States Code) or a similar personnel system for senior employees in the executive branch, such as the Senior Foreign Service, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government.

''(7) The Director of the Office of Government Ethics.

''(8) Any civilian employee, not described in paragraph (5), employed in the Executive Office of the President (other than a special government employee) who holds a commission of appointment from the President.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions occurring on or after the date that is 90 days after the date of enactment of this Act.

SEC. 7. REPORT ON POLITICAL INTELLIGENCE ACTIVITIES.

(a) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Congressional Research Service, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform and the Committee on the Judiciary of the House of Representatives a report on the role of political intelligence in the financial markets.

(2) CONTENTS.—The report required by this section shall include a discussion of—

(A) what is known about the prevalence of the sale of political intelligence and the extent to which investors rely on such information;

(B) what is known about the effect that the sale of political intelligence may have on the financial markets;

(C) the extent to which information which is being sold would be considered non-public information;

(D) the legal and ethical issues that may be raised by the sale of political intelligence;

(E) any benefits from imposing disclosure requirements on those who engage in political intelligence activities; and

(F) any legal and practical issues that may be raised by the imposition of disclosure requirements on those who engage in political intelligence activities.

(b) DEFINITION.—For purposes of this section, the term ''political intelligence'' shall mean information that is—

(1) derived by a person from direct communications with an executive branch employee, a Member of Congress, or an employee of Congress; and

(2) provided in exchange for financial compensation to a client who intends, and who is known to intend, to use the information to inform investment decisions.

SEC. 8. PUBLIC FILING AND DISCLOSURE OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF.

(a) PUBLIC, ON-LINE DISCLOSURE OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF.—

(1) IN GENERAL.—Not later than August 31, 2012, or 90 days after the date of enactment of this Act, whichever is later, the Secretary of the Senate and the Sergeant at Arms of the Senate, and the Clerk of the House of Representatives, shall ensure that financial disclosure forms filed by Members of Congress, officers of the House and Senate, candidates for Congress, and employees of the Senate and the House of Representatives in calendar year 2012 and in subsequent years pursuant to title I of the Ethics in Government Act of 1978 are made available to the public on the respective official websites of the Senate and the House of Representatives not later than 30 days after such forms are filed.

(2) EXTENSIONS.—The existing protocol allowing for extension requests for financial disclosures shall be retained. Notices of extension for financial disclosure shall be made available electronically under this subsection along with its related disclosure.

(3) REPORTING TRANSACTIONS.—In the case of a transaction disclosure required by section 101(j) of the Ethics in Government Act of 1978, as added by this Act, such disclosures shall be filed not later than 30 days after the transaction. Notices of extension for transaction disclosure shall be made available electronically under this subsection along with its related disclosure.

(4) EXPIRATION.—The requirements of this subsection shall expire upon implementation of the public disclosure system established under subsection (b).

(b) ELECTRONIC FILING AND ON-LINE PUBLIC AVAILABILITY OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS, OFFICERS OF THE HOUSE AND SENATE, AND CONGRESSIONAL STAFF.—

(1) IN GENERAL.—Subject to paragraph (6) and not later than 18 months after the date of enactment of this Act, the Secretary of the Senate and the Sergeant at Arms of the Senate and the Clerk of the House of Representatives shall develop systems to enable—

(A) electronic filing of reports received by them pursuant to section 103(h)(1)(A) of title I of the Ethics in Government Act of 1978; and

(B) public access to financial disclosure reports filed by Members of Congress, Officers of the House and Senate, candidates for Congress, and employees of the Senate and House of Representatives, as well as reports of a transaction disclosure required by section 101(j) of the Ethics in Government Act of 1978, as added by this Act, notices of extensions, amendments and blind trusts, pursuant to title I of the Ethics in Government Act of 1978 through databases that—

(i) are maintained on the official websites of the House of Representatives and the Senate; and

(ii) allow the public to search, sort and download data contained in the reports.

(2) LOGIN.—No login shall be required to search or sort the data contained in the reports made available by this subsection. A login protocol with the name of the user shall be utilized by a person downloading data contained in the reports. For purposes of filings under this section, section 105(b)(2) of the Ethics in Government Act of 1978 does not apply.

(3) PUBLIC AVAILABILITY.—Pursuant to section 105(b)(1) of title I of the Ethics in Government Act of 1978, electronic availability on the official websites of the Senate and the House of Representatives under this subsection shall be deemed to have met the public availability requirement.

(4) FILERS COVERED.—Individuals required under the Ethics in Government Act of 1978 or the Senate Rules to file financial disclosure reports with the Secretary of the Senate or the Clerk of the House shall file reports electronically using the systems developed by the Secretary of the Senate, the Sergeant at Arms of the Senate, and the Clerk of the House.

(5) EXTENSIONS.—The existing protocol allowing for extension requests for financial disclosures shall be retained for purposes of this subsection. Notices of extension for financial disclosure shall be made available electronically under this subsection along with its related disclosure.

(6) ADDITIONAL TIME.—The requirements of this subsection may be implemented after the date provided in paragraph (1) if the Secretary of the Senate or the Clerk of the House identify in writing to relevant congressional committees an additional amount of time needed.

(c) RECORDKEEPING.—Section 105(d) of the Ethics in Government Act of 1978 is amended to read as follows:

''(d)(1) Any report filed with or transmitted to an agency or supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be.

''(2) Such report shall be made available to the public—

''(A) in the case of a Member of Congress until a date that is 6 years from the date the individual ceases to be a Member of Congress; and

''(B) in the case of all other reports filed pursuant to this title, for a period of six years after receipt of the report.

''(3) After the relevant time period identified under paragraph (2), the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation or inquiry.''.

SEC. 9. OTHER FEDERAL OFFICIALS.

(a) PROHIBITION OF THE USE OF NONPUBLIC INFORMATION FOR PRIVATE PROFIT.—

(1) EXECUTIVE BRANCH EMPLOYEES.—The Office of Government Ethics shall issue such interpretive guidance of the relevant Federal ethics statutes and regulations, including the Standards of Ethical Conduct for executive branch employees, related to use of nonpublic information, as necessary to clarify that no executive branch employee may use non-public information derived from such person's position as an executive branch employee or gained from the performance of such person's official responsibilities as a means for making a private profit.

(2) JUDICIAL OFFICERS.—The Judicial Conference of the United States shall issue such interpretive guidance of the relevant ethics rules applicable to Federal judges, including the Code of Conduct for United States Judges, as necessary to clarify that no judicial officer may use non-public information derived from such person's position as a judicial officer or gained from the performance of such person's official responsibilities as a means for making a private profit.

(b) APPLICATION OF INSIDER TRADING LAWS.—

(1) AFFIRMATION OF NON-EXEMPTION.—Executive branch employees and judicial officers are not exempt from the insider trading prohibitions arising under the securities laws, including section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder.

(2) DUTY.—

(A) PURPOSE.—The purpose of the amendment made by this paragraph is to affirm a duty arising from a relationship of trust and confidence owed by each executive branch employee and judicial officer.

(B) AMENDMENT.—Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1), as amended by this Act, is amended by adding at the end the following:

''(h) DUTY OF OTHER FEDERAL OFFICIALS.—

''(1) IN GENERAL.—For purposes of the insider trading prohibitions arising under the securities laws, including section 10(b), and Rule 10b–5 thereunder, each executive branch employee and each judicial officer owes a duty arising from a relationship of trust and confidence to the United States Government and the citizens of the United States with respect to material, nonpublic information derived from such person's position as an executive branch employee or judicial officer or gained from the performance of such person's official responsibilities.

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

''(A) the term 'executive branch employee'—

''(i) has the meaning given the term 'employee' under section 2105 of title 5, United States Code;

''(ii) includes—

''(I) the President;

''(II) the Vice President; and

''(III) an employee of the United States Postal Service or the Postal Regulatory Commission; and

''(B) the term 'judicial officer' has the meaning given that term under section 109(10) of the Ethics in Government Act of 1978.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to impair or limit the construction of the existing antifraud provisions of the securities laws or the authority of the Commission under those provisions.''.

SEC. 10. RULE OF CONSTRUCTION.

Nothing in this Act, the amendments made by this Act, or the interpretive guidance to be issued pursuant to sections 3 and 9 of this Act, shall be construed to—

(1) impair or limit the construction of the antifraud provisions of the securities laws or the Commodities Exchange Act or the authority of the Securities and Exchange Commission or the Commodity Futures Trading Commission under those provisions;

(2) be in derogation of the obligations, duties and functions of a Member of Congress, an employee of Congress, an executive branch employee or a judicial officer, arising from such person's official position; or

(3) be in derogation of existing laws, regulations or ethical obligations governing Members of Congress, employees of Congress, executive branch employees or judicial officers.

SEC. 11. EXECUTIVE BRANCH REPORTING.

Not later than 2 years after the date of enactment of this Act, the President shall—

(1) ensure that financial disclosure forms filed by officers and employees referred to in section 101(j) of the Ethics in Government Act of 1978 (5 U.S.C. App.) are made available to the public as required by section 8(a) on appropriate official websites of agencies of the executive branch; and

(2) develop systems to enable electronic filing and public access, as required by section 8(b), to the financial disclosure forms of such individuals.

SEC. 12. PROMPT REPORTING AND PUBLIC FILING OF FINANCIAL TRANSACTIONS FOR EXECUTIVE BRANCH.

(a) TRANSACTION REPORTING.—Each agency or department of the Executive branch and each independent agency shall comply with the provisions of sections 6 with respect to any of such agency, department or independent agency's officers and employees that are subject to the disclosure provisions under the Ethics in Government Act of 1978.

(b) PUBLIC AVAILABILITY.—Not later than 2 years after the date of enactment of this Act, each agency or department of the Executive branch and each independent agency shall comply with the provisions of section 8, except that the provisions of section 8 shall not apply to a member of a uniformed service for which the pay grade prescribed by section 201 of title 37, United States Code is O–6 or below.

SEC. 13. REQUIRING MORTGAGE DISCLOSURE.

Section 102(a)(4)(A) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended by striking ''spouse; and'' and inserting the following: ''spouse, except that this exception shall not apply to a reporting individual—

''(i) described in paragraph (1), (2), or (9) of section 101(f);

''(ii) described in section 101(b) who has been nominated for appointment as an officer or employee in the executive branch described in subsection (f) of such section, other than—

''(I) an individual appointed to a position—

''(aa) as a Foreign Service Officer below the rank of ambassador; or

''(bb) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O–6 or below; or

''(II) a special government employee, as defined under section 202 of title 18, United States Code; or

''(iii) described in section 101(f) who is in a position in the executive branch the appointment to which is made by the President and requires advice and consent of the Senate, other than—

''(I) an individual appointed to a position—

''(aa) as a Foreign Service Officer below the rank of ambassador; or

''(bb) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O–6 or below; or

''(II) a special government employee, as defined under section 202 of title 18, United States Code; and''.

SEC. 14. TRANSACTION REPORTING REQUIREMENTS.

The transaction reporting requirements established by section 101(j) of the Ethics in Government Act of 1978, as added by section 6 of this Act, shall not be construed to apply to a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

(1)(A) the fund is publicly traded; or

(B) the assets of the fund are widely diversified; and

(2) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

SEC. 15. APPLICATION TO OTHER ELECTED OFFICIALS AND CRIMINAL OFFENSES.

(a) APPLICATION TO OTHER ELECTED OFFICIALS.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8332(o)(2)(A) of title 5, United States Code, is amended—

(A) in clause (i), by inserting '', the President, the Vice President, or an elected official of a State or local government'' after ''Member''; and

(B) in clause (ii), by inserting '', the President, the Vice President, or an elected official of a State or local government'' after ''Member''.

(2) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8411(l)(2) of title 5, United States Code, is amended—

(A) in subparagraph (A), by inserting '', the President, the Vice President, or an elected official of a State or local government'' after ''Member''; and

(B) in subparagraph (B), by inserting '', the President, the Vice President, or an elected official of a State or local government'' after ''Member''.

(b) CRIMINAL OFFENSES.—Section 8332(o)(2) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking clause (iii) and inserting the following:

''(iii) The offense—

''(I) is committed after the date of enactment of this subsection and—

''(aa) is described under subparagraph (B)(i), (iv), (xvi), (xix), (xxiii), (xxiv), or (xxvi); or

''(bb) is described under subparagraph (B)(xxix), (xxx), or (xxxi), but only with respect to an offense described under subparagraph (B)(i), (iv), (xvi), (xix), (xxiii), (xxiv), or (xxvi); or

''(II) is committed after the date of enactment of the STOCK Act and—

''(aa) is described under subparagraph (B)(ii), (iii), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvii), (xviii), (xx), (xxi), (xxii), (xxv), (xxvii), or (xxviii); or

''(bb) is described under subparagraph (B)(xxix), (xxx), or (xxxi), but only with respect to an offense described under subparagraph (B)(ii), (iii), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvii), (xviii), (xx), (xxi), (xxii), (xxv), (xxvii), or (xxviii).''; and

(2) by striking subparagraph (B) and inserting the following:

''(B) An offense described in this subparagraph is only the following, and only to the extent that the offense is a felony:

''(i) An offense under section 201 of title 18 (relating to bribery of public officials and witnesses).

''(ii) An offense under section 203 of title 18 (relating to compensation to Member of Congress, officers, and others in matters affecting the Government).

''(iii) An offense under section 204 of title 18 (relating to practice in the United States Court of Federal Claims or the United States Court of Appeals for the Federal Circuit by Member of Congress).

''(iv) An offense under section 219 of title 18 (relating to officers and employees acting as agents of foreign principals).

''(v) An offense under section 286 of title 18 (relating to conspiracy to defraud the Government with respect to claims).

''(vi) An offense under section 287 of title 18 (relating to false, fictitious or fraudulent claims).

''(vii) An offense under section 597 of title 18 (relating to expenditures to influence voting).

''(viii) An offense under section 599 of title 18 (relating to promise of appointment by candidate).

''(ix) An offense under section 602 of title 18 (relating to solicitation of political contributions).

''(x) An offense under section 606 of title 18 (relating to intimidation to secure political contributions).

''(xi) An offense under section 607 of title 18 (relating to place of solicitation).

''(xii) An offense under section 641 of title 18 (relating to public money, property or records).

''(xiii) An offense under section 666 of title 18 (relating to theft or bribery concerning programs receiving Federal funds).

