

understands, that we have to be ready for the damage this has caused. BP has indicated they will pay for all damages. The people of Louisiana, Mississippi, and other Gulf States are waiting to see when the oil will stop flowing.

We have a number of issues that are concerning to the whole country as to our security. Of course, we have the cybersecurity issue, which, as the Pentagon mentioned, is a very important issue. We are working on that, and committees are doing legislation now to see what can be done to make us more secure in that regard.

The other thing is we will never be a secure nation as long as we are dependent upon foreign oil—or to drop it down a notch, dependent on oil, period. This is an opportunity for the country to move away from fossil fuel and do a better job at looking at the renewable energies that are available to us all over this country, including Sun, wind, geothermal.

I am very supportive of what Secretary Salazar did in approving the wind farm off the coast of Massachusetts. This is an opportunity for us to be independent and not have to depend so much on fossil fuels. It is no longer just the environment; it is also the security of this Nation. So as we wait with bated breath to see what is going to happen today in the gulf, I certainly hope it is successful and that we improve as a result of this terrible degradation of our environment, and improve our ability to use whatever domestic oil supply we have in a safer way.

RECOGNITION OF THE MINORITY LEADER

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

EXTENDERS PACKAGE

Mr. MCCONNELL. Mr. President, I will say just a word this morning about the still unfinished extenders package that is about to come over from the House.

The first thing to say is that Republicans are ready and willing right now to extend necessary benefits and to pay for them. We could get this done in literally no time. So any delay in passing this bill is coming from the other side of the aisle. I say this not to point fingers but because we have seen this Democratic playbook.

We know they will try to blame Republicans for their own inability to come to an agreement if we don't go along with their effort to add another \$130 billion to the deficit by the end of the week. Let me say that again. We know they will try to blame Republicans for their own inability to come to an agreement if we don't go along with their effort to add another \$130 billion to the deficit by the end of this week.

So let's be perfectly clear: There is one reason Democrats are having trou-

ble getting an agreement on this bill, and one reason only. That is because it is so blatantly reckless.

Europe is in the midst of what German Chancellor Angela Merkel describes as an existential crisis, all brought about by governments that spend money they don't have. Americans are watching this crisis play out, and they see Democrats doing the same thing here day after day after day. This extenders package is just the latest example, the latest evidence of a majority that simply is out of control.

As early as today, we will reach a dubious milestone in America: a \$13 trillion national debt—the first time in history we have crossed this frightening threshold.

This extenders bill would add another \$130 billion on top of that—more debt in one vote than the administration claimed their health care bill would save over 10 years. The majority would have us add \$130 billion to the \$13 trillion debt in 1 week that would eat up all the alleged savings from the health care bill over 10 years. This is fiscal recklessness, and that is why even some Democrats are starting to revolt.

The time is long since past to reverse this dangerous trend, the way Europe has been forced to reverse the trend. But far from doing anything about our own looming debt crisis, Democrats only seem interested in making it worse.

The true emergency here—if we are looking for one—is our national debt. That is the emergency. A line must be drawn somewhere. Americans are simply running out of patience.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 4899, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4899) making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Reid amendment No. 4174, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

Sessions/McCaskill amendment No. 4173, to establish 3-year discretionary spending caps.

Wyden/Grassley amendment No. 4183, to establish as a standing order of the Senate that a Senator publicly disclose a notice of intent to object to any measure or matter.

Feingold amendment No. 4204, to require a plan for safe, orderly, and expeditious redeployment of the United States Armed Forces from Afghanistan.

McCain amendment No. 4214, to provide for the National Guard support to secure the southern land border of the United States.

Cornyn modified amendment No. 4202, to make appropriations to improve border security, with an offset from unobligated appropriations under division A of Public Law 111-5.

Lautenberg modified amendment No. 4175, to provide that parties responsible for the Deepwater Horizon oilspill in the Gulf of Mexico shall reimburse the general fund of the Treasury for costs incurred in responding to that oilspill.

Cardin amendment No. 4191, to prohibit the use of funds for leasing activities in certain areas of the Outer Continental Shelf.

Kyl/McCain amendment No. 4228 (to amendment No. 4202), to appropriate \$200,000,000 for a law enforcement initiative to address illegal crossings of the Southwest border, with an offset.

Coburn/McCain amendment No. 4232, to pay for the costs of supplemental spending by reducing Congress's own budget and disposing of unneeded Federal property and uncommitted Federal funds.

Coburn/McCain amendment No. 4231, to pay for the costs of supplemental spending by reducing waste, inefficiency, and unnecessary spending within the Federal Government.

Landrieu/Cochran amendment No. 4179, to allow the Administrator of the Small Business Administration to create or save jobs by providing interest relief on certain outstanding disaster loans relating to damage caused by the 2005 gulf coast hurricanes or the 2008 gulf coast hurricanes.

Landrieu amendment No. 4180, to defer payments of principal and interest on disaster loans relating to the Deepwater Horizon oilspill.

Landrieu modified amendment No. 4184, to require the Secretary of the Army to maximize the placement of dredged material available from maintenance dredging of existing navigation channels to mitigate the impacts of the Deepwater Horizon oilspill in the Gulf of Mexico at full Federal expense.

Landrieu amendment No. 4213, to provide authority to the Secretary of the Interior to immediately fund projects under the Coastal Impact Assistance Program on an emergency basis.

Landrieu amendment No. 4182, to require the Secretary of the Army to use certain funds for the construction of authorized restoration projects in the Louisiana coastal area ecosystem restoration program.

Landrieu amendment No. 4234, to establish a program, and to make available funds, to provide technical assistance grants for use by organizations in assisting individuals and businesses affected by the Deepwater Horizon oilspill in the Gulf of Mexico.

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

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

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

HEALTH CARE

Mr. BARRASSO. Mr. President, I come to the floor today, as I have done each week for over a month now, to give a doctor's second opinion about the health care bill that has now been signed into law. I do this as somebody who has practiced medicine, taken care of families in Wyoming since 1983. During that time, I was medical director of something called the Wyoming Health Fairs, offering low-cost blood screening for people all around the Cowboy State, giving them an opportunity to take more personal responsibility for their own health, to learn about their health, to help get their blood pressure under control, get their cholesterol down, and get their blood sugar under control, and diagnose cancers early. All of this is aimed at early prevention, meaning better care, better survivability, which is what we need to do in this country—work on patient-centered health care.

Today, I bring to the floor of the Senate my second opinion because I think the bill that was passed into law has failed. It has failed and gotten the diagnosis and the treatment wrong.

The goal of health care reform should be to lower costs, increase quality, and increase access. I continue to believe the new health care law is bad for patients; it is bad for payers, the American taxpayers who are going to be footing the bill, and it is bad for providers, the nurses and doctors of this country who take care of those patients.

Fundamentally, I believe, unlike what the President said, this whole law is now going to increase the cost of care. The American people believe that overwhelmingly, that this is going to increase the cost of their care and it is also going to decrease the quality and availability of the care, to the point that a national poll released just this Monday shows 62 percent of Americans would like to repeal and replace the bill that has now been signed into law.

As the Speaker of the House, NANCY PELOSI, said: First you have to pass the bill to find out what is in it. As more and more Americans are finding out what is in the bill, they are finding there are more and more broken promises.

The President gave a speech, and he said: If you like your health care plan, you will be able to keep your health care plan, period.

He then went on to say: No one will take it away, period.

He said: No matter what, period.

But the Chief Actuary of Medicare and Medicaid says that 14 million Americans will lose their employer-sponsored health coverage under this law. The President is saying one thing, but the Chief Actuary for Medicare and Medicaid is saying something very different. That is why the American people do not feel this bill—now the law—was passed for them. It is for somebody else.