''(xiv) An offense under section 1001 of title 18 (relating to statements or entries generally).

''(xv) An offense under section 1341 of title 18 (relating to frauds and swindles, including as part of a scheme to deprive citizens of honest services thereby).

''(xvi) An offense under section 1343 of title 18 (relating to fraud by wire, radio, or television, including as part of a scheme to deprive citizens of honest services thereby).

''(xvii) An offense under section 1503 of title 18 (relating to influencing or injuring officer or juror).

''(xviii) An offense under section 1505 of title 18 (relating to obstruction of proceedings before departments, agencies, and committees).

''(xix) An offense under section 1512 of title 18 (relating to tampering with a witness, victim, or an informant).

''(xx) An offense under section 1951 of title 18 (relating to interference with commerce by threats of violence).

''(xxi) An offense under section 1952 of title 18 (relating to interstate and foreign travel or transportation in aid of racketeering enterprises).

''(xxii) An offense under section 1956 of title 18 (relating to laundering of monetary instruments).

''(xxiii) An offense under section 1957 of title 18 (relating to engaging in monetary transactions in property derived from specified unlawful activity).

''(xxiv) An offense under chapter 96 of title 18 (relating to racketeer influenced and corrupt organizations).

''(xxv) An offense under section 7201 of the Internal Revenue Code of 1986 (relating to attempt to evade or defeat tax).

''(xxvi) An offense under section 104(a) of the Foreign Corrupt Practices Act of 1977 (relating to prohibited foreign trade practices by domestic concerns).

''(xxvii) An offense under section 10(b) of the Securities Exchange Act of 1934 (relating to fraud, manipulation, or insider trading of securities).

''(xxviii) An offense under section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) (relating to fraud, manipulation, or insider trading of commodities).

''(xxix) An offense under section 371 of title 18 (relating to conspiracy to commit offense or to defraud United States), to the extent of any conspiracy to commit an act which constitutes—

''(I) an offense under clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi), (xvii), (xviii), (xix), (xx), (xxi), (xxii), (xxiii), (xxiv), (xxv), (xxvi), (xxvii), or (xxviii); or

''(II) an offense under section 207 of title 18 (relating to restrictions on former officers, employees, and elected officials of the executive and legislative branches).

''(xxx) Perjury committed under section 1621 of title 18 in falsely denying the commission of an act which constitutes—

''(I) an offense under clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi), (xvii), (xviii), (xix), (xx), (xxi), (xxii), (xxiii), (xxiv), (xxv), (xxvi), (xxvii), or (xxviii); or

''(II) an offense under clause (xxix), to the extent provided in such clause.

''(xxxi) Subornation of perjury committed under section 1622 of title 18 in connection with the false denial or false testimony of another individual as specified in clause (xxx).''.

SEC. 16. LIMITATION ON BONUSES TO EXECUTIVES OF FANNIE MAE AND FREDDIE MAC.

Notwithstanding any other provision in law, senior executives at the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation are prohibited from receiving bonuses during any period of conservatorship for those entities on or after the date of enactment of this Act.

SEC. 17. DISCLOSURE OF POLITICAL INTELLIGENCE ACTIVITIES UNDER LOBBYING DISCLOSURE ACT.

(a) DEFINITIONS.—Section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602) is amended—

(1) in paragraph (2)—

(A) by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''; and

(B) by inserting after ''lobbyists'' the following: ''or political intelligence consultants''; and

(2) by adding at the end the following new paragraphs:

''(17) POLITICAL INTELLIGENCE ACTIVITIES.—The term 'political intelligence activities' means political intelligence contacts and efforts in support of such contacts, including preparation and planning activities, research, and other background work that is intended, at the time it is performed, for use in contacts, and coordination with such contacts and efforts of others.

''(18) POLITICAL INTELLIGENCE CONTACT.—

''(A) DEFINITION.—The term 'political intelligence contact' means any oral or written communication (including an electronic communication) to or from a covered executive branch official or a covered legislative branch official, the information derived from which is intended for use in analyzing securities or commodities markets, or in informing investment decisions, and which is made on behalf of a client with regard to—

''(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

''(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government; or

''(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license).

''(B) EXCEPTION.—The term 'political intelligence contact' does not include a communication that is made by or to a representative of the media if the purpose of the communication is gathering and disseminating news and information to the public.

''(19) POLITICAL INTELLIGENCE FIRM.—The term 'political intelligence firm' means a person or entity that has 1 or more employees who are political intelligence consultants to a client other than that person or entity.

''(20) POLITICAL INTELLIGENCE CONSULTANT.—The term 'political intelligence consultant' means any individual who is employed or retained by a client for financial or other compensation for services that include one or more political intelligence contacts.''.

(b) REGISTRATION REQUIREMENT.—Section 4 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting after ''whichever is earlier,'' the following: ''or a political intelligence consultant first makes a political intelligence contact,''; and

(ii) by inserting after ''such lobbyist'' each place that term appears the following: ''or consultant'';

(B) in paragraph (2), by inserting after ''lobbyists'' each place that term appears the following: ''or political intelligence consultants''; and

(C) in paragraph (3)(A)—

(i) by inserting after ''lobbying activities'' each place that term appears the following: ''and political intelligence activities''; and

(ii) in clause (i), by inserting after ''lobbying firm'' the following: ''or political intelligence firm'';

(2) in subsection (b)—

(A) in paragraph (3), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities'';

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by inserting after ''lobbying activities'' the following: ''or political intelligence activities''; and

(ii) in subparagraph (C), by inserting after ''lobbying activity'' the following: ''or political intelligence activity'';

(C) in paragraph (5), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities'';

(D) in paragraph (6), by inserting after ''lobbyist'' each place that term appears the following: ''or political intelligence consultant''; and

(E) in the matter following paragraph (6), by inserting ''or political intelligence activities'' after ''such lobbying activities'';

(3) in subsection (c)—

(A) in paragraph (1), by inserting after ''lobbying contacts'' the following: ''or political intelligence contacts''; and

(B) in paragraph (2)—

(i) by inserting after ''lobbying contact'' the following: ''or political intelligence contact''; and

(ii) by inserting after ''lobbying contacts'' the following: ''and political intelligence contacts''; and

(4) in subsection (d), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''.

(c) REPORTS BY REGISTERED POLITICAL INTELLIGENCE CONSULTANTS.—Section 5 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604) is amended—

(1) in subsection (a), by inserting after ''lobbying activities'' the following: ''and political intelligence activities'';

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by inserting after ''lobbying activities'' the following: ''or political intelligence activities'';

(ii) in subparagraph (A)—

(I) by inserting after ''lobbyist'' the following: ''or political intelligence consultant''; and

(II) by inserting after ''lobbying activities'' the following: ''or political intelligence activities'';

(iii) in subparagraph (B), by inserting after ''lobbyists'' the following: ''and political intelligence consultants''; and

(iv) in subparagraph (C), by inserting after ''lobbyists'' the following: ''or political intelligence consultants'';

(B) in paragraph (3)—

(i) by inserting after ''lobbying firm'' the following: ''or political intelligence firm''; and

(ii) by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''; and

(C) in paragraph (4), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''; and

(3) in subsection (d)(1), in the matter preceding subparagraph (A), by inserting ''or a

political intelligence consultant'' after ''a lobbyist''.

(d) DISCLOSURE AND ENFORCEMENT.—Section 6(a) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1605) is amended—

(1) in paragraph (3)(A), by inserting after ''lobbying firms'' the following: '', political intelligence consultants, political intelligence firms,'';

(2) in paragraph (7), by striking ''or lobbying firm'' and inserting ''lobbying firm, political intelligence consultant, or political intelligence firm''; and

(3) in paragraph (8), by striking ''or lobbying firm'' and inserting ''lobbying firm, political intelligence consultant, or political intelligence firm''.

(e) RULES OF CONSTRUCTION.—Section 8(b) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1607(b)) is amended by striking ''or lobbying contacts'' and inserting ''lobbying contacts, political intelligence activities, or political intelligence contacts''.

(f) IDENTIFICATION OF CLIENTS AND COVERED OFFICIALS.—Section 14 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1609) is amended—

(1) in subsection (a)—

(A) in the heading, by inserting ''OR POLITICAL INTELLIGENCE'' after ''LOBBYING'';

(B) by inserting ''or political intelligence contact'' after ''lobbying contact'' each place that term appears; and

(C) in paragraph (2), by inserting ''or political intelligence activity, as the case may be'' after ''lobbying activity'';

(2) in subsection (b)—

(A) in the heading, by inserting ''OR POLITICAL INTELLIGENCE'' after ''LOBBYING'';

(B) by inserting ''or political intelligence contact'' after ''lobbying contact'' each place that term appears; and

(C) in paragraph (2), by inserting ''or political intelligence activity, as the case may be'' after ''lobbying activity''; and

(3) in subsection (c), by inserting ''or political intelligence contact'' after ''lobbying contact''.

(g) ANNUAL AUDITS AND REPORTS BY COMPTROLLER GENERAL.—Section 26 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1614) is amended—

(1) in subsection (a)—

(A) by inserting ''political intelligence firms, political intelligence consultants,'' after ''lobbying firms''; and

(B) by striking ''lobbying registrations'' and inserting ''registrations'';

(2) in subsection (b)(1)(A), by inserting ''political intelligence firms, political intelligence consultants,'' after ''lobbying firms''; and

(3) in subsection (c), by inserting ''or political intelligence consultant'' after ''a lobbyist''.

TITLE II—PUBLIC CORRUPTION PROSECUTION IMPROVEMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Public Corruption Prosecution Improvements Act of 2012''.

SEC. 202. VENUE FOR FEDERAL OFFENSES.

(a) IN GENERAL.—The second undesignated paragraph of section 3237(a) of title 18, United States Code, is amended by adding before the period at the end the following: ''or in any district in which an act in furtherance of the offense is committed''.

(b) SECTION HEADING.—The heading for section 3237 of title 18, United States Code, is amended to read as follows:

''SEC. 3237. OFFENSE TAKING PLACE IN MORE THAN ONE DISTRICT.''.

(c) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 211 of title 18, United States Code, is amended so that the item relating to section 3237 reads as follows:

''Sec. 3237. Offense taking place in more than one district.''.

SEC. 203. THEFT OR BRIBERY CONCERNING PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 666(a) of title 18, United States Code, is amended—

(1) by striking ''10 years'' and inserting ''20 years'';

(2) by striking ''$5,000'' the second place and the third place it appears and inserting ''$1,000'';

(3) by striking ''anything of value'' each place it appears and inserting ''any thing or things of value''; and

(4) in paragraph (1)(B), by inserting after ''anything'' the following: ''or things''.

SEC. 204. PENALTY FOR SECTION 641 VIOLATIONS.

Section 641 of title 18, United States Code, is amended by striking ''ten years'' and inserting ''15 years''.

SEC. 205. BRIBERY AND GRAFT; CLARIFICATION OF DEFINITION OF "OFFICIAL ACT"; CLARIFICATION OF THE CRIME OF ILLEGAL GRATUITIES.

(a) DEFINITION.—Section 201(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) by amending paragraph (3) to read as follows:

''(3) the term 'official act'—

''(A) means any act within the range of official duty, and any decision or action on any question, matter, cause, suit, proceeding, or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official's official capacity or in such official's place of trust or profit; and

''(B) may be a single act, more than 1 act, or a course of conduct; and''; and

(3) by adding at the end the following:

''(4) the term 'rule or regulation' means a Federal regulation or a rule of the House of Representatives or the Senate, including those rules and regulations governing the acceptance of gifts and campaign contributions.''.

(b) CLARIFICATION.—Section 201(c)(1) of title 18, United States Code, is amended to read as follows:

''(1) otherwise than as provided by law for the proper discharge of official duty, or by rule or regulation—

''(A) directly or indirectly gives, offers, or promises any thing or things of value to any public official, former public official, or person selected to be a public official for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official;

''(B) directly or indirectly, knowingly gives, offers, or promises any thing or things of value with an aggregate value of not less than $1000 to any public official, former public official, or person selected to be a public official for or because of the official's or person's official position;

''(C) being a public official, former public official, or person selected to be a public official, directly or indirectly, knowingly demands, seeks, receives, accepts, or agrees to receive or accept any thing or things of value with an aggregate value of not less than $1000 for or because of the official's or person's official position; or

''(D) being a public official, former public official, or person selected to be a public official, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept any thing or things of value for or because of any official act performed or to be performed by such official or person;''.

SEC. 206. AMENDMENT OF THE SENTENCING GUIDELINES RELATING TO CERTAIN CRIMES.

(a) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission forthwith shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 201, 641, 1346A, or 666 of title 18, United States Code, in order to reflect the intent of Congress that such penalties meet the requirements in subsection (b) of this section.

(b) REQUIREMENTS.—In carrying out this subsection, the Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect Congress's intent that the guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1), the incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the extent to which the guidelines may or may not appropriately account for—

(A) the potential and actual harm to the public and the amount of any loss resulting from the offense;

(B) the level of sophistication and planning involved in the offense;

(C) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(D) whether the defendant acted with intent to cause either physical or property harm in committing the offense;

(E) the extent to which the offense represented an abuse of trust by the offender and was committed in a manner that undermined public confidence in the Federal, State, or local government; and

(F) whether the violation was intended to or had the effect of creating a threat to public health or safety, injury to any person or even death;

(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 207. EXTENSION OF STATUTE OF LIMITATIONS FOR SERIOUS PUBLIC CORRUPTION OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3302. Corruption offenses

''Unless an indictment is returned or the information is filed against a person within 6 years after the commission of the offense, a person may not be prosecuted, tried, or punished for a violation of, or a conspiracy or an attempt to violate the offense in—

''(1) section 201 or 666;

''(2) section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official;

''(3) section 1951, if the offense involves extortion under color of official right;

''(4) section 1952, to the extent that the unlawful activity involves bribery; or

''(5) section 1962, to the extent that the racketeering activity involves bribery

chargeable under State law, involves a violation of section 201 or 666, section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official, or section 1951, if the offense involves extortion under color of official right.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

''3302. Corruption offenses.''.

(c) APPLICATION OF AMENDMENT.—The amendments made by this section shall not apply to any offense committed before the date of enactment of this Act.

SEC. 208. INCREASE OF MAXIMUM PENALTIES FOR CERTAIN PUBLIC CORRUPTION RELATED OFFENSES.

(a) SOLICITATION OF POLITICAL CONTRIBUTIONS.—Section 602(a)(4) of title 18, United States Code, is amended by striking ''3 years'' and inserting ''5 years''.

(b) PROMISE OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 600 of title 18, United States Code, is amended by striking ''one year'' and inserting ''3 years''.

(c) DEPRIVATION OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 601(a) of title 18, United States Code, is amended by striking ''one year'' and inserting ''3 years''.

(d) INTIMIDATION TO SECURE POLITICAL CONTRIBUTIONS.—Section 606 of title 18, United States Code, is amended by striking ''three years'' and inserting ''5 years''.

(e) SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS IN FEDERAL OFFICES.—Section 607(a)(2) of title 18, United States Code, is amended by striking ''3 years'' and inserting ''5 years''.

(f) COERCION OF POLITICAL ACTIVITY BY FEDERAL EMPLOYEES.—Section 610 of title 18, United States Code, is amended by striking ''three years'' and inserting ''5 years''.

SEC. 209. ADDITIONAL WIRETAP PREDICATES.

Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by inserting ''section 641 (relating to embezzlement or theft of public money, property, or records), section 666 (relating to theft or bribery concerning programs receiving Federal funds),'' after ''section 224 (bribery in sporting contests),''; and

(2) by inserting ''section 1031 (relating to major fraud against the United States)'' after ''section 1014 (relating to loans and credit applications generally; renewals and discounts),''.

SEC. 210. EXPANDING VENUE FOR PERJURY AND OBSTRUCTION OF JUSTICE PROCEEDINGS.

(a) IN GENERAL.—Section 1512(i) of title 18, United States Code, is amended to read as follows:

''(i) A prosecution under section 1503, 1504, 1505, 1508, 1509, 1510, or this section may be brought in the district in which the conduct constituting the alleged offense occurred or in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected.''.

(b) PERJURY.—

(1) IN GENERAL.—Chapter 79 of title 18, United States Code, is amended by adding at the end the following:

''§ 1624. Venue

''A prosecution under section 1621(1), 1622 (in regard to subornation of perjury under 1621(1)), or 1623 of this title may be brought in the district in which the oath, declaration, certificate, verification, or statement under penalty of perjury is made or in which a proceeding takes place in connection with the oath, declaration, certificate, verification, or statement.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 79 of title 18, United States Code, is amended by adding at the end the following:

''1624. Venue.''.

SEC. 211. PROHIBITION ON UNDISCLOSED SELF-DEALING BY PUBLIC OFFICIALS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by inserting after section 1346 the following new section:

''§ 1346A. Undisclosed self-dealing by public officials

''(a) UNDISCLOSED SELF-DEALING BY PUBLIC OFFICIALS.—For purposes of this chapter, the term 'scheme or artifice to defraud' also includes a scheme or artifice by a public official to engage in undisclosed self-dealing.

''(b) DEFINITIONS.—As used in this section:

''(1) OFFICIAL ACT.—The term official act—

''(A) means any act within the range of official duty, and any decision or action on any question, matter, cause, suit, proceeding, or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official's official capacity or in such official's place of trust or profit; and

''(B) may be a single act, more than one act, or a course of conduct.

''(2) PUBLIC OFFICIAL.—The term 'public official' means an officer, employee, or elected or appointed representative, or person acting for or on be half of the United States, a State, or a subdivision of a State, or any department, agency or branch of government thereof, in any official function, under or by authority of any such department, agency, or branch of government.

''(3) STATE.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

''(4) UNDISCLOSED SELF-DEALING.—The term 'undisclosed self-dealing' means that—

''(A) a public official performs an official act for the purpose, in whole or in material part, of furthering or benefitting a financial interest, of which the public official has knowledge, of—

''(i) the public official;

''(ii) the spouse or minor child of a public official;

''(iii) a general business partner of the public official;

''(iv) a business or organization in which the public official is serving as an employee, officer, director, trustee, or general partner;

''(v) an individual, business, or organization with whom the public official is negotiating for, or has any arrangement concerning, prospective employment or financial compensation; or

''(vi) an individual, business, or organization from whom the public official has received any thing or things of value, otherwise than as provided by law for the proper discharge of official duty, or by rule or regulation; and

''(B) the public official knowingly falsifies, conceals, or covers up material information that is required to be disclosed by any Federal, State, or local statute, rule, regulation, or charter applicable to the public official, or the knowing failure of the public official to disclose material information in a manner that is required by any Federal, State, or local statute, rule, regulation, or charter applicable to the public official.

''(5) MATERIAL INFORMATION.—The term 'material information' means information—

''(A) regarding a financial interest of a person described in clauses (i) through (iv) paragraph (4)(A); and

''(B) regarding the association, connection, or dealings by a public official with an individual, business, or organization as described in clauses (iii) through (vi) of paragraph (4)(A).''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 63 of title 18, United States Code, is amended by inserting after the item relating to section 1346 the following new item:

''1346A. Undisclosed self-dealing by public officials.''.

(c) APPLICABILITY.—The amendments made by this section apply to acts engaged in on or after the date of the enactment of this Act.

SEC. 212. DISCLOSURE OF INFORMATION IN COMPLAINTS AGAINST JUDGES.

Section 360(a) of title 28, United States Code, is amended—

(1) in paragraph (2) by striking ''or'';

(2) in paragraph (3), by striking the period at the end, and inserting ''; or''; and

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

''(4) such disclosure of information regarding a potential criminal offense is made to the Attorney General, a Federal, State, or local grand jury, or a Federal, State, or local law enforcement agency.''.

SEC. 213. CLARIFICATION OF EXEMPTION IN CERTAIN BRIBERY OFFENSES.

Section 666(c) of title 18, United States Code, is amended—

(1) by striking ''This section does not apply to''; and

(2) by inserting ''The term 'anything of value' that is corruptly solicited, demanded, accepted or agreed to be accepted in subsection (a)(1)(B) or corruptly given, offered, or agreed to be given in subsection (a)(2) shall not include,'' before ''bona fide salary''.

SEC. 214. CERTIFICATIONS REGARDING APPEALS BY UNITED STATES.

Section 3731 of title 18, United States Code, is amended by inserting after ''United States attorney'' the following: '', Deputy Attorney General, Assistant Attorney General, or the Attorney General''.

The PRESIDING OFFICER. The Senator from Utah.

MORNING BUSINESS

Mr. HATCH. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

Mr. HATCH. Madam President, I ask unanimous consent that I be permitted to deliver my full speech regardless of the time.

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

RECESS APPOINTMENTS

Mr. HATCH. Madam President, our Nation faces grave challenges. We are looking at our fourth straight $1 trillion deficit, our credit rating has been downgraded, and public spending is out of control. The Nation demands leadership.

At some moments in our Nation's history—at moments of crisis—leaders have emerged, put partisanship aside, and worked to solve our greatest challenges. Although our current President has compared himself to both Franklin Roosevelt and Abraham Lincoln, his leadership is falling well short of their examples. Instead of taking the reins

and making tough choices when presented with our current fiscal crisis, he has decided to put politics first. He always puts politics first.

Just this morning, at the National Prayer Breakfast, the President took what has always been a nonpartisan opportunity for national unity and used it to promote his political agenda. He suggested to the attendees that Jesus would have supported his latest tax-the-rich scheme. With due respect to the President, he ought to stick to public policy. I think most Americans would agree the Gospels are concerned with weightier matters than effective tax rates.

As long as the President has decided to assume the role of theologian-in-chief, he would do well to put tax policy aside and consider the impact of one of his latest ObamaCare mandates. Secretary Sebelius's decision to force religious institutions—over the strong objections of churches and universities representing millions and millions of Americans—to provide insurance coverage for abortifacient drugs and contraceptives to their employees will require these groups to violate their deepest held religious beliefs.

The President's comments this morning share more of a political strategy than they do the religious beliefs of most Americans. In 2008, the President declared his nomination was the world historical moment when the rise of the oceans began to slow and our planet began to heal. Someone needs to remind the President there was only one person who walked on water, and he did not occupy the Oval Office.

This drive to politicize every aspect of our institutions and public discourse took a serious and dangerous turn last month with the President's appointments to the Consumer Financial Protection Bureau—the CFPB—and to the National Labor Relations Board—the NLRB. Last week, in his State of the Union Address, President Obama said Americans deserve a government that plays by the rules. Yet his appointments of January 4, just 1 day into a 3-day Senate recess, failed to meet his own standard.

Those unlawful appointments are the latest example of how he is willing even to undermine the Constitution and weaken our government institutions to get what he wants. They are a deeply cynical political ploy that puts his own ideological wants and electoral needs above our Constitution and rule of law.

The Constitution, not the President's political agenda or reelection strategy, sets the rules we must live by and play by. In the regular order of the appointment process, the President nominates, but the Senate must consent for him to appoint. The President may not get his way every time, but this is one of many checks and balances in our system to make sure one part of the government does not gather too much power.

The Constitution also allows the President temporarily to fill ''vacancies that may happen during the recess of the Senate.'' These so-called recess appointments do not require Senate consent. However, they are supposed to be an exception to the confirmation rule. The most obvious requirement for a recess appointment is that there actually be a real recess. Needless to say, if the President alone can define a recess, he can make recess appointments during every weekend or lunch break. The exception would swallow the rule and the President could issue the Senate out of the process all together.

Our Constitution refers to the recess of the Senate, not to a recess of the President's imagination or his lawyers' creation. Under the Constitution, the Senate has the authority to determine its own procedural rules, including the what, when, and how long of Senate recesses.

I will not go into all the twists and turns of recess appointment history. However, for decades, the standard has been that a recess must be longer than 3 days for the President to make a recess appointment. The Constitution, for example, requires the consent of the House or Senate for the other body to adjourn for more than 3 days. The Congressional Directory, which is the official directory of Congress, defines a recess as ''a break in House or Senate proceedings of three or more days, excluding Sundays.'' The Senate's own Web site has the same definition.

The Clinton administration argued in 1993 that a recess must be longer than 3 days. The Clinton administration took that position. In 2010, the Obama administration's own Deputy Solicitor General said this to Chief Justice John Roberts when arguing before the Supreme Court: ''Our office has opined the recess has to be longer than three days.''

Let me repeat that. The Obama administration told the Supreme Court a recess must be longer than 3 days for the President to make a recess appointment.

The Democratic majority in this body has endorsed this same standard. On November 16, 2007, the majority leader said: ''The Senate will be coming in for pro forma situations during the Thanksgiving holiday to prevent recess appointments.''

The four brief sessions he scheduled chopped the Thanksgiving break into recesses of—you guessed it—3 days or less and so did the five sessions he scheduled during the Christmas break. This new tactic worked, and President Bush did not make another recess appointment for the rest of his Presidency.

There is no record that then-Senator Barack Obama objected to this tactic in any way. He did not criticize it as a gimmick. He did not opine that the President could still make recess appointments despite these pro forma sessions. He did not even suggest that pro forma sessions did anything other than create new, shorter recesses. That is, after all, the only way the pro forma sessions can block recess appointments.

As far as I can tell, Senator Obama fully supported his party using pro forma sessions to block recess appointments.

Finally, consider this. Our rule XXXI requires that pending nominations be sent back to the President whenever the Senate ''shall adjourn or take a recess for more than 30 days.'' Pursuing his strategy to prevent appointments during the August 2008 recess, the Democratic majority leader scheduled no less than 10 pro forma sessions during that period. As a result, because each pro forma session began a new recess of less than 30 days, the Senate executive clerk did not return any pending nominations to the President.

The standard here is clear: Pro forma sessions create new recesses. Read the CONGRESSIONAL RECORD. Each pro forma session begins with the words ''The Senate met'' and ends with the statement that ''The Senate stands in recess'' until a specific date and time. I don't know how much clearer it could possibly be. The Senate must adjourn for more than 3 days for a President to make a recess appointment. The Senate has endorsed this standard. The Democratic majority has endorsed this standard, Senator Barack Obama endorsed this standard, and President Barack Obama's administration has endorsed this standard. A new recess begins when a Senate session, even a pro forma session, ends.

But that was then; this is now. The Senate met on January 3, 2012, as the Constitution requires, to convene the second session of the 112th Congress. The CONGRESSIONAL RECORD states that the Senate adjourned at 12:02 until January 6, at 11 a.m. I know we see some fuzzy math here in Washington from time to time, but this is pretty simple. That was a 3-day recess, which was not long enough to allow a recess appointment.

The very next day, however, President Obama installed Richard Cordray as head of the Consumer Financial Protection Bureau and he also installed three members of the National Labor Relations Board. These appointments were clearly unlawful because a sufficient recess did not exist. These appointments violated the standard President Obama himself endorsed when he served in this body, and they violated the standard his own administration endorsed before the Supreme Court.

Senate Democrats routinely attacked President George W. Bush for supposedly creating what they called an imperial Presidency. That criticism was bogus for a host of reasons, but I can only imagine how the majority would have howled had President Bush made recess appointments the day after those pro forma sessions in 2007 and 2008. They would have denounced him for defying the Senate, for an unprecedented power grab, and for destroying the checks and balances that

are so important in our form of government. They would have taken swift and firm measures in retaliation. Who knows, but they might even have gone to the Court over it. But President Bush respected the Senate and, whether he liked it or not, declined to make recess appointments when there was no legitimate recess.

President Obama apparently has no such regard for this body—one of which he was honored to be a Member. And to be clear, that means he has no such regard for the Constitution and its system of checks and balances. He only wants his way. His political mantra last fall, that he can't wait for Congress to enact his agenda, has now resulted in these politicized appointments that violate our deepest constitutional principles.

No doubt some on the other side of the aisle will respond that the Office of Legal Counsel at the Department of Justice has issued a memo justifying these recess appointments. Well, as Paul Harvey used to say, Here is the rest of the story. That memo was issued on January 6—2 days after President Obama made these unlawful recess appointments. I had understood OLC's rule as giving objective advice before decisions were made. Doing this after the fact looks as if it is a method of trying to justify, rather than inform, this controversial decision, especially when the memo admits that it addresses a novel issue with ''substantial arguments on each side.''

The most egregious flaw in the OLC memo is that it addresses the wrong question. The question OLC should have answered is why a pro forma session, like any other session, does not start a new recess. That is the real question here. OLC simply ignored that question entirely. And I am not at all surprised. The obvious answer is that a pro forma session does begin a new recess, and then OLC would have had to justify the President making a recess appointment during an unprecedented 3-day recess.