Most Americans have health insurance they like and are happy with, ex-

cept for the cost. Unfortunately, what this body passed and what the President signed is going to increase the cost and decrease the availability. For people who like what they have, they are not going to be able to keep it.

One might say: Where do you come up with that? There was a lengthy article written called "Documents reveal AT&T, Verizon, others thought about dropping employer-sponsored benefits." Why would that be? Because of a very different regime, it says, a "radically different regime of subsidies, penalties, and taxes." That is so much of what is involved in this health care law—penalties, subsidies, and taxes.

"Many large companies," it goes on to say, "are examining a course that was heretofore unthinkable, dumping the health care coverage they provide to their workers in exchange for just paying penalty fees to the government."

It goes on:

In the days after President Obama signed the bill on March 24, a number of companies announced big write downs due to the fiscal changes it ushered in. The legislation eliminated a company's right to deduct the federal retiree drug-benefit subsidy from their [companies].

As a result, AT&T, Verizon, and others "took well-publicized charges of around \$1 billion." This annoyed HENRY WAXMAN, Democrat from California, "who accused the companies of using the big numbers to exaggerate"—that is what he said, "exaggerate"—"health care reform's burden on employers." So he summoned top executives to hearings and he requested documents.

The bottom line is, taking a look at 1,100 pages of documents from four major employers—AT&T, Verizon, Caterpillar, and John Deere—"No sooner did the Democrats on the Energy Committee read" the documents "than they abruptly cancelled the hearings." Why? Because they found out that what the companies had said was true, and it was proper in accordance with the rules and the laws within which they have to operate.

All four of these companies are taking a look at the costs and the benefits of dropping health care coverage of people who like the coverage they have. What are the alternatives if you do not want to provide health care? You pay a fine. You pay a fee.

AT&T, a major company, employs up to 300,000 people with health care coverage they like, and they are in a situation where the company is saying: If we drop their coverage and pay the fine, we as a company can save \$1.8 billion.

Is that what this Congress intended? Is that what this Congress imagined? Is that what the people of this country deserve? No.

What this shows is a bill that was crammed through and down the throats of the American people by an administration desperate to have something passed into law, something that

many people never even read before they voted in favor of it. And the people who read the bill carefully could see what was coming down the line, came to the floor, and pointed out these things to the American people. The American people heard, but the Members of Congress did not.

There is a new study out that was reported today in the Associated Press. It talks about what other businesses are doing. It was a poll of 650 leading corporations talking about, what do you think this is going to mean for your business? What is this going to mean for the employees? What is this going to mean in terms of health care for those folks and the cost of doing business?

Here it is. What do the employers want? They want to have three goals, and they are the goals all Americans would have. They want to bring down the cost of care, whether you are an employer or an employee. No matter who you are, they want to bring down the cost of care. Contain costs—absolutely, at a minimum. They want to contain costs. Good. They want to encourage healthier lifestyles. Good. This bill hardly does that at all. There are very few, if any, individual incentives. And they want to improve quality of life.

A mere 14 percent of all responding—650 companies—think health care reform will help contain health care costs. An overwhelming majority—90 percent—of employers believe health care reform will increase their organization's health care costs. Why should they be any different from what the government Actuary says? The government Actuary, who took a look at the bill, also said the cost curve is going to go up. The cost is going to go up. The amount Congress promised the American people this would cover in terms of the costs—Congress said: Oh, we are going to save money. No, that is not what the people who actually added up the figures said. They said this is going to cost money.

Yesterday, when the President visited with the Republican Members of the Senate, I specifically asked him about this point. He still takes the tact that ultimately the cost curve will go down. The American people, and certainly someone who has practiced medicine now since 1983, and the Actuary, who takes a look at these issues, who actually does the addition and puts a line and puts the total numbers at the bottom, all say: Sorry, Mr. President, that is not true. The cost is going to go up. Insurance costs are going to go up. Quality of care and availability of care will go down.

I come to the floor as a physician offering my second opinion just to tell my colleagues and to tell the American people what I have been hearing from talking with people all around the country. A majority of Americans are pleased with the health care coverage they get from their employers. But now, because of the President's new

law, companies are considering canceling employees' coverage because it would be cheaper for them to pay the government's penalty than to provide health care coverage for their employees. This is not the change Americans want. This is not the change Americans can believe in. This is the change that makes Americans lose sleep at night. In this economy, with 9.9 percent unemployment, the last thing Americans need is a new law that makes it easier for companies to pay a penalty instead of providing health coverage for their employees.

This is not the companies' fault. It is the administration's fault. It is misguided incentives, and that is why the American people are sick of Washington. What we have seen now with regard to the incentives, if you are a big company, is to drop insurance and pay the fine. If you are a small company and you want the tax relief and a tax credit that has been offered, the incentive is to actually fire workers and pay those workers who are still working with you less. That is the way to get a better tax credit.

If you are an individual with a pre-existing condition and you have been living by the rules, paying those higher insurance rates through some of the State-authorized funds that have been set up, programs that have been set up to help people with preexisting conditions, to help people who need extra help, so they get their health care covered and even pay more, if you are one of those individuals, the incentive is to drop that coverage, stop paying, and basically go uninsured for 6 months. And if you take that risk of being without insurance for 6 months, only then do you qualify for what is included in this new health care law.

We need a health care law that actually lowers the cost of health care and allows Americans to keep the coverage they have. That is why I come to the floor every week to tell the American people it is time to repeal this legislation and replace it with legislation that delivers more personal responsibility and more opportunities for individual patients; that is, patient-centered care that allows Americans to buy insurance across State lines; that gives people their own health insurance and the same opportunities and the same tax relief for people who get insurance through their jobs; that provides individual incentives for people to stay healthy, exercise more, eat a little less, get their blood sugar under control and blood pressure under control and deal with health care needs as they come along; that deals with lawsuit abuse and the incredible expense of all the defensive medicine practiced in this country; and that allows small businesses to join together to provide less expensive insurance to their employees. Those are the things we need. Those are the things we need to allow us as a nation to deliver high-quality care, available care, at a more affordable cost.

This health care bill that has been crammed through the Senate with a lot of gimmicks and things such as the "Cornhusker kickback" and the "Louisiana purchase" and "Gator aid"—those are the things that make the American people look at this city and say: We have had enough. That is why today I come to the Senate floor and offer, again, my second opinion that it is time to repeal and to replace this health care law with something that will actually work in the best interest of the American people.

Mr. President, 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. NELSON of Florida. 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.

DEPARTMENT OF INTERIOR IG REPORTS

Mr. NELSON of Florida. Mr. President, yesterday, the inspector general for the Department of the Interior came out with their report—this investigative report—which followed another inspector general report of just a month ago. These two inspectors general reports talk about what is wrong in the Minerals Management Service. The most recent report is quite disturbing, and it comes on the heels of the one a month ago where they found a culture where the acceptance of gifts from oil and gas companies was widespread throughout the Office of the Lake Charles District Minerals Management Service in Louisiana.

That information, of course, came on the heels of what we discovered years ago in reports about the incestuous, cozy relationship between the oil industry and the regulators who are supposed to see that the oil industry is doing its job, and doing it safely, and collecting all of the revenues from the royalties that the oil industry is supposed to pay, having drilled on Federal lands, which is the sea bottom of the Gulf of Mexico.

This latest investigative report points out:

Of greatest concern is the environment in which these inspectors operate—particularly the ease with which they move between the industry and the government.