Rather than address that necessary question, the OLC memo instead addressed whether the President may make recess appointments during a longer recess that is ''punctuated by periodic pro forma sessions.'' I wish to know who made up this characterization of pro forma sessions as merely procedural punctuation marks, but a cliche like that is no substitute for a real legal argument.

If that is the most egregious flaw in the OLC memo, its most egregious omission might be failing even to mention, let alone explain away, the Obama administration's endorsement of the 3-day standard before the Supreme Court.

In 1996, the Clinton Office of Legal Counsel advised that making appointments during a 10-day recess would ''pose significant litigation risks.'' In this new memo, the Obama OLC admits that these appointments during only a 3-day recess ''creates some litigation risks.'' They admit that. The memo of course does not attempt to explain how appointments during an even shorter recess somehow pose less litigation risks. Either way, litigation may be where this controversy is headed. And I certainly hope so.

Just as our Democratic colleagues accused President Bush of creating an imperial Presidency, they accused his administration's Office of Legal Counsel of helping him to do it. They attacked OLC for being his advocate rather than an objective neutral adviser. Well, nothing OLC did for President Bush looked anything like what we see today. This memo reads like a brief by the President's personal lawyer. We all know Justice Department lawyers are not the President's personal lawyers.

When President Obama decided to make these appointments, the person who should have been the most outraged was the Senate majority leader. After all, as the highest ranking officer in the Chamber, he should have been particularly defensive of the rights and prerogatives of the Senate, and should have opposed any effort on the part of the Executive to undermine the Senate's role in the confirmation process.

Unfortunately, that is not what happened. Since the time the appointments were made, the Senate majority leader has, on multiple occasions, publicly endorsed the President's decision to ignore precedent and bypass the Senate. He did so on television in mid-January and again this week here on this floor. The majority leader's decision to support and, indeed, applaud the President in this case is troubling, given that, as I mentioned a few minutes ago, it was under his leadership that the Senate began to use pro forma sessions for the specific purpose of preventing President Bush from making recess appointments.

The majority leader has acknowledged this to some extent, but his explanation as to why he is taking these apparently contradictory positions is unclear and somewhat hard to follow. We need a better explanation from the majority leader, because from the vantage point of many here in the Chamber it appears that his position on the efficacy of pro forma sessions and the constitutionality of recess appointments varies depending upon who is occupying the White House. No leader in this body should ignore this question. And, frankly, our leaders should be standing for the Senate against the White House on this matter.

Well, I hope that it isn't true that the constitutionality of recess appointments varies depending on who is occupying the White House. I hope I have simply misinterpreted what appears to be plain statements, both past and present, on the part of the majority leader. That is why I, along with 33 of my colleagues, have submitted a letter to the majority leader asking him to clarify his position on these appointments. Specifically, the letter asks him to state whether he believes the pro forma sessions have any impact on the President's recess appointment power.

It also asks him to clarify whether he believes President Bush had the constitutional authority to make recess appointments like the ones recently made by President Obama and why, if he believes these recent appointments are constitutional, he instituted the practice of using pro forma sessions in the first place. Why did he do that?

Finally, the letter asks the majority leader to state specifically whether he agrees with the President's legal argument that the Senate was unavailable to perform its advice and consent functions during the recent adjournment period.

I ask unanimous consent to have printed in the RECORD a copy of the letter, signed by 33 Senators.

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

U.S. SENATE,
Washington, DC, February 2, 2012.

Hon. HARRY REID,
Senate Majority Leader,
U.S. Senate, Washington, DC.

DEAR MAJORITY LEADER REID: In light of President Obama's recent decision to break with precedent regarding the use of recess appointments, we are writing to inquire about your views on the matter so as to clear up what appear to be serious inconsistencies on your part. We hope you will provide a complete and candid response.

On January 4, 2012, the President announced his intent to recess appoint Richard Griffin, Sharon Block, and Terence Flynn to serve on the National Labor Relations Board (NLRB) and Richard Cordray to serve as head of the Consumer Financial Protection Bureau (CFPB). Pursuant to a Unanimous Consent agreement, the Senate was to go into pro forma session every three days between December 17, 2011 and January 23, 2012. However, the President, in a controversial turn of events, determined that the Senate's use of periodic pro forma sessions was insufficient to prevent him from exercising his recess appointment power under Article II of the Constitution.

As you are surely aware, it was under your leadership that the Senate first began to use pro forma sessions in order to prevent President George W. Bush from making recess appointments beginning in November 2007. With very few exceptions, this became the standard practice for the Senate during the rest of President Bush's term in office, during which time no recess appointments were made. And, though you discontinued this practice when President Obama first took office, the procedure was reinstituted last year.

Furthermore, in deciding whether to make these appointments, the President reportedly relied on the opinion of the Office of Legal Counsel which argued that, because no business was to be conducted during the scheduled pro forma sessions, the President could consider the Senate unavailable to provide advice and consent and exercise his power to make recess appointments. Yet, on December 23, 2011, one of the days scheduled for a pro forma session, you, yourself, went to the floor and conducted business to provide for the Senate passage of the Temporary Payroll Tax Cut Continuation Act of 2011 (H.R. 3765), clearly undermining any claim that the Senate is unavailable to perform its duties during a pro forma session.

However, despite the fact that you were indisputably the author of what became the routine use pro forma sessions to prevent recess appointments and even though you are obviously well aware that the Senate is able to conduct significant business during a scheduled pro forma session, you have, on multiple occasions, publicly expressed your support for President Obama's efforts to bypass the Senate with regard to these nominations. For example, while appearing on the January 15, 2012 edition of ''Meet the Press,'' you stated unequivocally that the President ''did the right thing'' in making these appointments. And, while you did acknowledge in the interview that it was you who established the procedure of using pro forma sessions, you also stated that ''President Bush didn't have to worry about recess appointments because [you] were working with him,'' and that ''[you] believed then, [you] believe now, that a president has a right to make appointments.'' You made similar arguments this week on the Senate floor.

This purported explanation directly contradicts remarks you made on the Senate floor during the Bush Administration wherein you explicitly indicated that the purpose of the pro forma sessions was to prevent President Bush from making recess appointments. On November 16, 2007, you stated that ''the Senate would be coming in for pro forma sessions during the Thanksgiving Holiday to prevent recess appointments,'' and that you had made the decision to do so because ''the administration informed [you] that they would make several recess appointments.'' On December 19, 2007, you stated that ''we are going into pro forma sessions so the President cannot appoint people we think are objectionable. . .'' After reading these statements, it is clear that, under the Bush Administration, you believed that the use of pro forma sessions was sufficient to prevent the President from making recess appointments and that the practice was undertaken specifically because you were unable to reach an agreement with the President regarding specific nominees.

This apparent shift in your position raises a number of concerns. Most specifically, it appears that you believe the importance of preserving Senate's constitutional role in the nomination and appointment process varies depending on the political party of the President. Because we hope that this is not the case and because we hope that you, as the Senate Majority Leader, have taken seriously your responsibility to protect and defend the rights of this chamber, we hope you will answer the following clarifying questions:

1. In your view, what specific limitations does the Senate's use of pro forma sessions place on the President's power to make recess appointments under the Constitution?

2. Would it have been constitutional, in your view, for President Bush to have made recess appointments during the time the Senate, under your leadership, was using pro forma sessions? If so, for what purpose did you establish the practice of using pro forma sessions in the first place? If not, why do you now believe it is constitutional for President Obama to make recess appointments under similar circumstances?

3. In your view, did the Senate's passage of the Temporary Payroll Tax Cut Continuation Act of 2011 comply with the constitutional requirements for the passage of legislation?

If so, do you disagree with the President's argument that the Senate was ''unavailable'' to perform its advice and consent duties during the recent adjournment?

Needless to say, these are very serious matters. While there are many issues that divide the two parties in the Senate, including the very appointments at issue here, we hope that you share our view that neither party should undermine the constitutional authority of the Senate in order to serve a political objective.

Thank you for your attention regarding this matter.

Sincerely,

Orrin Hatch, Jim DeMint, Ron Johnson, Mike Johanns, John Cornyn, Marco Rubio, Rand Paul, Mike Lee, Michael B. Enzi, John Boozman, Pat Roberts, Chuck Grassley, John Hoeven, Roger Wicker, Pat Toomey, Dan Coats. Rob Portman, Mike Crapo, Scott Brown, Jeff Sessions, Dick Lugar, Lindsey Graham, Jerry Moran, Kelly Ayotte, James Risch, David Vitter, Saxby Chambliss, John Thune, John McCain, John Barrasso, Richard Burr, Thad Cochran, Roy Blunt, Johnny Isakson.

Mr. HATCH. These so-called recess appointments were unlawful because there was no legitimate recess in which they could be made.

There are many disagreements about policy and political issues. That is to be expected. But the integrity of our system of government requires that even the President must, as he said in the State of the Union Address, play by the rules. President Obama broke the rules in order to install the individuals he wanted. That action weakened the Constitution, our system of checks and balances, as well as both the Senate and the Presidency.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

EGYPT

Mr. LEAHY. Madam President, I would like to draw the Senate's attention to recent developments in Egypt, and I begin by referring to the outburst of violence yesterday by rival soccer fans after a match in that country in which 73 people were reportedly killed and hundreds injured.

This is a shocking tragedy, and I want to express my condolences to the Egyptian people and the families of the victims.

Last week tens of thousands of Egyptians gathered in Tahrir Square in Cairo to celebrate the 1 year anniversary of the popular revolution that overthrew former President Hosni Mubarak. That courageous and largely peaceful expression of popular will was inspirational to people everywhere, including millions of Americans.

The United States and Egypt share a long history of friendship and cooperation. Thousands of Americans travel and study in Egypt, and over the years we have provided tens of billions of dollars in economic and military aid to Egypt. Our countries share many interests, and it is critically important that we remain friends and allies in that strategically important part of the world during this period of political, economic, and social transition.

During the past 12 months, Egypt has been governed by a group of senior military officers, each of whom held positions of leadership and privilege in the repressive and corrupt Mubarak government. To their credit, for the most part they did not attempt to put down the revolution by force, and they pledged to support the people's demand for a democratically elected civilian government that protects fundamental freedoms.

The transition process is a work in progress. On the positive side, two democratic elections have been held and a new Parliament has been seated. On the negative side, civilian protesters have been arrested and prosecuted in military courts that do not protect due process, and in December Egyptian police raided the offices of seven nongovernmental organizations, including four U.S.-based groups whose work for democracy and human rights has for years been hindered by laws and practices that restrict freedom of expression and association. Files and computers were confiscated, and some of their employees have been interrogated.

There are also reports that as many as 400 Egyptian nongovernmental organizations are under investigation, allegedly for accepting foreign donations. Apparently, to the thinking of Egypt's military rulers, there is nothing wrong with the Egyptian Government receiving billions of dollars from U.S. taxpayers, but private Egyptian groups that work for a more democratic, free society on behalf of the Egyptian people and that cannot survive without outside help do so at their peril.

Despite repeated assurances from Egyptian authorities that the property seized from these organizations would be promptly returned, that has not happened. To the contrary, the situation has gotten worse as several of their American employees have been ordered to remain in Egypt. Some of them have obtained protection at the U.S. Embassy. With each passing day there are growing concerns that these groups could face criminal charges for operating in the country without permission.

This is a spurious charge, since registration applications were submitted and deemed complete by the government years ago, because the organizations regularly reported to officials on their activities, and since, while registration was pending, they were permitted to operate. Ironically, while the previous regime did not seek to expel them for their prodemocracy work, Egypt's current authorities, whose responsibility it is to defend and support the democratic tradition, are attempting to do just that.

There is abundant misinformation about the work of the American-based

organizations, with some Egyptian officials accusing them—without offering any evidence—of trying to subvert Egypt's political process. Without belaboring the point, their work was no secret as they had nothing to hide. They were helping to build the capacity of Egyptian organizations engaged in peaceful work for democracy and human rights, supporting the development of political parties, and working with Egyptian groups to provide nonpartisan voter education.

The military argues that since these groups were not registered, they were in violation of Egyptian law, but this is a transparently specious excuse for shutting them down. Their repeated applications for registration were neither granted nor denied. The government simply chose to ignore them.

Egyptian officials also insist that this is simply a matter of upholding the rule of law, but the complaint against these organizations was issued by a Minister with no direct authority over legal matters, and a negative propaganda campaign was unleashed in the state-controlled media. The conduct of the raids, seizure of the files and computers, interrogation of the employees, and the no-fly order have not been conducted consistent with legal standards but instead seem to be politically motivated. No warrants have been issued, no charging documents made public, and no inventory of seized property made available.

Many suspect that the force behind this crackdown is Minister of International Cooperation Faiza Aboul Naga, who was described in a Washington Post editorial this week as ''a civilian holdover from the Mubarak regime'' and ''an ambitious demagogue [who] is pursuing a well-worn path in Egyptian politics—whipping up nationalist sentiment against the United States as a way of attacking liberal opponents at home.'' Given Minister Aboul Naga's recent statements, I strongly believe that no future U.S. Government funds should be provided to or through that ministry as long as she is in charge. As the chair of the Appropriations Committee's Subcommittee on the State Department and Foreign Operations, I am confident there is strong support in Congress for this position.

A related issue is the Egyptian military's continued use of vaguely worded emergency laws to silence dissent. While it is encouraging that the head of the military, General Tantawi, announced plans to lift the 30-year state of emergency, that is only a first step.

As I have mentioned, for decades the United States and Egypt have been friends and allies. While we have differed over issues of democracy and human rights, our two countries have worked together in pursuit of common goals. Our partnership needs to be strengthened and broadened to respond to the interests and aspirations of the Egyptian people themselves. Our longstanding legacy of cooperation with the Egyptian Government is now in jeopardy, and it is in the interests of both countries that this crisis is promptly and satisfactorily resolved and that we focus instead on moving forward to build an even stronger and enduring relationship.

In December, President Obama signed into law the Consolidated Appropriations Act for 2012. Section 7041(a)(1) of division I of that act provides that prior to the obligation of $1.3 billion in fiscal year 2012 U.S. military aid for Egypt, the Secretary of State shall certify that ''the Government of Egypt is supporting the transition to civilian government including holding free and fair elections; implementing policies to protect freedom of expression, association, and religion, and due process of law.''