That is called the revolving door. That is somebody in the industry who comes into the government as a regulator, and then the revolving door turns, and they go back into the industry. How in the world can we have a regulator who is coming from the industry into regulation of that industry, and then turn in the revolving door and go right back into that industry? That is the problem, and that is what we have to fix.

My office is talking with Senator MENENDEZ's office, and it is my intention that we will file a bill today that will do a number of things. It will stop

this revolving door by requiring the same thing we require for ourselves in the Senate—that when we leave the Senate, we can't go to an entity that lobbied us as a business and that would then lobby the Senate for a period of 2 years. That is the minimum we should expect.

This legislation will also insist on things that are common sense: that the regulators can't accept gifts from the industry they are regulating, and they have to have a financial disclosure that would show what the regulator owns, if they are in any way compromised with the very industry they are trying to regulate. If they have any outside interest—for example, stock in oil companies they are regulating—they would have to divest from that; and, furthermore, in the egregious case that they would be partially employed by the outside industry they are regulating, clearly that could be prohibited.

These are just commonsense things. Why isn't this in the law? Senator MENENDEZ and I offered this law 2 years ago when all of these revelations came out in that inspector general report back then. But, of course, there was enormous push-back on the legislation. Sadly, it has come to this great tragedy of thousands and thousands of barrels of oil gushing into the Gulf of Mexico to bring us to the point where we ought to have a willing recipient in this Senate to this legislation we are filing that will stop this cozy, incestuous relationship between the oil industry and the regulators.

I know Secretary Salazar is trying to clean it up, and he is doing what he should do. But what we want to do is to etch it into the statutes so there is no question about what is the requirement—not just for today but forever.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. KAUFMAN. 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. KAUFMAN. Mr. President, I would like to speak as in morning business.

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

KAGAN NOMINATION

Mr. KAUFMAN. Mr. President, I rise to speak about the nomination of Elena Kagan to be Associate Justice of the Supreme Court of the United States.

Ms. Kagan is, without a doubt, an exceptionally well-qualified nominee. In every job she has held, including associate White House counsel, dean of the Harvard Law School, and Solicitor General, she has distinguished herself through her work ethic, intelligence, and integrity.

I was part of 10 confirmation hearings during my time with then-Senator BIDEN, and during that time, I witnessed Ms. Kagan's talents firsthand, when she served as special nominations counsel to the Judiciary Committee during the nomination of Justice Ginsburg in 1993.

She is also a woman of many "firsts"—the first woman to serve as dean of Harvard Law School as well as the first to serve as Solicitor General. She now stands to be the fourth in history to serve on the Supreme Court. When she is confirmed, for the first time in history three women would take their seats on the Nation's highest Court.

I have consistently called on President Obama to nominate candidates to the bench who expand, and not contract, the breadth of experiences represented on the Supreme Court.

Every one of the current Justices came to the Court from the Federal appellate bench. While this experience can be valuable, I believe the Court should reflect a broader range of perspectives and experience.

Ms. Kagan brings valuable non-judicial experience and a freshness of perspective that is currently lacking.

Prior judicial experience has never been, nor should it be, a pre-requisite to be a Supreme Court Justice. In the history of the Supreme Court, more than one-third of the Justices have had no prior judicial experience before nomination.

History further shows that a nominee's lack of judicial experience is no barrier to success as a Supreme Court Justice.

When Woodrow Wilson nominated Louis Brandeis in 1916, many objected on the ground that he had never served on the bench.

Over his 23-year career, however, Justice Brandeis proved to be one of the Court's greatest members. His opinions exemplify judicial restraint and his approach still resonates in our judicial thinking more than 70 years after his retirement.

This list of highly regarded Justices without prior judicial experience is not insignificant.

Felix Frankfurter, William Douglas, Robert Jackson, Byron White, Lewis Powell, Hugo Black, Harlan Fiske Stone, Earl Warren and William Rehnquist—they all became Justices without having previously been judges, yet we consider them to have had distinguished careers on the Supreme Court.

In fact, Justice Frankfurter wrote in 1957 about the irrelevance of prior judicial experience. He said:

One is entitled to say without qualification that the correlation between prior judicial experience and fitness for the functions of the Supreme Court is zero.

That is a point that some of my Republican colleagues have recognized when addressing the qualifications of other nominees.

Ms. Kagan's lack of prior judicial experience should not be a determining

factor in assessing her qualifications to be a Justice.

Indeed, if significant prior experience as a judge were a prerequisite, where would that leave Justices like John Roberts and Clarence Thomas? Thomas had served on the DC Circuit for less than 16 months before his nomination, and Roberts for just over 2 years.

I have an insightful article on this subject by Joel Goldstein, published in the *Kansas City Star*. I ask unanimous consent it be printed in the RECORD.

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

[From *KansasCity.com*, May 11, 2010]

HISTORY SAYS LACK OF TIME ON BENCH IS NO PROBLEM

(By Joel K. Goldstein)

Critics are already attacking President Obama's nomination of Elena Kagan for the Supreme Court on the grounds that she has never been a judge. But if lack of judicial experience disqualifies someone from a spot on the court, many distinguished justices never would have served.

Take Louis Brandeis, the person many consider to have been the outstanding justice of the 20th century. Brandeis had never served on the bench when Woodrow Wilson nominated him in January 1916.

Critics complained that he lacked judicial temperament. They could not have been more wrong. During 23 years on the court, Brandeis proved himself a model judge. His opinions guide judicial thinking more than 70 years after his retirement. He became a leading apostle of judicial restraint but used his opinions to teach relevant constitutional principles in a way that surpassed every justice other than John Marshall.

Many other examples reveal judicial experience to be a false requirement. John Marshall's career had been political, not judicial. Yet, most regard him as the greatest justice to serve on the court. He was learned in the law, yet his political skills proved critical in allowing the court to develop as an equal institution of government during a precarious period.

The same was true of Charles Evans Hughes when named an associate justice in 1910. He had been a lawyer and governor of New York. Most regard him as one of the greatest chief justices, a position he assumed when he returned to the court in 1930, after resigning to run for president in 1916.

Earl Warren lacked judicial experience, but his political skills helped produce the court's unanimous decision in *Brown v. Board of Education*, one of the most important decisions in our history.

Harlan Fiske Stone had served as a law school dean and attorney general, a resume in some respects similar to Kagan's but never as a judge. Felix Frankfurter, William Douglas, Robert Jackson, Byron "Whizzer" White, Lewis Powell and William Rehnquist were thought by many to have been distinguished justices, although each lacked prior judicial experience. Hugo Black had spent about a year on the police court when Franklin Roosevelt nominated him from the U.S. Senate.

Even recent experience cautions against overstating the relevance of judicial service. Two conservative judicial heroes, Clarence Thomas and John Roberts, had served very brief stints on the appellate court, roughly two years or less before the two Bush presidents nominated them.

There have been distinguished justices who came from the bench, such as Benjamin Cardozo, John Marshall Harlan II and Wil-

liam Brennan. On the other hand, some unsuccessful justices also had judicial experience. John Hessin Clarke, Fred Vinson and Charles Evans Whittaker are among those whose service on the court was not happy despite their experience as judges.

Kagan has had a distinguished career as an academic, as a high-level staffer in the Clinton White House, as a successful dean of Harvard Law School and as U.S. solicitor general. It is impossible to know whether she will be a distinguished justice, but her success in her other professional work certainly counts in her favor.

History suggests that her lack of judicial experience is simply irrelevant.

Mr. KAUFMAN. Another attack on Elena Kagan, equally unjustifiable, focuses on military recruiting while she was dean at Harvard Law School.

Most of the charges about the Harvard Law recruiting ban are distortions. The university policy reflected a policy preference for nondiscrimination against gays, but Dean Kagan never denied military recruiters physical space at the law school or access to the student body.

Just as important, military veterans at Harvard have high praise for Kagan's role as dean.

In February 2009, several Iraq War veterans who graduated from Harvard Law School when she was dean wrote a letter to the *Washington Times* describing their "appreciation for Miss Kagan's embrace of veterans on campus. During her time as dean, she has created an environment that is highly supportive of students who have served in the military."

I was pleased to see this view echoed by our colleague from Massachusetts after his meeting with Solicitor General Kagan last week.

He said:

It was very clear to me after we spoke about it at length that she is supportive of the men and women who are fighting to protect us and very supportive of the military as a whole. I do not feel that her judicial philosophy will be hurting men and women who are serving.

The best answer to these charges comes from the nominee herself.

In 2007 while serving as dean of Harvard Law, she addressed cadets at West Point. She said:

I am in awe of your courage and your dedication, especially in these times of great uncertainty and danger. I know how much my security and freedom and indeed everything else I value depend on all of you.

Addressing the controversy regarding the military recruiters she said:

I have been grieved in recent years to find your world and mine, the U.S. military and U.S. law schools, at odds, indeed, facing each other in court—on one issue. That issue is the military's "don't ask, don't tell" policy. Law schools, including mine, believe that employment opportunities should extend to all their students, regardless of their race or sex or sexual orientation. And I personally believe that the exclusion of gays and lesbians from the military is both unjust and unwise. I wish devoutly that these Americans could join this noblest of all professions and serve their country in this most important of all ways. But I would regret very much if anyone thought that the disagreement between American law schools and the

U.S. military extended beyond this single issue. It does not. And I would regret still more if that disagreement created any broader chasm between law schools and the military. It must not. It must not because of what we, like all Americans, owe to you.

In consulting with leadership, as well as with me and my colleagues on the Judiciary Committee, President Obama honored the Senate's advisory role in the selection process.

As the Senate process moves from advice to consent, I look forward to a confirmation process that is orderly and filled with an honest exchange of views, not partisan bickering.

The vote for a Justice of the U.S. Supreme Court is one of the most important votes a Senator can cast. That is because a Justice serves for a lifetime appointment and will continue to have an impact long after the vote is made.

Since her nomination, Solicitor General Kagan has already met with dozens of Senators and has many more meetings scheduled.

My meeting with her strengthened my belief that President Obama has selected a nominee with both impeccable credentials and a superior intellect. Her ability to bridge disagreement and find common ground among disparate voices, as well as her experience in all three branches of government, would be a tremendous asset on the current Court.

I yield the floor and note 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. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. Mr. President, we are on the supplemental appropriations bill. I understand. I have been chairing a hearing, and I understand I have not missed very much. It appears to me yesterday and today this supplemental appropriations bill on the floor of the Senate has been moving very slowly. In fact, while amendments have been filed and some discussed, we have had no votes. I know the majority leader would very much like to move forward to get this done. In fact, it is the case that if the supplemental bill is not done, my understanding is there will be soldiers who will not receive paychecks in June. So there is an urgency for us to replenish the funding that is necessary in the defense portion of this bill especially.

There are other pieces of it that are equally important. For example, the money for the Federal Emergency Management Agency is provided as a result of disasters that are occurring that require some supplemental funding, and other issues are addressed as well.

But what I want to mention on the floor of the Senate is a request that

has been made about DOE loan guarantees. I got a call from the Secretary of Energy, Secretary Chu, requesting \$90 million in this legislation or support in some legislative form to allow them to provide loan guarantees for three nuclear plants that are to be built. They want to begin a process to move down the road on some nuclear energy. I will support these loan guarantees. I think we should do a lot of things and do them well in the energy field, and nuclear energy will be one of those areas.

But in order to do the loan guarantees for three nuclear energy facilities that would be built, they need another \$90 million in authority. My understanding is that request has been made. However, I have a letter from Peter Orszag, the head of the Office of Management and Budget, that he sent to the Speaker, and he did request, on behalf of the administration, the \$90 million for the Energy Department to be able to provide those loan guarantees. Again, I indicated I would support that request.

They also have requested an additional \$90 million on the renewable energy loan guarantees. Again, there was \$2 billion that was removed from renewable energy and has not been restored. So there needs to be some restoration of that, and I would support these as well. But as I indicated, when discussing this with the Energy Secretary and others, there needs to be either an emergency request by the administration or a pay-for. The letter from Mr. Orszag, the head of the OMB, indicates they would request the \$90 million for the loan guarantee for a nuclear facility, a third nuclear facility, and \$90 million for renewable energy, and they say a separate request will be transmitted in the future to Congress to reduce the fiscal year 2011 budget by the amounts in the supplemental request. Well, that doesn't quite work. I think they understand that concern of mine. You can't offset spending you are going to do now with the reduction in a spending request for some future budget. That is not an appropriate offset.

I simply wanted to say that my understanding is the House of Representatives will likely include this request that Secretary Chu says is very important, and I would agree with him that he should be able to have that loan authority to proceed. The House of Representatives will likely include that request, or have included it, including the appropriate offset in this fiscal year so that it does not increase the budget deficit.

I have received some calls in the last day or so wondering why I am holding it up here. I am not holding it up here, but it cannot be considered here unless: A, the President has requested it as an emergency, and he has not done that; or B, there is an offset, and the offset being proposed in the letter from the head of the OMB is not an offset, as I said. A promise to submit a budget request that would reduce a future budg-

et is not an offset for something that is done here.

In any event, I hope this gets done. I support the Secretary's request. I believe it would be good for us to be able to proceed to have that loan guarantee for the third nuclear energy facility the Secretary wishes to do. If it can't get done here in the Senate with an offset, then at least it will come to conference between the Senate and the House. I hope very much that the House, with the provision of the offset, will make this possible for the Secretary. I wanted to explain that to the Senate. It is a little bit convoluted, but I wanted to explain it because somebody here thought I was blocking this loan guarantee request, and that is not the case. It is not the case that there is opposition to it, in fact. It is just the case that it needs to meet the rules in terms of an offset for the supplemental appropriations bill.

Mr. President, let me ask unanimous consent to speak as in morning business.

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

ENERGY

Mr. DORGAN. Mr. President, I wish to speak for a moment about energy more generally. I spoke in Dallas, TX, on Monday of this week at the National Wind Energy Conference. I think they said they had 20,000 people there. Wind energy, of course, is a very important part of our country's energy future. We need to take steps to gather energy from the wind and the Sun, where the Sun shines and the wind blows. We need to use these resources for energy, and then put them on a wire and move them to the load centers that need that energy. Such actions will provide more energy here at home, and it makes us less dependent on foreign oil. These are all of the things that I commend. I was thinking today that there has been a lot of discussion in recent weeks on what may or may not happen on the floor of the Senate with respect to energy and/or climate change, and I wish to comment on that a bit.

First, I believe something is happening to our climate. I believe we ought to reduce the carbon emissions that are going into the atmosphere, so I am in support of capping carbon. I have indicated, however, I don't support what is called cap and trade, which would effectively be a process by which we provide probably a \$1 trillion carbon trading securities market for Wall Street. I have no interest in being a part of that and would not support speculation of carbon markets. However, I think there is something happening to our climate, and we would be wise at the very minimum to do a series of no-regrets things that move us down the road to limit carbon and develop opportunities to reduce carbon emissions and protect our climate.