These unprecedented requirements, which I wrote, were included for two reasons. First, we want to send a clear message to the Egyptian people that we support their demand for democracy and fundamental freedoms. Second, we want to send a clear message to the Egyptian military that the days of blank checks are over. We value the relationship and will provide substantial amounts of aid, but not unconditionally. They must do their part to support the transition to civilian government. If the assault against international and Egyptian nongovernmental organizations continues, several of the requirements for certification could not be met.

Egypt has an extraordinary history dating back thousands of years. Anyone who has stood at the base of the pyramids cannot help but be in awe of what that society accomplished centuries before Columbus arrived in America. It is a destination for thousands of American tourists and students each year. It has the potential to be a strong force for democratic change and moderation in the Middle East and north Africa.

I hope the Egyptian authorities fully appreciate the seriousness of this situation and what is at stake. They need to permit these organizations to reopen their offices, return the confiscated property, end investigations of their activities and the activities of Egyptian groups, and register them without conditions so they can continue to support the democratic transition.

I ask unanimous consent that the Washington Post editorial be printed in the RECORD.

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

[From the Washington Post, Jan. 31, 2012]

EGYPT'S WITCH HUNT THREATENS A RUPTURE WITH THE U.S.

(Editorial)

There is a grotesque incongruity in the tour around Washington this week of an Egyptian military delegation even as seven Americans who work for congressionally funded pro-democracy groups are prevented from leaving Cairo and threatened with criminal prosecution. What makes it worse is that the ruling military council refuses to recognize the seriousness of the crisis it has created in the U.S.-Egyptian alliance.

The persecution of the Americans, which has been escalating since their offices were raided Dec. 29, is an extraordinary provocation by the generals who succeeded Hosni Mubarak. Despite repeated appeals, including by President Obama, military council chief Field Marshal Mohammed Hussein Tantawi has failed to deliver on promises to call off the witch hunt and return confiscated funds and property. Over the weekend, three of the Americans, including the son of Transportation Secretary Ray LaHood, moved into the U.S. Embassy compound in Cairo out of fear for their safety.

Meanwhile the Egyptian military delegation, headed by Fouad Abdelhalim, defense minister for arms affairs, is here on a business-as-usual mission to discuss security cooperation—including the weapons purchases Egypt makes with the $1.3 billion in U.S. military aid it receives each year. The generals regard this funding as an entitlement, linked to the country's peace treaty with Israel. They appear to believe that Washington will not dare to cut them off, even if Americans seeking to promote democracy in Egypt are made the object of xenophobic slanders and threatened with imprisonment.

Preserving the alliance with Egypt, and maintaining good relations with its military, is an important U.S. interest. But the Obama administration must be prepared to take an uncompromising stand. If the campaign against U.S., European and Egyptian NGOs is not ended, military aid must be suspended.

Administration officials say Gen. Tantawi has been warned repeatedly that the aid money is at risk. But they tend to blame Congress, which attached conditions to the 2012 military funding over the administration's objections. Before aid is disbursed, the administration is required to certify to Congress that Egypt is holding free elections and protecting freedom of expression and association. Officials acknowledge that no certification will be possible while the prosecutions continue, and that funding could run out in March. But the legislation provides for the certification to be waived by the State Department on grounds of national security. That course must be ruled out.

The campaign against the International Republican Institute, National Democratic Institute and Freedom House, along with a half-dozen Egyptian and European groups, is being led by Minister of International Cooperation Faiza Aboul Naga, a civilian holdover from the Mubarak regime. Ms. Aboul Naga, an ambitious demagogue, is pursuing a well-worn path in Egyptian politics—whipping up nationalist sentiment against the United States as a way of attacking liberal opponents at home. The regime's calculation has always been that it can get away with such outrages because U.S. policymakers will conclude they can't afford a rupture in relations with Egypt. But if such a break is to be avoided, the generals must be disabused of the notion that U.S. military aid is inviolate.

PAYING A FAIR SHARE ACT OF 2012

Mr. SCHUMER. Madam President, I rise today in support of the Paying a Fair Share Act, also known as the Buffett rule. This legislation, introduced yesterday by my good friend from Rhode Island, highlights an important conversation about fairness and tax policy in this country.

Now, some of my friends across the aisle have some interesting ways of discussing the principle that millionaires

and billionaires should pay the same percent of their income taxes as middle-class families. They call it class warfare; they call it a political stunt. But in reality it is neither of those things. The Paying a Fair Share Act is common sense—the principle that everyone has a right to earn as much money as they can in America, as long as they are contributing their fair share.

We must have a sincere discussion about the distribution of tax burdens in this country. I am proud to be an original cosponsor of the Paying a Fair Share Act, because it addresses this issue head on.

New York is a large, diverse State full of very different people with very different views—a fact of which I am extremely proud. But all across the State people agree on the basic principle that a Tax Code which allows the most privileged of our society, people making tens and hundreds of millions of dollars a year, to pay less than 14 percent in taxes—significantly less than the average middle-class family—is broken.

With the introduction of the Paying a Fair Share Act, we now have before us legislation that can significantly reduce our debt and deficit without also breaking the backs of middle-class Americans. By ensuring that millionaires and billionaires pay at least 30 percent of their income in taxes—a rate similar to many average Americans—we can reinstitute tax fairness in this country, a principle that our Tax Code has sadly lacked since the Bush tax cuts ballooned our debt by cutting taxes for the ultra wealthy.

I invite my colleagues on both sides of the aisle to take part in this conversation. I consider the Paying a Fair Share Act as the beginning of a conversation, not the end of it. As the cochair of the Senate Philanthropy Caucus, I was pleased to see that my colleague from Rhode Island included language that ensures we continue to promote charitable giving and I would have liked to have seen a similar provision for State and local income taxes. Regardless, I know we will have the opportunity to build upon this proposal as it moves through consideration in the Senate and I look forward to working with my colleagues to improve it.

The issues of institutional unfairness in our Tax Code and our debt are not going away—not until we act. I hope my colleagues on both sides of the aisle can take the Paying a Fair Share Act as the beginning of a new chapter in the national debate, one that ends with a fairer Tax Code, deficit reduction, and a message to the American people that their government will not rest until we have created a stronger, more prosperous, and fairer American economy.

ADDITIONAL STATEMENTS

RECOGNIZING THE ARKANSAS LIGHTHOUSE FOR THE BLIND AND THE ABILITYONE PROGRAM

● Mr. BOOZMAN. Madam President, today I wish to recognize Arkansas Lighthouse for the Blind and the AbilityOne program, two important partners in our efforts to help blind Americans and those with other severe disabilities find meaningful employment.

The AbilityOne Program, formerly Javits-Wagner-O'Day, helps more than 47,000 people who are blind or have other severe disabilities put their skills and talents to work. It is the largest source of employment for people who are blind or have other severe disabilities in the country.

There are more than 600 nonprofit agencies throughout the United States, including Arkansas Lighthouse for the Blind, who participate in AbilityOne. These agencies produce over $2.3 billion in products and services purchased by the Federal Government.

Before entering public service, I practiced optometry in Rogers, AK. Assisting people with vision problems was more than a career for me, it was, and remains, a commitment. It led me to help establish a low vision program at the Arkansas School for the Blind in Little Rock and to offer my services as a volunteer optometrist at an area clinic that provides medical services to low-income families. I see a tremendous amount of passion and commitment in those who give their time and services to Arkansas Lighthouse to the Blind.

Having visited the Arkansas Lighthouse for the Blind, and seeing firsthand the folks who work there and the products they make, I could not be more proud of the work done by these men and women.

I applaud any organization that helps people who are blind or severely disabled find employment. The same job that a colleague or I might take for granted is a lifeline for those living with a disability. The products and services produced through Arkansas Lighthouse for the Blind and other organizations across the country also prove that someone with a disability can lead a productive life and make major contributions within their community. They provide a valuable service and I offer my continued support for their efforts.●

TRIBUTE TO JEAN PACE

● Mr. PRYOR. Madam President, it is my great pleasure today to recognize an Arkansan and a dedicated public servant on her approaching 75th birthday. Jean Pace, the longtime mayor of Mammoth Spring, AR, will celebrate her birthday on February 11, 2012. Family and friends will gather to celebrate not only Jean's birthday but also her tireless public service that has spanned 37 years.

Prior to her time in public office, Jean was drawn to Mammoth Spring for a teaching job. Needless to say, she fell in love with the town and its people and still lives there today. She spent 15 years teaching in the school district and played a significant role in developing the school's gifted and talented program as well as the music and band programs. Jean's love of music extended beyond the classroom as she also taught hundreds of children and adults piano lessons in her free time.

Though Jean loved inspiring her students each day in the classroom, she ultimately decided to pursue a greater role in the community and ran for mayor. Jean has now served 22 years in the mayor's office, and the city and surrounding area have seen substantial improvements with her at the helm. Mayor Pace has a reputation for being relentless in her pursuit of grant monies and in her efforts to improve the quality of life for the residents of Mammoth Spring. Her time and efforts have paved the way for such things as a new fire truck for the fire department, funding for the Aquatic Conservation and Education Center at Mammoth Spring National Fish Hatchery, and various improvements at the State Park. Her tenure as mayor also saw Ozarka College open a new location in Mammoth Spring, which has provided additional educational opportunities to Mammoth Spring residents.

While her work on behalf of the city is how most people know Mayor Pace, I would be remiss not to mention possibly the toughest and most rewarding job Jean has held. That is the job of mother and grandmother to her wonderful family. Jean's family includes her kids, Suzanne Pace Kimes and George Spencer Pace; their spouses, Curt Kimes and Ellen Pace; and two grandkids, George Sheffield Pace and Dalton Christine Pace. I know they will all enjoy being together to celebrate Jean's 75th birthday next week.

Mr. President, I ask all my colleagues to join me in wishing Jean a happy 75th birthday and thank her for her 37 years of public service to Mammoth Spring.●

REMEMBERING EVELYN LAUDER

● Mr. LAUTENBERG. Madam President, late last year we lost Evelyn H. Lauder, a business leader, women's health advocate, refugee of nazism—and a friend.

Evelyn was born in Vienna, Austria, in 1936, the only daughter of Ernest and Mimi Hausner. Two years later, after Nazi troops invaded Austria, the Hausners fled to England, where Evelyn's mother was sent to an internment camp on the Isle of Man.

In 1940, after Mrs. Hausner's release, the family sailed to the United States. They settled in New York, where Evelyn attended public schools and Hunter College. She then married Leonard Lauder; had two sons, William and Gary; and for a while worked as a schoolteacher in New York.

When Evelyn's mother-in-law Estée Lauder invited her to join the family's cosmetics company in 1959, it was a small business with a handful of employees. Evelyn helped build it into an empire. She created the Clinique brand and held a number of positions at the company, including senior corporate vice president. Today, the Estée Lauder Companies employ more than 32,000 people around the world.

Although Evelyn was a talented businesswoman, she arguably made her biggest impact outside the business world. In 1989, Evelyn was diagnosed with breast cancer. Instead of allowing her illness to be a setback, Evelyn made it a cause. She helped create the pink ribbon campaign to raise awareness of breast cancer and also founded the Breast Cancer Research Foundation, which has raised more than $350 million and supports more than 180 scientists based in 13 countries. The Breast Center at the Memorial Sloan-Kettering Cancer Center bears her name.

In a New York Times profile in 1995, Evelyn stated, ''I feel it's important to make a mark somewhere.''

Madam President, I believe Evelyn achieved this goal. Her leadership in business and philanthropy, along with her passionate advocacy for women's health issues, is virtually unmatched. We are thankful for her and the enduring legacy she left us.

I ask to have printed in the RECORD a copy of the obituary the New York Times published at the time of her passing.

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

[From The New York Times, Nov. 12, 2011]

EVELYN H. LAUDER, CHAMPION OF BREAST CANCER RESEARCH, DIES AT 75

(By Cathy Horyn)

Evelyn H. Lauder, a refugee of Nazi-occupied Europe who married into an illustrious family in the beauty business and became an ardent advocate for breast cancer awareness, raising millions for research, died on Saturday at her home in Manhattan. She was 75.

The cause was nongenetic ovarian cancer said Alexandra Trower, a spokeswoman for the Estée Lauder Companies.

As the wife of Leonard A. Lauder, the chairman emeritus of the Estée Lauder Companies, and as the daughter-in-law of the company's formidable matriarch, Estée Lauder, Evelyn Lauder had to establish her own place in a family as complex as it was competitive.

Mrs. Lauder frequently told the story of how, early in her marriage, she returned to the couple's apartment to find that Estée had rearranged the furniture more to her liking. When Evelyn and Leonard were dating—it was only their second date—Estée implored her to stay and be the hostess for a birthday party she was giving her son.

''So I stayed,'' Mrs. Lauder said in an interview in 2008. ''What could I do? She was like a steamroller.''

Yet it was clear that Estée was crazy about the young woman, and soon after Evelyn's marriage, in 1959, she joined the family cosmetics company, then a small enterprise, pitching in wherever she was needed.

''I was very strong,'' she said. ''Having had a childhood like the one I had, I was much more tough than a lot of people. I was one of the few people who spoke my mind to Estée.''

Mrs. Lauder learned she had breast cancer in 1989 and soon became a strong voice on behalf of women's health, though she was always reluctant to discuss her own condition. ''My situation doesn't really matter,'' she told a reporter in 1995.

She was a creator of the Pink Ribbon campaign, a worldwide symbol of breast health, and in 1993 she founded the Breast Cancer Research Foundation, which has raised more than $350 million.

In 2007 she received a diagnosis of ovarian cancer, which developed independently of her breast cancer, Ms. Trower said.

Evelyn Hausner was born on Aug. 12, 1936, in Vienna, the only child of Ernest and Mimi Hausner. Her father, a dapper man who lived in Poland and Berlin before marrying the daughter of a Viennese lumber supplier, owned a lingerie shop. In 1938, with Hitler's annexation of Austria, the family left Vienna, taking a few belongings, including household silver, which Ernest Hausner used to obtain visas to Belgium.

The family eventually reached England, where Evelyn's mother was immediately sent to an internment camp on the Isle of Man. ''The separation was very traumatic for me,'' Mrs. Lauder said. Her father placed her in a nursery until her mother could be released and he could raise money. In 1940, the family set sail for New York, where her father worked as a diamond cutter during the war.

In 1947, he and his wife bought a dress shop in Manhattan called Lamay. Over time they expanded it to a chain of five shops.

Mrs. Lauder grew up on West 86th Street and attended Public School 9. During her freshman year at Hunter College, she met Leonard Lauder on a blind date. Already graduated from college and training to be a naval officer, Mr. Lauder had grown up on West 76th Street, though in a sense it was a world apart. ''He was the first person who took me out to dinner in a restaurant,'' she recalled. They married four years later at the Plaza Hotel.

Though always at home by 4 p.m. when her two children were little, Mrs. Lauder said she never considered being a stay-at-home mom, in spite of the family's growing wealth. ''I couldn't bear it,'' she said. ''I grew up with a working mother.'' Mrs. Lauder was also a public school teacher for several years.

She held many roles at Estée Lauder, including creator of training programs and director of new products and marketing. In 1989, the year of her breast cancer diagnosis, she became the senior corporate vice president and head of fragrance development worldwide.

Mrs. Lauder is survived by her husband; her sons, William and Gary; and five grandchildren.

Though Mrs. Lauder, an avid photographer, had a home in Colorado and a penthouse on Fifth Avenue lined with modern art, she and her husband liked to retreat to a plain cabin in Putnam County, N.Y., where Mrs. Lauder might serve guests German food she had prepared.

Asked once how she felt about working with her husband in the early days, she replied, ''Working with Leonard was a riot.'' Indeed, she joked that he had such a sense of business, without family favoritism, that getting an appointment with him was sometimes tough. ''It would take me much longer to get a date with him,'' she said, ''than someone who didn't have his name.''●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.

MESSAGES FROM THE HOUSE

At 11:40 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 bills, in which it requests the concurrence of the Senate:

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

H.R. 3567. An act to amend title IV of the Social Security Act to require States to implement policies to prevent assistance under the Temporary Assistance for Needy Families (TANF) program from being used in strip clubs, casinos, and liquor stores.

H.R. 3835. An act to extend the pay limitation for Members of Congress and Federal employees.

The message also announced that the House agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 90. Concurrent resolution authorizing the printing of the 25th edition of the pocket version of the United States Constitution.

The message further announced that pursuant to 10 U.S.C. 4355(a), and the order of the House of January 5, 2011, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Military Academy: Mr. SHIMKUS of Illinois and Mr. WOMACK of Arkansas.

ENROLLED BILL SIGNED

At 6:45 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 588. An act to redesignate the Noxubee National Wildlife Refuge as the Sam D. Hamilton Noxubee National Wildlife Refuge.

MEASURES REFERRED

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

H.R. 3567. An act to amend title IV of the Social Security Act to require States to implement policies to prevent assistance under the Temporary Assistance for Needy Families (TANF) program from being used in strip clubs, casinos, and liquor stores; to the Committee on Finance.

H.R. 3835. An act to extend the pay limitation for Members of Congress and Federal

employees; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 90. Concurrent resolution authorizing the printing of the 25th edition of the pocket version of the United States Constitution; to the Committee on Rules and Administration.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2064. A bill to amend the Internal Revenue Code of 1986 to terminate certain energy tax subsidies and lower the corporate income tax rate.

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–4882. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Agency, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendments and Corrections to DEA Regulations'' (Docket No. DEA–356) received in the Office of the President of the Senate on January 31, 2012; to the Committee on the Judiciary.

EC–4883. A communication from the Assistant Attorney General, transmitting, pursuant to law, a report relative to grants made under the Paul Coverdell National Forensic Science Improvement Grants Program; to the Committee on the Judiciary.

EC–4884. A communication from the Chief Human Capital Officer, Small Business Administration, transmitting, pursuant to law, a report relative to a vacancy in the position of Chief Counsel for Advocacy, received in the Office of the President of the Senate on January 30, 2012; to the Committee on Small Business and Entrepreneurship.

EC–4885. A communication from the Director of the Regulation Policy and Management Office, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Dental Conditions'' (RIN2900–AN28) received in the Office of the President of the Senate on January 30, 2012; to the Committee on Veterans' Affairs.

EC–4886. A communication from the Director of the Regulation Policy and Management Office, National Cemetery Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Tribal Veterans Cemetery Grants'' (RIN2900–AN90) received in the Office of the President of the Senate on January 30, 2012; to the Committee on Veterans' Affairs.

EC–4887. A communication from the Acting Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Colorado; Modification of the Handling Regulation for Area No. 3'' (Docket No. AMS–FV–11–0051; FV11–948–1 FR) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4888. A communication from the Administrator, Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Electric Engineering, Architectural Services, Design Policies and Construction Standards'' (7 CFR Parts 1724 and 1726) received in the Office of the President of the Senate on January 31, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4889. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled, ''Fundamental Properties of Asphalts and Modified Asphalts—III''; to the Committee on Commerce, Science, and Transportation.

EC–4890. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to obligations and unobligated balances of funds provided for Federal-aid highway and safety construction programs during fiscal year 2010; to the Committee on Commerce, Science, and Transportation.

EC–4891. A communication from the Chair of the Aerospace Safety Advisory Panel, National Aeronautics and Space Administration, transmitting, pursuant to law, the Panel's annual report for 2011; to the Committee on Commerce, Science, and Transportation.

EC–4892. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Transportation for Individuals With Disabilities at Intercity, Commuter, and High Speed Passenger Railroad Station Platforms; Miscellaneous Amendments'' (RIN2105–AD54) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4893. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of VOR Federal Airways V-81, V-89, and V-169 in the Vicinity of Chadron, Nebraska'' ((RIN2120–AA66) (Docket No. FAA–2010–1016)) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4894. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Restricted Areas R-210A, B, C, D and E; Huntsville, AL'' ((RIN2120–AA66) (Docket No. FAA–2010–0693)) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4895. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revocation and Establishment of Compulsory Reporting Point; Alaska'' ((RIN2120–AA66) (Docket No. FAA–2011–1238)) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4896. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of VOR Federal Airways V-320 and V-440; Alaska'' ((RIN2120–AA66) (Docket No. FAA–2011–1014)) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4897. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to and Establishment of Restricted Areas; Warren Grove, NJ'' ((RIN2120–AA66) (Docket No. FAA–2011–0104)) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4898. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Federal Airways; Alaska'' ((RIN2120–AA66) (Docket No. FAA–2011–0010)) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4899. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; International Aero Engines Turbofan Engines'' ((RIN2120–AA64) (Docket No. FAA–2010–0494)) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4900. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; BAE SYSTEMS (Operations) Limited Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0911)) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4901. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Lycoming Engines, Fuel Injected Reciprocating Engines'' ((RIN2120–AA64) (Docket No. FAA–2007–0218)) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4902. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0649)) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4903. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D and E Airspace; North Philadelphia, PA'' ((RIN2120–AA66) (Docket No. FAA–2011–0625)) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Commerce, Science, and Transportation.

EC–4904. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Canada (Bell) Model 407 and 427 Helicopters'' ((RIN2120–AA64) (Docket No. FAA–2011–1035)) received in the Office of the President of the Senate on January 26, 2012; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Paul J. Watford, of California, to be United States Circuit Judge for the Ninth Circuit.

Anuj Chang Desai, of Wisconsin, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 2011.

Anuj Chang Desai, of Wisconsin, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 2014.

Dennis J. Erby, of Mississippi, to be United States Marshal for the Northern District of Mississippi for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. PAUL (for himself, Mr. DEMINT, Mr. LEE, Mr. RISCH, and Mr. COBURN):

S. 2062. A bill to amend the Lacey Act Amendments of 1981 to repeal certain provisions relating to criminal penalties and violations of foreign laws, and for other purposes; to the Committee on Environment and Public Works.

By Mr. WEBB:

S. 2063. A bill to prohibit the transfer of technology developed using funding provided by the United States Government to entities of certain countries, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DEMINT (for himself and Mr. LEE):

S. 2064. A bill to amend the Internal Revenue Code of 1986 to terminate certain energy tax subsidies and lower the corporate income tax rate; read the first time.

By Mr. KYL (for himself, Mr. MCCAIN, Mr. CORNYN, Mr. GRAHAM, Mr. RUBIO, Ms. AYOTTE, and Mr. THUNE):

S. 2065. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to modify the discretionary spending limits to take into account savings resulting from the reduction in the number of Federal employees and extending the pay freeze for Federal employees; to the Committee on the Budget.

By Ms. MURKOWSKI (for herself and Mr. MANCHIN):

S. 2066. A bill to recognize the heritage of recreational fishing, hunting, and shooting on Federal public land and ensure continued opportunities for those activities; to the Committee on Energy and Natural Resources.

By Mr. CASEY (for himself and Mr. MCCAIN):

S. 2067. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device regulation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU (for herself, Mr. ISAKSON, Mr. NELSON of Nebraska, and Ms. MURKOWSKI):

S. 2068. A bill to amend title XXVII of the Public Health Service Act to preserve consumer and employer access to licensed independent insurance producers; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MIKULSKI (for herself, Mr. KERRY, Ms. COLLINS, Mr. BLUMENTHAL, and Mr. WARNER):

S. 2069. A bill to amend the Public Health Service Act to speed American innovation in research and drug development for the leading causes of death that are the most costly chronic conditions for our Nation, to save American families and the Federal and State governments money, and to help family caregivers; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU (for herself, Mr. MCCAIN, and Mr. KERRY):

S. Res. 367. A resolution designating January 2012 as ''National Mentoring Month''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 33

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 33, a bill to designate a portion of the Arctic National Wildlife Refuge as wilderness.

S. 414

At the request of Mr. DURBIN, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 414, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1023

At the request of Mr. DURBIN, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 1023, a bill to authorize the President to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes.

S. 1269

At the request of Ms. SNOWE, the names of the Senator from California (Mrs. BOXER) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 1269, a bill to amend the Elementary and Secondary Education Act of 1965 to require the Secretary of Education to collect information from coeducational secondary schools on such schools' athletic programs, and for other purposes.

S. 1421

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

S. 1884

At the request of Mr. DURBIN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1884, a bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools.

S. 1925

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1982

At the request of Mr. CASEY, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 1982, a bill to amend the Older Americans Act of 1965 to develop and test an expanded and advanced role for direct care workers who provide long-term services and supports to older individuals in efforts to coordinate care and improve the efficiency of service delivery.

AMENDMENT NO. 1471

At the request of Mr. HOEVEN, his name was added as a cosponsor of amendment No. 1471 proposed to S. 2038, an original bill to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes.

At the request of Mr. MCCAIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of amendment No. 1471 proposed to S. 2038, supra.

AMENDMENT NO. 1473

At the request of Mr. COBURN, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of amendment No. 1473 proposed to S. 2038, an original bill to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes.

AMENDMENT NO. 1474

At the request of Mr. COBURN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of amendment No. 1474 proposed to S. 2038, an original bill to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself, Mr. MCCAIN, Mr. CORNYN, Mr. GRAHAM, Mr. RUBIO, Ms. AYOTTE, and Mr. THUNE):

S. 2065. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to modify the discretionary spending limits to take into account savings resulting from the reduction in the number of Federal employees and extending the pay freeze for Federal employees; to the Committee on the Budget.

Mr. KYL. 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. 2065

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 ''Down Payment to Protect National Security Act of 2012''.

SEC. 2. REDUCTION IN THE NUMBER OF FEDERAL EMPLOYEES.

(a) DEFINITION.—In this section, the term ''agency'' has the meaning given the term ''Executive agency'' under section 105 of title 5, United States Code.

(b) DETERMINATION OF NUMBER OF EMPLOYEES.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall determine the number of full-time employees employed in each agency. The head of each agency shall cooperate with the Director of the Office of Management and Budget in making the determinations.

(c) REPLACEMENT HIRE RATE.—

(1) IN GENERAL.—During the period described under paragraph (2), the head of each agency may hire no more than 2 employees in that agency for every 3 employees who leave employment in that agency.

(2) PERIOD OF REPLACEMENT HIRE RATE.—Paragraph (1) shall apply to each agency during the period beginning 60 days after the date of enactment of this Act through the date on which the Director of the Office of Management and Budget makes a determination that the number of full-time employees employed in that agency is 5 percent less than the number of full-time employees employed in that agency determined under subsection (a).

(d) WAIVERS.—This section may be waived upon a determination by the President that—

(1) the existence of a state of war or other national security concern so requires; or

(2) the existence of an extraordinary emergency threatening life, health, public safety, property, or the environment so requires.

SEC. 3. EXTENSION OF PAY FREEZE FOR FEDERAL EMPLOYEES.

(a) IN GENERAL.—Section 147 of the Continuing Appropriations Act, 2011 (Public Law 111–242; 5 U.S.C. 5303 note) is amended—

(1) in subsection (b)(1), by striking ''December 31, 2012'' and inserting ''June 30, 2014''; and

(2) in subsection (c), by striking ''December 31, 2012'' and inserting ''June 30, 2014''.

(b) CLARIFICATION THAT FREEZE APPLIES TO MEMBERS OF CONGRESS.—Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during the period beginning on the first day of the first pay period beginning on or after February 1, 2013 and ending on June 30, 2014.

SEC. 4. REDUCTION OF REVISED DISCRETIONARY SPENDING LIMITS TO ACHIEVE SAVINGS FROM FEDERAL EMPLOYEE PROVISIONS.

Paragraph (2) of section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901a) is amended to read as follows:

''(2) REVISED DISCRETIONARY SPENDING LIMITS.—The discretionary spending limits for fiscal years 2013 through 2021 under section 251(c) shall be replaced with the following:

''(A) For fiscal year 2013—

''(i) for the revised security category, $546,000,000,000 in budget authority; and

''(ii) for the revised nonsecurity category, $501,000,000,000 in budget authority.

''(B) For fiscal year 2014—

''(i) for the revised security category, $551,000,000,000 in budget authority; and

''(ii) for the revised nonsecurity category, $500,000,000,000 in budget authority.

''(C) For fiscal year 2015—

''(i) for the revised security category, $560,000,000,000 in budget authority; and

''(ii) for the revised nonsecurity category, $510,000,000,000 in budget authority.

''(D) For fiscal year 2016—

''(i) for the revised security category, $571,000,000,000 in budget authority; and

''(ii) for the revised nonsecurity category, $520,000,000,000 in budget authority.