We have been considering whether we get that done now in some sort of climate bill or focus only on an energy

bill. My colleagues Senator KERRY and Senator LIEBERMAN and others have worked hard on a comprehensive climate bill. The question of what we focus on now is an important issue. The climate change bill they are working on is something that is very substantial, and I commend them for their work. I think they have put an enormous amount of time into that legislation. However, that legislation has not gone through a committee process. They need to find a way to do that at some point. If there are not 60 votes in the Senate, then it will be difficult to move forward on their bill. That is what would be required to bring a climate change bill to the floor of the Senate. If there are not 60 votes, then the very least we should do is work on the energy bill. This is the piece of legislation that has already passed the Senate Energy Committee in June 2009. That was a long time ago, and it passed on a bipartisan basis. We should bring it to the floor of the Senate and move it so that we actually provide substantial improvement to our energy policy in a way that addresses our national security and reduces carbon emissions. It is one thing to talk about it; it is another thing to put a plan together. It is another thing—and more important, in my judgment—to actually reduce carbon emissions.

What have we done on the Energy Committee under the leadership of Senator BINGAMAN? I played a role, and many others, Republicans and Democrats, worked with him in writing that energy bill. What have we done? We have written a bill that does several things. No. 1, it is bipartisan, and No. 2, it would create a new federal national electricity standard. It is a national goal that says here is where we are headed and would put in place a pathway to maximize the production of electricity from wind, solar and other renewable energy sources. That is exactly the sort of thing we should do.

So while we do that, we also include provisions for building retrofits and building efficiency provisions which are very important. We would provide the process by which you help construct the interstate highway of transmission capability. By doing that, you can find places in the country where you can collect energy from the Sun or the wind and put it on a wire and move it to the load centers.

My State of North Dakota is one of the windiest States in America. Department of Energy has called North Dakota the Saudi Arabia of wind. Our kids are born leaning to the northwest against that prevailing wind. But we don't need more wind energy for ourselves. We can put up towers and turbines. We produce far more energy than we need in North Dakota. What we need is a modern day interstate highway transmission capability that can produce energy from the wind in North Dakota and solar from the rural areas of Arizona and so on, and put it on the wire and move it to the load centers

where they need the electricity. That is the way you maximize the use of renewable energy for the benefit of the country.

It is not hard to get energy from the wind. We have sophisticated, new, better technology in wind turbines. We put up a tower, especially in areas where you find these wind chutes, and you produce electricity virtually forever. Those blades turn around and you make electricity. It makes a lot of sense for us to maximize that.

I am in favor of using fossil energy as well. I am not suggesting we use wind and solar energy in exchange for shutting down oil and gas and coal. We are going to continue to use fossil energy, but use it in a different way. We are going to move towards decarbonizing the use of coal, that requires targets and timetables and the ability and research to make that happen. I am convinced we will be able to move in that direction.

Every day I have people coming to my office with the new ideas and solutions that is going to make this happen. I have had a guy visit and tell me about a new microbe that he discovered. It was a lollipop-shaped microbe, that was 30 percent more efficient at breaking down cellulose than anything known to mankind. Therefore, this new microbe will be able to break down cellulose and turn it into cellulosic ethanol, reducing the cost from \$3 to \$2 a gallon. Big deal? Maybe so. I don't know. He has to develop that, and then we will see whether the market beats a path to his door.

There are dozens of examples like that. Last night I saw Craig Venter on television. I think Craig Venter is extraordinary. He and Francis Collins led the human genome project. They created the first owners manual for the human body, and it is changing everything in medicine. He has now turned his attention to energy. Now Craig Venter is trying to develop synthetic microbes that could be used to chew away at coalbeds, in layman's term. The microbe will eat its way through the coalbed and turn coal into methane fuel. Is that the solution? Maybe so. Maybe that is the way to use coal in the future; I don't know.

There is a guy in California who testified at a committee I chaired who has patented a process that takes the entire fuel gas from a coal plant and, through his patented process, mineralizes it and turns it into something that is harder and more valuable than concrete that contains all of the emitted CO₂. This man says the process creates a value-added product that brings the price of carbon down to near zero. Maybe. I don't know.

Another guy delivered a presentation to me and insists he has a 100-mile-per-gallon diesel engine. Does he? I don't know; maybe. If he does, I hope the world beats a path to his door. The list of innovators goes on and on.

A woman with a Ph.D. from Sandia National Laboratory, testified at a

hearing I chaired. She said they are working on a heat engine in which you put CO₂ in one side and water in the other. The molecules are then fractured and chemically recombine to produce a fuel. Produce a fuel out of essentially air, CO₂, and water.

We also have begun doing a lot of work on the issue of algae, I am now talking about how you would perhaps use coal in the future. Coal emits CO₂. You capture the CO₂ and use it to grow algae, which is a single-cell pond scum, or, the green stuff you see in standing water. CO₂, water, and sunlight produce this single-cell pond scum. After growing the algae, you harvest it and produce diesel fuel. Wouldn't it be interesting if you could get rid of the CO₂ by producing a new fuel. These are all just a couple of examples of the things I think could be breathtaking in terms of what kind of energy we use and how we use it in the future.

Oil and natural gas. In my State of North Dakota we have more oil rigs drilling than anywhere in the country. We have discovered how to find oil 2 miles below the Earth in a shale formation called the Bakken shale that is 100 feet thick, I asked the U.S. Geological Survey to do an assessment of what is there. 2½ years ago they came back with an assessment that said there is up to 4.3 billion barrels of oil recoverable using today's technology. The Bakken shale formation is 2 miles down. They drill down with one rig, 10,000 feet down, searching for the middle third of a 100-foot seam. They find the seam then, drill out 2 miles. So, they drill down 2 miles, then out 2 miles to search for a 30-foot seam. Then they use hydraulic fracturing so the oil drips. They then pump the oil, and that oil will pump from that well for 30 or 40 years. By the way, there are right now about 117 drilling rigs, drilling wells in North Dakota. They drill a new well every 30 days and they strike oil virtually every time, because with core samples they know exactly where this huge shale formation is. This is the largest assessment of oil the U.S. Geological Survey has ever assessed in the history of the lower 48 States; and in the western part of North Dakota it is unbelievable the amount of drilling that is occurring.

So, oil, natural gas and coal, all fossil energy, and we are going to continue to need them and use them. We want to be less dependent on foreign oil so that means producing more here.

The terrible disaster that has occurred in the Gulf of Mexico means we are not going to lease new properties in the Gulf until we understand the consequences of deep well drilling, but we have drilled tens of thousands of productive wells. One-third of the domestic oil production comes from the Gulf, so that is not going to be shut down at the moment. The question is: What happens in deep well drilling, what has happened that has caused this disaster? As Secretary Salazar and others indicated, they are not going to proceed

with new drilling permits or under new circumstances until we understand what happened with the BP well, because this is an unmitigated disaster. There is no question about that.

All of these things are important and a part of our energy future. The bill we drafted in the Energy Committee last June, that passed on a bipartisan vote, is a bill that does a lot of everything and does it well. The bill includes a renewable electricity standard, and builds and creates the opportunities to build new transmission lines.

I didn't mention previously, but in the last decade we have built 11,000 miles of natural gas pipeline and at the same time we have built only 660 miles of high-voltage interstate transmission lines. Why? Because it is very hard to build a transmission interstate. There are three things needed to build a transmission interstate: planning, pricing, and siting. You have to get them all right. What we have done in this energy bill is to create the menu by which we are finally going to get an interstate transmission capability built. We give FERC backstop authority, and we are careful on the planning and pricing side to try to get all of this right. I think in addition to the things I have described, the renewable electricity standard, the opportunity for an interstate highway of transmission capability that modernizes our grid, provides greater reliability, and maximizes the production of renewable energy, and building retrofits and building efficiency, there is a whole series of other things. I have so much to support.