''(E) For fiscal year 2017—

''(i) for the revised security category, $584,000,000,000 in budget authority; and

''(ii) for the revised nonsecurity category, $531,000,000,000 in budget authority.

''(F) For fiscal year 2018—

''(i) for the revised security category, $598,000,000,000 in budget authority; and

''(ii) for the revised nonsecurity category, $543,000,000,000 in budget authority.

''(G) For fiscal year 2019—

''(i) for the revised security category, $610,000,000,000 in budget authority; and

''(ii) for the revised nonsecurity category, $556,000,000,000 in budget authority.

''(H) For fiscal year 2020—

''(i) for the revised security category, $624,000,000,000 in budget authority; and

''(ii) for the revised nonsecurity category, $568,000,000,000 in budget authority.

''(I) For fiscal year 2021—

''(i) for the revised security category, $638,000,000,000 in budget authority; and

''(ii) for the revised nonsecurity category, $579,000,000,000 in budget authority.''.

SEC. 5. CALCULATION OF TOTAL DEFICIT REDUCTION.

Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901a) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking ''$1,200,000,000,000'' and inserting ''$1,073,000,000,000''; and

(B) in subparagraph (D), by striking ''by 9'' and inserting ''by 8'';

(2) in paragraph (4), by striking ''On January 2, 2013, for fiscal year 2013, and in'' and inserting ''In'';

(3) in paragraphs (5) and (6), by striking ''2013'' each place it appears and inserting ''2014''; and

(4) in paragraph (7)—

(A) by striking ''REDUCTIONS.—'' and all that follows through ''FISCAL YEARS 2014-2021.—On the date'' and inserting ''REDUCTIONS.—On the date''; and

(B) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and adjusting the margin accordingly.

By Ms. MIKULSKI (for herself, Mr. KERRY, Ms. COLLINS, Mr. BLUMENTHAL, and Mr. WARNER):

S. 2069. A bill to amend the Public Health Service Act to speed American innovation in research and drug development for the leading causes of death that are the most costly chronic conditions for our Nation, to save American families and the Federal and State governments money, and to help family caregivers; to the Committee on Health, Education, Labor, and Pensions.

Ms. MIKULSKI. Mr. President, I am proud to introduce the Spending Reductions Through Innovations in Therapies Agenda Act with my good friends and colleagues, Senators COLLINS, KERRY, BLUMENTHAL, and WARNER. This is a bi-partisan and bi-cameral bill that I have worked on with Representatives MARKEY and SMITH and community organizations and leaders such as George and Trish Vradenburg's U.S. Against Alzheimer's. This legislation will help us sprint to the finish line by getting innovative therapies from bench to bedside more quickly for chronic diseases like Alzheimer's. It spurs innovation in advanced research and drug, device, and diagnostics development for chronic health conditions that are leading causes of death as well as the most costly to taxpayers and families.

The act puts the focus where it needs to be. It tackles the health problems we are challenged with today and will be faced with in the future if there is inaction. We must conquer these complex health conditions and plug the drain that draws money from our nation's economy and patients, families, and taxpayers checkbooks.

It is been over 10 years since a new Alzheimer's drug entered the U.S. market. Eleven industry sponsored clinical trials have failed in recent years. It takes 10 to 15 years to develop a drug and get the FDA gold seal of approval. Each drug that successfully enters the market, costs over $1 billion to develop. This is because of the high failure rates in the ''Valley of Death.''

Currently, 5 million Americans have Alzheimer's and 15 million Americans are caring for a loved one with Alzheimer's. There are no drugs on the market today to delay-onset, prevent, or cure Alzheimer's. Medicare spending for Alzheimer's patients is 3 times higher than Medicare patients without Alzheimer's. Medicaid spending for Alzheimer's patients age 65 and older is 9 times higher. This is unsustainable. Families are left bewildered, bereft, and broke.

I know what this is like. My own dear father was one of the 5 million Americans with Alzheimer's. I remember when I would go to visit him. It didn't matter that I was a United States Senator or the Senator who represents the National Institutes of Health. It didn't matter that I could get Nobel Prize winners on the phone. The information that would have made his life easier just wasn't there. My family and I knew about the long goodbye. We lived the 36-hour day. It was devastating for him, heart-breaking to my mother, and heart-wrenching for my sisters and me. What was difficult was not only the disease but that we also felt powerless. All we could do was make my father comfortable. There was no cure. There was no safety net for our family.

I vowed to do everything I could. Not just to support research and development in Alzheimer's but also to create a safety net for families. I know it is gut-wrenching to wonder how you'll be able to care for a parent. I have always believed Honor thy mother and father' is a good commandment to live by and a good policy to govern by. We need innovative strategies like the SPRINT program to make sure your brain span lasts your life span.

SPRINT speeds the development of drugs and therapies to combat the most deadly and costly chronic diseases. It compresses the product development timeline and increases the volume of drugs in the development pipeline so that priority is given to the most promising drugs. This bill expedites the Food and Drug Administration review process. It helps get more drugs out of the labs and into patient's hands more quickly.

This act establishes a new program—the SPRINT Program. SPRINT will develop new therapies to reduce federal health care spending on chronic health conditions like Alzheimer's, diabetes, heart disease and cancer that are the leading causes of death identified by the Centers for Disease Control and Prevention. In fact, some researchers are already working hard to see if diabetes or heart diseases are associated with Alzheimer's. I have seen firsthand that many Alzheimer's patients have multiple chronic conditions.

SPRINT directs the Secretary of Health and Human Services to work collaboratively with non-profit investors to identify public and private organizations with expertise in developing therapies for these conditions like a biotech company or an academic health center such as University of Maryland or Johns Hopkins. Prize payments, contracts, grants, or cooperative agreements will be awarded to accelerate development of therapies that have potential to prevent or diagnose, delay onset or cure, and aid recovery or improve health outcomes for Alzheimer's disease and other high-cost conditions.

This bill is built on a public-private partnership. We will make a $50 million Federal investment and leverage private capital by raising $2 in private investment for every Federal dollar to combat this problem together. For this small investment we will get huge returns in lives saved and new cures. By making a small investment today we will save billions in future health care spending and long-term care costs. Alzheimer's Association estimates that Alzheimer's alone costs our federal health programs, Medicare and Medicaid, over $183 billion annually.

SPRINT is a job creator. Manufacturers in Maryland and other states are on the frontier of discovering new drugs and biologics. By helping patients find new treatments we can also make targeted investments in our innovation economy. Biotech companies are an economic engine in Maryland's economy. SPRINT helps America remain number one in biomedical innovation and job creation.

I have a saying, ''each of us can make a difference and together we can make change''. I will keep fighting for a cure for Alzheimer's. I will keep fighting to support our innovative industries in their quest for new therapies and treatments that will help patients globally and create jobs domestically. And I will keep fighting to help families living with Alzheimer's. We are working together because a Congress that works together works the best. We will get this done. Some people want to go to Mars but I want to be in the United States of America when they say ''we found a cure for Alzheimer's.''

Ms. COLLINS. Mr. President, today I wish to, with my colleague from Maryland, introduce the Spending Reductions through Innovations in Therapies agenda, or SPRINT, Act, a bipartisan, bicameral bill to accelerate the development of treatments and therapies for high-cost diseases such as Alzheimer's, diabetes, cancer, and heart disease.

Alzheimer's and other chronic conditions take a tremendous personal and economic toll on millions of Americans and their families. Moreover, in addition to the human suffering they cause, they pose significant challenges to the fiscal health of our Nation.

Alzheimer's disease alone costs the United States $183 billion a year, a figure that will only increase exponentially as the baby-boom generation ages. If nothing is done to slow or stop the disease, Alzheimer's will cost the United States $20 trillion over the next 40 years.

At a time of mounting deficits, the increasing incidence of diseases such as diabetes and Alzheimer's also has dire implications for our Federal budget. For example, it is estimated that spending on diabetes accounts for one out of three Medicare dollars. The average annual Medicare payment for an individual with Alzheimer's is three times higher than for those without the condition. For Medicaid, average payments for someone with Alzheimer's are nine times higher.

The Federal Government is currently spending hundreds of billions of dollars a year caring for patients suffering from Alzheimer's disease, diabetes, cancer, heart disease, and other conditions. This pricetag will only increase as our population ages. Left unchecked, these devastating diseases threaten not only to destroy our Nation's health, but also to bankrupt our finances.

The SPRINT Act, which we are introducing today, is intended to speed the development of therapies to significantly modify, cure, or prevent these high-cost, chronic conditions. Among other provisions, the bill authorizes $50 million for a public-private SPRINT program and fund within the Department of Health and Human Services to support advanced research into promising therapies that are most likely to improve health outcomes and reduce health care costs.

Modeled after the successful Defense Advance Research Project Agency, DARPA, the SPRINT program and fund will complement the basic research done by the National Institutes of Health. It will work through public-private partnerships to provide modest resources to research institutions and other innovators conducting advanced research into therapies and treatments for Alzheimer's and other high-cost chronic conditions.

Funding provided under the bill will be targeted to chronic conditions designated by the Centers for Disease Control and Prevention as being among the top 10 causes of death and focused on those that account for high current and projected costs to Federal health programs; reduce a victim's ability to carry out activities of daily living; have a death rate that has increased and is projected to increase significantly in future years; and lack existing therapies to prevent, control, or cure the condition or delay cognitive decline.

Each Federal dollar awarded under the program must be matched by at least $2 in private funding, and the Secretary may modify or terminate funding for projects that fail to meet milestones. Finally, the legislation will expedite review by the Food and Drug Administration of the therapies developed through the program so they can be delivered to patients as quickly as possible.

Chronic diseases such as Alzheimer's, heart disease, diabetes, and cancer cause great suffering and financial hardship for millions of Americans and their families. Given their increasing prevalence as our population ages, they also threaten to bankrupt critically important programs like Medicare and Medicaid.

The SPRINT Act will leverage a relatively small Federal investment to speed the development of therapies that have the potential to prevent, delay, cure, and improve outcomes for these terrible diseases. It also offers us an opportunity to control the costs associated with these devastating conditions. I urge my colleagues to join us in cosponsoring this important legislation. I ask unanimous consent that a letter from the Alzheimer's Association endorsing our legislation be printed in the RECORD.

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

ALZHEIMER'S ASSOCIATION,
PUBLIC POLICY OFFICE,
Washington, DC, January 31, 2012.

Hon. SUSAN COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the Alzheimer's Association, thank you for your leadership on issues important to Americans with Alzheimer's disease and their caregivers. As the co-chair of the Congressional Alzheimer's Task Force you are well-aware of the national and global epidemic that is Alzheimer's disease. This devastating disease is the ultimate thief—a thief of memories, thief of independence, thief of control, thief of time and ultimately, a thief of life. The Alzheimer's Association is pleased to support your bill, the Spending Reductions through Innovations in Therapies Agenda Act of 2012 (SPRINT Act), which would create a novel mechanism to target research investments that development of new treatments and reduce overall spending by Federal health care programs for high-cost chronic conditions, including Alzheimer's disease.

The Alzheimer's Association is the world's leading voluntary health organization in

Alzheimer's care, support and research. Our mission is to eliminate Alzheimer's disease and other dementias through the advancement of research, to provide and enhance care and support for all affected; and to reduce the risk of dementia through the promotion of brain health. Our vision is a world without Alzheimer's.

In 2011, the cost of caring for those with Alzheimer's to American society will total an estimated $183 billion, according to Alzheimer's Association's 2011 Alzheimer's Disease Facts and Figures report. This is an $11 billion increase over last year—a rate of increase more than four times inflation. According to the Alzheimer's Association report, Changing the Trajectory of Alzheimer's Disease: A National Imperative, unless a treatment is found that can prevent cure, or even slow the progression, by 2050, as many as 16 million Americans will have Alzheimer's disease and the cost of care will surpass $1 trillion annually (in today's dollars). This will create an enormous strain on the health care system, families and the federal budget.

The SPRINT Act aims to speed American innovation in research and drug development for the leading causes of death that are the most costly chronic conditions for our Nation, which includes Alzheimer's disease. The legislation highlights the growing need for research and the importance of finding innovative ways to find a cure for Alzheimer's on behalf of the estimated 5.4 million Americans currently living with the disease.

The Alzheimer's Association appreciates your continued leadership on Alzheimer's disease. If you have any questions, please contact Rachel Conant, Director of Federal Affairs, at *Rachel.Conant@alz.org* or 202–638–7121.

Sincerely,

ROBERT EGGE,
Vice President, Public Policy.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 367—DESIGNATING JANUARY 2012 AS ''NATIONAL MENTORING MONTH''

Ms. LANDRIEU (for herself, Mr. MCCAIN, and Mr. KERRY) submitted the following resolution; which was considered and agreed to:

S. RES. 367

Whereas mentoring is a longstanding tradition in which a dependable, caring adult provides guidance, support, and encouragement to facilitate the social, emotional, and cognitive development of a young person;

Whereas continued research on mentoring shows that formal, high-quality mentoring focused on developing the competence and character of the mentee promotes positive outcomes, such as improved academic achievement, self-esteem, social skills, and career development;

Whereas further research on mentoring provides strong evidence that mentoring successfully reduces substance use and abuse, academic failure, and delinquency;

Whereas mentoring, in addition to preparing young people for school, work, and life, is extremely rewarding for the people who serve as mentors;

Whereas more than 5,000 mentoring programs in communities of all sizes across the United States focus on building strong, effective relationships between mentors and mentees;

Whereas approximately 3,000,000 young people in the United States are in formal mentoring relationships due to the remarkable vigor, creativity, and resourcefulness of the thousands of mentoring programs in communities throughout the United States;

Whereas, in spite of the progress made in increasing mentoring, the United States has a serious ''mentoring gap'', with nearly 15,000,000 young people in need of mentors;

Whereas mentoring partnerships between the public and private sectors bring State and local leaders together to support mentoring programs by preventing duplication of efforts, offering training in industry best practices, and making the most of limited resources to benefit young people in the United States;

Whereas the designation of January 2012 as ''National Mentoring Month'' will help call attention to the critical role mentors play in helping young people realize their potential;

Whereas a month-long celebration of mentoring will encourage more individuals and organizations, including schools, businesses, nonprofit organizations, faith institutions, and foundations, to become engaged in mentoring across the United States; and

Whereas, most significantly, National Mentoring Month—

(1) will build awareness of mentoring; and

(2) will encourage more people to become mentors and help close the mentoring gap in the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of January 2012 as ''National Mentoring Month'';

(2) recognizes with gratitude the contributions of the millions of caring adults and students who are already volunteering as mentors; and

(3) encourages more adults and students to volunteer as mentors.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1511. Mrs. GILLIBRAND (for Mr. LIEBERMAN) proposed an amendment to amendment SA 1470 proposed by Mr. REID (for himself, Mr. BROWN of Massachusetts, Mr. LIEBERMAN, Ms. COLLINS, Mrs. GILLIBRAND, Mr. LEVIN, and Mr. FRANKEN) to the bill S. 2038, to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes.