This piece of energy legislation will actually reduce carbon. I think it would be unthinkable to end this year without taking up a bipartisan piece of legislation that actually reduces carbon and actually reaches the goal of those who are wishing to have a climate change bill come to the floor this session.

Again, let me end by saying that I think what Senator KERRY and others are working on is very important for our country. We have disagreements here and there, but the disagreement is not about whether there is something happening to our climate; I think there is. There is no disagreement about whether we ought to restrain carbon; we should. There is no disagreement about those central tenets. So I commend the work they have done.

I think it is going to be very hard, frankly, to bring a very large piece of legislation to the floor soon that has not been through a committee process. Plaudits to the people who are working hard on this. It is also the case that even if they got their climate bill through, you would have to have another bill, like the bill the Energy Committee has already developed, to actually reduce carbon. On the one side, you set up targets, timetables, and goals; and on the other side, you set up policies that result in the reduction of carbon.

My hope is the Energy bill that Senator BINGAMAN and I and others have worked on will be on the floor of the Senate at some point this summer. I think the Energy bill will do a couple things that are very important. No. 1, substantially reduce our dependence on foreign oil. Do you worry about our economy? I do as well, but it is not just the large banking institutions that steered this country into the ditch. I worry about how vulnerable we are to foreign governments and countries for our oil. We get up in the morning and flick a switch, turn off the alarm and turn on the light, make some hot coffee and take a hot shower, get in a car and turn a key. We use energy in so many ways without ever thinking about it. Oil is so central. Yet, over 60 percent of our oil comes from outside of our country, from some very troubling parts of the world. We need to be less dependent on foreign oil.

This legislation we have written makes us less dependent on foreign oil. But as important as that is, this legislation begins to address the issue of climate change in a very real and very significant way. By maximizing the development of renewable energy for this country's future, and doing the things that are necessary to reduce the emission of carbon.

As I said when I started, when I spoke in Dallas, TX, on Monday, at the National Wind Energy Conference, you could see and feel and hear the excitement of the people who understand that there is now a new opportunity to contribute to this country's energy supply, with renewable, clean, green energy.

We have given very interesting incentives in this country to try new things. Early in the past century, in the nineteen-teens, our country said: If you go look for oil and gas, try to find some, produce some, explore for some, we are going to give you long-term, good, and permanent tax incentives.

That is what we did. Why? Because we wanted people to find oil and gas. Those tax incentives still exist. What we did for renewable was very different. In 1992, we said: Here are some tax incentives for renewable energy if you are willing to develop some. But the tax incentives were shallow and temporary. They were extended six times and allowed to expire three times. It was stutter, stop, start, and nobody knew what to think. Invest now, don't invest next. It didn't make sense.

I think what we ought to do is plan a menu for our energy future and say here is where America is headed for the next decade. Believe in it and invest in it. That is where we are going. We have done that with other forms of energy, oil and gas, but not with renewable energy, and we should. The ability to gather energy from the Sun that shines on this planet and from the wind. The ability to gather energy from wind is a source of energy that will last forever and will make a significant contribu-

tion, in my judgment, to our planet's health.

Again, my hope is that in the coming weeks, as some colleagues work on a very broad piece of climate change legislation—and I think it is good that they are doing that and I commend them—if it is clear that the climate change legislation doesn't have the 60 votes, it is very important that we bring to the floor the product that came from the Energy Committee. That will advance this country's energy interests, with less dependence on foreign oil and clean, green energy for maximizing renewable energy sources.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. 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. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

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

FINANCIAL REFORM

Mr. DORGAN. Mr. President, yesterday, one of my colleagues, Senator KAUFMAN, from Delaware, came to the floor and expressed some concern about the issues that will now be followed with respect to financial reform. I wanted to simply say I share many of the concerns he expressed.

There are some who are worried about financial reform going too far. I am worried that financial reform still doesn't go far enough. As we go into a conference, I note the conferees who have been appointed, and I note some of the conversations in the media about those who will be in the conference. I am worried. I think in order to address the issues that need to be addressed—and as my colleagues know, I have spoken about this many times, I think too big to fail has to be addressed. I don't think it is yet addressed adequately.

I think that if we, in the future, have financial firms that are so large they cause a moral hazard, or unacceptable risks, and whose failure could bring down the entire economy, those firms that are in that situation of too big to fail have to be pared back to a point where they would no longer bring down the economy should they fail. I don't think that has been yet adequately addressed.

I also think we have not addressed the issue of the toxic assets that have been traded and essentially wagered in our economy to the tune of trillions of dollars. Some of that wagering, by the way, has turned some bank lobbies into not noticeable but certainly express casinos because of the trading of what are called naked credit default swaps, which are instruments of gaming that have no insurable interest on either

side. The growth of these kinds of things and the gaming that is still going on is far afield from the investing and lending that used to be the central functions of our major financial institutions. Sources of capital for the purpose of buying trillions of dollars of naked credit default swaps is not a way to address the ills of our country.

I attempted here to get an amendment offered that would simply ban the use of naked credit default swaps. I note that some other countries have now done that. I was not able to get a vote on it. We had a vote on a tabling motion to a second-degree amendment I offered. My hope is that will still remain an opportunity to be corrected in a conference.

The issue of proprietary trading is still, I think, a significant issue. I have described banks trading derivatives on their own accounts. I wrote an article about this in 1994, which was the cover story of the Washington Monthly magazine. My story article was titled "Very Risky Business." I was describing then the risk of having proprietary trading by banks on their own accounts of very risky derivatives. That was 16 years ago. On the other hand, the legislation that has just passed this Congress doesn't shut down these issues. They have grown. They have not diminished.

I think if we want to give the American people some comfort that somehow, in the end, financial reform will have addressed the issues that caused the near crash of this economy—the deepest recession since the Great Depression—more still needs to be done.

I commend my colleagues who worked on this. But we do still have some disagreements and some concerns that this doesn't go far enough. As I said—and I noticed this in the papers this morning—some think there is a danger of this going too far. It does not, in my judgment. Much of it has been watered down in a way that doesn't provide the adequate protection that is needed going into the future.

I note that today, Secretary Geithner is going to stop in Europe. He is making two stops in Europe, because he is concerned about the different approaches that are being taken by European countries, and some of the suggestions are that, well, the Europeans aren't doing as much here and there and, therefore, American financial institutions will move their business offshore. Look, I think most of us want to have a financial system that relates to the ways of doing finance that represent the safety and soundness of the financial industry. That was not the case in most recent years. We securitized almost everything—almost anything that could be. We got rating agencies who acted as though they were inebriated, to give AAA ratings to securities that turned out to be almost nothing. Then they sold the risks up so that those who originally placed loans, for example, didn't have to underwrite

the loans, because they weren't going to get stuck with the bill. They would sell them to hedge funds and investment banks, and everybody was making a massive amount of money—big bonuses.

When the collapse came, Wall Street, according to New York authorities, had \$35 billion in losses in 1 year and paid \$17 billion in bonuses. That describes how everybody was awash in money. Everybody was making a lot of cash and big bonuses. What was happening is that all of this greed—this cesspool of greed—was steering this country into the ditch, and the American people suffered mightily as a result of it. Millions of people lost their jobs, millions more lost their homes, millions have lost hope, and there are millions of kids coming out of our colleges last year, the year before, and this year, who still cannot find work. That is the carnage and wreckage that occurred. The question in financial reform is: Will we tighten the laces and get it right, and do what is right on too big to fail, proprietary trading, and other issues? I wanted to say, when I read Senator KAUFMAN's statement, that he and I had many of the same concerns, as others do.