SA 1512. Mr. JOHNSON of Wisconsin submitted an amendment intended to be proposed by him to the bill S. 1789, to improve, sustain, and transform the United States Postal Service; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1511. Mrs. GILLIBRAND (for Mr. LIEBERMAN) proposed an amendment to amendment SA 1470 proposed by Mr. REID (for himself, Mr. BROWN of Massachusetts, Mr. LIEBERMAN, Ms. COLLINS, Mrs. GILLIBRAND, Mr. LEVIN, and Mr. FRANKEN) to the bill S. 2038, to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes; as follows:

On page 7, strike lines 6 through 9, insert the following:

''(j) Not later than 30 days after any transaction required to be reported under section 102(a)(5)(B), the following persons, if required to file a report under any other subsection of this section subject to any waivers and exclusions, shall file a report of the transaction:

''(1) A Member of Congress.

''(2) An officer or employee of Congress required to file a report under this section.

''(3) The President.

''(4) The Vice President.

''(5) Each employee appointed to a position in the executive branch, the appointment to which requires advice and consent of the Senate, except for—

''(A) an individual appointed to a position—

''(i) as a Foreign Service Officer below the rank of ambassador; or

''(ii) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O-6 or below; or

''(B) a special government employee, as defined under section 202 of title 18, United States Code.

''(6) Any employee in a position in the executive branch who is a noncareer appointee in the Senior Executive Service (as defined under section 3132(a)(7) of title 5, United States Code) or a similar personnel system for senior employees in the executive branch, such as the Senior Foreign Service, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government.

''(7) The Director of the Office of Government Ethics.

''(8) Any civilian employee, not described in paragraph (5), employed in the Executive Office of the President (other than a special government employee) who holds a commission of appointment from the President.''.

At the end insert the following:

SEC. ___. EXECUTIVE BRANCH REPORTING.

Not later than 2 years after the date of enactment of this Act, the President shall—

(1) ensure that financial disclosure forms filed by officers and employees referred to in section 101(j) of the Ethics in Government Act of 1978 (5 U.S.C. App.) are made available to the public as required by section 8(a) on appropriate official websites of agencies of the executive branch; and

(2) develop systems to enable electronic filing and public access, as required by section 8(b), to the financial disclosure forms of such individuals.

SA 1512. Mr. JOHNSON of Wisconsin submitted an amendment intended to be proposed by him to the bill S. 1789, to improve, sustain, and transform the United States Postal Service; which was ordered to lie on the table; as follows:

On page 113, line 11, strike ''service before'' and all that follows through line 20 and insert the following: ''service before October 1, 2014, voluntary separation incentive payments (including payments to employees who retire under section 8336(d)(2) or 8414(b)(1)(B) before October 1, 2014) that may not exceed the maximum amount provided under section 3523(b)(3)(B) for any employee.''.

On page 114, strike line 10 and all that follows through page 116, line 10.

On page 116, line 11, strike ''**103**'' and insert ''**102**''.

On page 117, line 16, strike ''104'' and insert ''103''.

On page 117, line 17, strike ''**104**'' and insert ''**103**''.

On page 121, line 4, strike ''**105**'' and insert ''**104**''.

On page 140, lines 19 and 20, strike ''sections 101, 102, 103, 205, and 209 of this Act'' and insert ''sections 101, 102, 205, and 209 of this Act''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, on February 2, 2012, at 10 a.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on February 2, 2012, at 9:30 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate to conduct a hearing entitled ''Innovations in College Affordability'' on February 2, 2012, at 10:20 a.m., in room 430 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate, on February 2, 2012, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on February 2, 2012, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Intelligence be authorized to meet during the session of the Senate, on February 2, 2012, at 2:30 p.m.

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

REPORTING AUTHORITY

Mr. REID. I ask unanimous consent notwithstanding adjournment of the Senate, the Committee on Environment and Public Works be authorized to report legislation tomorrow, February 3, from 12 noon to 2 p.m.

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

UNANIMOUS CONSENT AGREEMENT—H.R. 658

Mr. REID. Madam President, I now ask unanimous consent that at 3 p.m., Monday, February 6, the Chair lay before the body the conference report to accompany H.R. 658, the FAA Reauthorization Reform Act; that there be up to 2½ hours of debate on the conference report, equally divided between the conferees or their designees, prior to the vote on adoption of the conference report; that the vote on adoption be subject to a 60-vote threshold.

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

NATIONAL MENTORING MONTH

Mr. REID. I ask unanimous consent we now proceed to S. Res. 367.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 367) designating January 2012 as ''National Mentoring Month.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid on the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 367) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 367

Whereas mentoring is a longstanding tradition in which a dependable, caring adult provides guidance, support, and encouragement to facilitate the social, emotional, and cognitive development of a young person;

Whereas continued research on mentoring shows that formal, high-quality mentoring focused on developing the competence and character of the mentee promotes positive outcomes, such as improved academic achievement, self-esteem, social skills, and career development;

Whereas further research on mentoring provides strong evidence that mentoring successfully reduces substance use and abuse, academic failure, and delinquency;

Whereas mentoring, in addition to preparing young people for school, work, and life, is extremely rewarding for the people who serve as mentors;

Whereas more than 5,000 mentoring programs in communities of all sizes across the United States focus on building strong, effective relationships between mentors and mentees;

Whereas approximately 3,000,000 young people in the United States are in formal mentoring relationships due to the remarkable vigor, creativity, and resourcefulness of the thousands of mentoring programs in communities throughout the United States;

Whereas, in spite of the progress made in increasing mentoring, the United States has a serious ''mentoring gap'', with nearly 15,000,000 young people in need of mentors;

Whereas mentoring partnerships between the public and private sectors bring State and local leaders together to support mentoring programs by preventing duplication of efforts, offering training in industry best practices, and making the most of limited resources to benefit young people in the United States;

Whereas the designation of January 2012 as ''National Mentoring Month'' will help call attention to the critical role mentors play in helping young people realize their potential;

Whereas a month-long celebration of mentoring will encourage more individuals and organizations, including schools, businesses, nonprofit organizations, faith institutions, and foundations, to become engaged in mentoring across the United States; and

Whereas, most significantly, National Mentoring Month—

(1) will build awareness of mentoring; and

(2) will encourage more people to become mentors and help close the mentoring gap in the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of January 2012 as ''National Mentoring Month'';

(2) recognizes with gratitude the contributions of the millions of caring adults and students who are already volunteering as mentors; and

(3) encourages more adults and students to volunteer as mentors.

MEASURE READ THE FIRST TIME—S. 2064

Mr. REID. I now ask that we have the first reading of a bill which is at the desk.

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

The assistant legislative clerk read as follows:

A bill (S. 2064) to amend the Internal Revenue Code of 1986 to terminate certain energy tax subsidies and lower the corporate income tax rate.

Mr. REID. I ask for a second reading in order to place this bill on the calendar, but I object to my own request.

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

ORDERS FOR MONDAY, FEBRUARY 6, 2012

Mr. REID. Madam President, I ask unanimous consent that the Senate adjourn until 2 p.m., on Monday, February 6, 2012; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business until 3 p.m., with Senators permitted to speak up to 10 minutes each; and that following

morning business, the Senate proceed to consideration of the conference report to accompany H.R. 658, the FAA Reauthorization Act, under the previous order.

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

PROGRAM

Mr. REID. Madam President, I appreciate the cooperation of Senators this week. This important piece of legislation is something the American people believe is extremely important for the Congress to not put itself above the law. There was a dispute as to whether we were above the law. After this passage, there will be no dispute whatsoever.

I appreciate the fact that we will now move to the FAA bill, which is going to be completed in the form of a conference report. It is very hard to do. People worked extremely hard. Is it a perfect piece of legislation? No, it is not. But we have not had an FAA bill since 2003. We have had 23 temporary extensions. During this period of time the FAA basically shut down because we could not agree on what should move forward.

I repeat, this bill is not perfect, but it is something that is extremely important for job creation and for making our airports safer.

There will be a rollcall vote at 5:30 p.m. on the adoption of the FAA conference report.

ADJOURNMENT UNTIL MONDAY, FEBRUARY 6, 2012 AT 2 P.M.

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:46 p.m., adjourned until Monday, February 6, 2012, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

MICHAEL P. SHEA, OF CONNECTICUT, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT, VICE CHRISTOPHER DRONEY, ELEVATED.

STEPHANIE MARIE ROSE, OF IOWA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF IOWA, VICE ROBERT W. PRATT, RETIRING.

DEPARTMENT OF JUSTICE

LOUISE W. KELTON, OF TENNESSEE, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF FOUR YEARS, VICE DENNY WADE KING, TERM EXPIRED.

JAMIE A. HAINSWORTH, OF RHODE ISLAND, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF RHODE ISLAND FOR THE TERM OF FOUR YEARS, VICE STEVEN GERARD O'DONNELL, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE TO BE CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

OLGA FORD, OF VIRGINIA
EDWARD W. KOENIG, OF FLORIDA
JOEL REYNOSO, OF NEW YORK
MARGARET SHU TEASDALE, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION WITHIN AND INTO THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER:

WILLIAM M. ZARIT, OF THE DISTRICT OF COLUMBIA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR:

JOHN D. BREIDENSTINE, OF PENNSYLVANIA
DALE N. TASHARSKI, OF VIRGINIA
GREGORY M. WONG, OF NEVADA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

NASIR ABBASI, OF MARYLAND
CYNTHIA GRIFFIN, OF CONNECTICUT
EDWIN KEITH KIRKHAM, OF MAINE
ELLEN D. LENNY-PESSAGNO, OF KANSAS
MICHAEL J. RICHARDSON, OF FLORIDA

THE FOLLOWING-NAMED PERSONS OF THE DEPARTMENT OF STATE FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA.

TERRY L. MURPHREE, OF TEXAS

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

SOREN GRAHAM ANDERSEN, OF COLORADO
BETH M. ANDONOV, OF NEVADA
JONATHAN BAAS, OF ARIZONA
SARAH S. BANERJEE, OF WASHINGTON
TYLER BEEBOUT, OF COLORADO
TIMOTHY P. BLAKENEY, OF VIRGINIA
SARAH SHEA CARMACK, OF VIRGINIA
ALICE CARUSO, OF CALIFORNIA
JOYCE A. CATALANO, OF VIRGINIA
SCOTT MARTIN CEREMUGA, OF VIRGINIA
IAN CRAWFORD, OF OREGON
RYAN ELIZABETH CROWLEY, OF MARYLAND
CINDY MARIE DIOUF, OF IOWA
DANIEL B. DOLAN, OF PENNSYLVANIA
STEPHEN EKLUND DREIKORN, OF VIRGINIA
AMY ELIZABETH EICHENBERG, OF PENNSYLVANIA
MARTHA C. FARNSWORTH, OF CONNECTICUT
ADAM EDWIN FOX, OF IOWA
BROCK DAVID FOX, OF VIRGINIA
RICHARD SAMUEL GREENE IV, OF THE DISTRICT OF COLUMBIA
KATHERINE GROSSMAN, OF THE DISTRICT OF COLUMBIA
JOSE ANJEL GUTIERREZ, OF VIRGINIA
BARBARA HALL, OF THE DISTRICT OF COLUMBIA
JAMES NOEL HAMILTON, OF WASHINGTON
DENISE E. HARRELL, OF VIRGINIA
BRYAN J. HESS, OF VIRGINIA
KARI L. JAKSA, OF MICHIGAN
LESLIE L. JOHNSON, OF PENNSYLVANIA
MEGAN E. JOHNSON, OF TEXAS
RISHI KAPOOR, OF VIRGINIA
GEOFFREY L. KEOGH, OF THE DISTRICT OF COLUMBIA
VALERIE KNOBELSDORF, OF VIRGINIA
DARRIN J. KOWITZ, OF NEW MEXICO
ARIANA KROSHINSKY, OF NEW YORK
CHANANYA KUNVATANAGARN, OF PENNSYLVANIA
MICHAEL W. LACYK, OF THE DISTRICT OF COLUMBIA
THOMAS M. LARKIN, OF VIRGINIA
DALE HAN YOUNG LIM, OF CALIFORNIA
JOSHUA HOWARD LUSTIG, OF MARYLAND
MARK M. METTI, OF MICHIGAN
SETH ADAM MILLER, OF THE DISTRICT OF COLUMBIA
PATRICK M. MONIZ, OF HAWAII
CHRISTINE C. MOXLEY, OF THE DISTRICT OF COLUMBIA
KRISTIN J. MURRAY, OF THE DISTRICT OF COLUMBIA
ALI J. NADIR, OF NEW YORK
MARK GEORGE OSWALD, OF OREGON
BRENTON T. PARKER, OF TEXAS
MEGAN MCCRORY PEILER, OF VIRGINIA
LEONARD THOMAS PERRY, OF SOUTH CAROLINA
MICHELLE RAMIREZ, OF VIRGINIA
EMILY ANNE RUPPEL, OF MINNESOTA
DONALD SALVAGGIO, OF VIRGINIA
GEORGE A. SCHAAL, OF MARYLAND
CHRISTOPHER SCHIRM, OF COLORADO
MONICA M. SENDOR, OF MICHIGAN
SHEILA TAYLOR SHAMBER, OF FLORIDA
SANDY A. SWITZER, OF CALIFORNIA
TINA K. TAKAGI, OF CALIFORNIA
MATT THOMPSON, OF WASHINGTON
OLGA TUNGA, OF TEXAS
JAMES TURK, OF VIRGINIA
VICTORIA VALERGA, OF TEXAS
PERSIA WALKER, OF NEW YORK
ANDREW J. WYLIE, OF FLORIDA

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

To be rear admiral (lower half)

GERD F. GLANG

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

To be rear admiral

MICHAEL S. DEVANY