I hope when the conference is held on financial reform, this bill gets tightened, not loosened, and that we make sure we do enough. Don't be too worried about going too far. We are a long way away from that finish line.

I commend my colleague, Senator KAUFMAN, and others who have expressed concerns. I wanted to add my concern as well. The American people deserve to know the Congress is going to get this right. We have now had plenty of understanding and experience about what happened, and we should have the knowledge and the ability to decide we are not going to let it happen again, ever.

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

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

AMENDMENT NO. 4229

Mr. ENSIGN. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 4229.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself and Mr. REID, proposes an amendment numbered 4229.

Mr. ENSIGN. Mr. President, I ask unanimous consent that further reading of the amendment be waived.

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

The amendment is as follows:

(Purpose: To prohibit the transfer of C-130 aircraft from the National Guard to a unit of the Air Force in another State)

At the end of chapter 3 of title I, add the following:

SEC. 309. No funds appropriated or otherwise made available by this Act may be obligated or expended to transfer a C-130 aircraft from a unit of the National Guard in a State to a unit of the Air Force, whether a regular unit or a unit of a reserve component, in another State.

AMENDMENT NO. 4230

Mr. ENSIGN. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 4230.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself and Mr. REID, proposes an amendment numbered 4230.

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

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

The amendment is as follows:

(Purpose: To establish limitations on the transfer of C-130H aircraft from the National Guard to a unit of the Air Force in another State)

At the end of chapter 3 of title I, add the following:

SEC. 309. (a) LIMITATIONS ON TRANSFER OF C-130H AIRCRAFT FROM NATIONAL GUARD TO AIR FORCE UNITS IN ANOTHER STATE.—No funds appropriated or otherwise made available by this Act may be obligated or expended to transfer a C-130H aircraft from a unit of the National Guard in a State to a unit of the Air Force, whether a regular unit or a unit of a reserve component, in another State unless each of the following is met:

(1) The aircraft shall be returned to the transferring unit at a date, not later than 18 months after the date of transfer, specified by the Secretary of the Air Force at the time of transfer.

(2) Not later than 180 days before the date of transfer, the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and the House of Representatives, the members of Congress of the State concerned, and the Chief Executive Officer and adjutant general of the National Guard of the State concerned the following:

(A) A written justification of the transfer.

(B) A description of the alternatives to transfer considered by the Air Force and, for each alternative considered, a justification for the decision not to utilize such alternative.

(3) If a C-130H aircraft has previously been transferred from any National Guard unit in the same State as the unit proposed to provide the C-130H aircraft for transfer, the transfer may not occur until the earlier of—

(A) the date following such previous transfer on which each other State with National Guard units with C-130H aircraft has transferred a C-130H aircraft to a unit of the Air Force in another State; or

(B) the date that is 18 months after the date of such previous transfer.

(b) RETURN OF AIRCRAFT.—Any C-130H aircraft transferred from the National Guard to a unit of the Air Force under subsection (a) shall be returned to the National Guard of the State concerned upon a written request by the Chief Executive Officer of such State for the return of such aircraft to assist the

National Guard of such State in responding to a disaster or other emergency.

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

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

AMENDMENT NO. 4221

Mr. ISAKSON. Mr. President, I ask unanimous consent the pending business be set aside so I can call up Isakson amendment No. 4221.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. ISAKSON], for himself and Mr. CHAMBLISS, proposes an amendment numbered 4221.

The amendment is as follows:

(Purpose: To include the 2009 flooding in the Atlanta area as a disaster for which certain disaster relief is available)

On page 35, line 7, insert "FEMA-1858-DR," before "FEMA-1894-DR,".

Mr. ISAKSON. This is a technical language amendment that references the FEMA money that is proposed in this legislation to ensure that Georgia is included in consideration of the dispersing of that funding based on the flood experience in 2009. That is all it does. It is a language amendment.

I ask it be considered, and I yield my time.

I make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUE. 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.

AMENDMENTS NOS. 4232 AND 4231

Mr. INOUE. Madam President, the Senator from Oklahoma has proposed two amendments, both of which are designed to offset the cost of the supplemental bill before us. He argues that the Nation needs to find ways to use existing funds to meet these needs. He even argues that some of the items were not unforeseen and, therefore, do not qualify as emergencies.

I would respond, do not tell the people of Rhode Island and Tennessee that the floods in their States are not emergencies. I would say any of us watching television are aware of the emergency which is occurring now on the gulf coast. I would even say those in Oklahoma whose forests and towns have been damaged by tornadoes are aware of what an emergency is.

The Senator suggested we should not declare the cost of war as an emer-

gency since we have known about the costs of war since September 11, 2001. I would remind the Senator and my colleagues that the current administration did its best to foresee the costs of war and included funding for those costs as part of its budget request, and the Congress acted to meet these needs.

But circumstances change. The deteriorating conditions in Afghanistan led our military leaders to recommend, and the President to conclude, that we needed to increase our forces in Afghanistan. The funds in this bill are that unforeseen portion of the cost of war. For someone to argue they do not qualify as an emergency is most unfortunate.

The Senator suggests we should cut unobligated balances. Several others have suggested we should cut from the stimulus bill. Nearly every dollar remaining in the stimulus bill has been committed to a particular project if not yet obligated. If we look at what is left, the largest item that is unobligated at the moment is for high-speed rail—approximately \$7.9 billion—but those funds have been awarded to specific projects. We know where the funds are going, and they will all be awarded on contracts soon.

There is some \$6 billion in unobligated Pell grant funding. But that amount is already assumed in the fiscal year 2011 budget. We already have a \$5.7 billion shortfall in this great scholarship funding program. If we rescind this \$6 billion, we will need to find nearly \$12 billion in fiscal year 2011 to meet the shortfall.

More than \$6 billion remains available to pay the States for fiscal stabilization. Thirty-four States have written budgets assuming these funds would be available to them. States such as Texas are scheduled to receive more than \$1 billion of this amount. These funds are unobligated, but that does not mean they are not wanted.

More than \$4 billion remains unobligated for education reform. The funds are ready for award and will be obligated in the next 4 months. Is this the program we want to stop?

Several Senators have proposed specifically rescinding funds from the Recovery Act. Senator COBURN also suggests this is one possible area of savings. Well, unless we want to cut the programs I have listed above, there are no funds to rescind from the stimulus bill.

The Senator from Oklahoma is indiscriminate in his suggestion we cut unexpended balances. Let me say this to my colleagues, in a trillion dollar discretionary budget, we better hope we have unobligated balances because if we did not, we would be terminating government services with a third of the year still remaining to be funded. For example, there would be no one to send out Social Security checks, no one to keep our national parks open, and no funds to maintain a terrorist watch list or fight our wars.

But unobligated does not mean unneeded. On Monday, I noted we have \$8.3 billion in unobligated balances in the Joint Strike Fighter Program, but the Senator does not say what programs he would propose for the bulk of the cuts he is mandating.

In one amendment, he says, do not cut defense spending. In the other, it is, do not cut veterans funding. I share that sentiment, but if we are talking about cutting discretionary funding, the large unobligated balances are in the Defense Department.

As of last month, the Defense Department had nearly \$400 billion in unobligated balances. There are plenty of unobligated balances to pay for the supplemental. But what sense does it make to cut defense spending so we can increase funds to cover the cost of war? Even the Senator seemingly agrees it would make no sense.

The \$80 billion rescission authority in the Senator's amendment is virtually unworkable. In fiscal year 2010, the Federal funds unobligated balances, excluding the Defense Department and the Veterans' Administration, are about \$597 billion. More than half of that—\$330 billion—is unobligated balances for Treasury which are mostly financing mechanisms such as credit reform balances. These cannot be rescinded. That leaves only about \$267 billion for the \$80 billion of proposed rescissions.

Nearly one-third of the funds available to continue government operations for the remainder of the fiscal year would have to be eliminated. And, under the amendment, the Congress would defer to the unelected OMB Director to determine where to make the cuts. Not only is this a terrible concept, it is an abrogation of our responsibility to make spending decisions for the Nation. And, you can be sure, were we to adopt this amendment, the first thing to be cut would be congressional priorities.

It is always easy to suggest we should cut unobligated balances, or waste, fraud, and abuse, or someone else's earmarks. What is much harder to identify is specific programs which should be cut.

By way of example, if we cut funding for NOAA, it will mean reducing our capabilities to track the devastating oil spill washing up on our gulf coast communities at this moment. Slashing unobligated funding would curtail the efforts to restore wetlands and beaches that are vital to the environment and the local economy and to our fishermen who are banned from fishing, evidenced by the fishing disaster just declared by Secretary Locke.

In the case of homeland security, most of the unobligated balances which remain available are for acquisitions such as the national security cutter, aircraft for border security, border station construction, explosive detection equipment for our airports, radiation portal monitors, and border technology such as sensors, cameras, and x-ray

machines. This amendment would force us to curtail spending on these programs at the same time other Senators are urging the Senate to increase funding for them.

The Senator's two amendments fall short in identifying reasonable offsets for the cost of these bills. Does this body want to penalize all civil servants by not allowing any cost-of-living adjustment for the coming year? Do we want to encourage our most skilled workers to leave Federal service because their pay, which already doesn't match the employment cost index when comparing similar jobs in the private sector, would be frozen? What sense does it make to encourage our best workers to quit? That is not good management. Few successful private enterprises would suggest freezing pay for all their workers.

There are items that I believe have merit in the Senator's proposal, and I hope the committee can work with him as we move forward into fiscal year 2011 to identify them. Cutting overhead and saving funding through taxpayer compliance are good ideas which I know our appropriations subcommittees share. The government should rid itself of excess real property, and it should be encouraged to do so. But to set an arbitrary target of cutting \$15 billion seems unrealistic, unwarranted, and unwise.

All my colleagues should be advised that it is very difficult to make significant reductions in spending 7 months into the fiscal year. At this point, we have made commitments to our agencies, and they, in turn, have made commitments to contractors and grant recipients. No, they haven't spent all their funding for the entire fiscal year, but nor do they have large unneeded balances that can be reapplied to cover the cost of emergent requirements.

If the Senate were to agree to cut \$100 billion from the legislative budget at this juncture, the Congress would have two choices: lay off our staffs so that we are unable to meet the legislative demands of the institution or stop work on maintenance.

The Architect of the Capitol, Mr. Stephen Ayers, just testified that the Capitol Complex faces a growing backlog of deferred maintenance projects totaling over \$1.6 billion which must be funded in the near future. Many of these projects are fire- and life-safety related. The Architect has received numerous citations about the urgency of the needed repairs to the aging infrastructure in the historical buildings within our complex. The Russell, Cannon, Capitol, and the Thomas Jefferson Library of Congress buildings are all in violation of current fire safety codes. The longer this work is delayed, the more it will ultimately cost. Each year, the Appropriations Legislative Branch Subcommittee attempts to whittle away at this backlog by funding a handful of these projects in the annual appropriations bill.

So we could cut \$100 million from the legislative budget, but it would be

penny wise and pound foolish, as the old adage says.

One suggestion made by the Senator from Oklahoma is to cut the administrative expenses of the Federal agencies by 5 percent. Again, it is an idea that sounds good. Surely every bureaucracy can be cut back. I would note that on the Appropriations Committee, we look for such cuts every year, but setting arbitrary targets would be irresponsible. For example, in the case of the State Department and the USAID, which lost large percentages of their professional staff during the 1990s or had them transferred from Washington to other embassies in Iraq or Afghanistan after 9/11, it will exacerbate an already unsustainable situation. Some of our embassies are 20 percent short of staff. USAID is being asked to do more and more, especially in key countries such as Pakistan, without nearly half the staff to manage the funds and conduct the necessary oversight.

Here are a few examples of what a 5-percent cut means. The Indian Health Service medical services would be cut by \$185 million. This means 10,000 fewer inpatient admissions, 195,000 fewer dental patient visits, 55,000 fewer mental health patient visits, and 85,000 fewer public health nursing visits. The National Park Service base operations would be cut by \$115 million and result in a loss of 1,130 park rangers nationwide. This would necessitate the closure of most national parks where security and health and safety maintenance could not be maintained, such as the Statue of Liberty, the Washington Monument, the Grand Canyon, Yosemite, and the Yellowstone National Park. Just think of the impact of such an action as we head into the busy summer months. The American people would be incensed by such a recommendation.

This amendment would cut the childhood immunization program by \$25 million, preventing more than 30,000 children from being vaccinated this year.

Mr. COBURN. Madam President, would the chairman yield for a question?

Mr. INOUE. Yes, I will be glad to.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. The reduction is in overhead expense; it is not in labor. The definition the Senator is using is an across-the-board cut. That is not in this amendment at all. Does the chairman realize that the 5-percent reduction is in overhead—not direct labor, not actual employees, but the management costs to run the different agencies?

Mr. INOUE. We have looked into that, and I can assure my colleague that all the statements I have made have been verified.

Further, it would eliminate childcare subsidies for 35,000 low-income children and their working families who depend on subsidies in order to be able to

work. It would eliminate over 40,000 Head Start slots that provide comprehensive early childhood services to low-income children. It would more than double the number of people waiting on their disability decisions from the Social Security Administration and delay benefits for everyone waiting on a decision. It would eliminate 13 million meals for older Americans, many of whom are low income, disabled, and depend on these meals for the majority of their daily food intake.

On another matter, these amendments would also arbitrarily cap voluntary payments to the United Nations by \$1 billion. No matter how important to U.S. security, no matter how much our allies are contributing, no matter that our influence is often the function of how much we contribute, the amendment picks a round number out of the air and prohibits spending \$1 more. Those calculations must be made program by program, agency by agency, whether for UNICEF, the World Food Programme, the International Atomic Energy Agency, or some other U.N. organization. The decisions should be based on the merits and the national security and foreign policy interests of the United States, not on some arbitrary amount proposed in this amendment.

Let's stop trying to legislate by formula. If there are U.N. programs that do not deserve to be funded, I am all for cutting our contributions, but this amendment does not name a single one.

Placing a cap on new Federal employees would create problems for several agencies. If Homeland Security needs to increase the number of Border Patrol agents to secure the border or the number of TSA operators to screen passengers for explosives under their clothes, does that mean we must cut the number of Secret Service agents or Coast Guard personnel or customs inspectors or FEMA personnel who are now helping to respond to disasters in Tennessee, Louisiana, Oklahoma, and Mississippi?

The same point can be made for the IRS and the HHS because most fraud, abuse, and waste is in the Tax Code and in Medicare. We need additional personnel to uncover this waste.

For the Veterans' Administration, when the agency is seeing an increasing number of veterans suffering from complex combat-related injuries and mental health problems due to numerous deployments, this is exactly the type of government action our veterans do not need or deserve. Congress has consistently, on a bipartisan basis, increased funding for the VA to build its capacity to handle these types of disorders. This type of zero sum amendment would ensure that in order to adequately serve veterans suffering from mental health and other combat-related injuries, the VA would have to decrease its capacity to handle other services, including addressing the backlog of claims processing.

This is a small point, but since the Senator chose to raise it yesterday, I wish to respond. I find it to be a clear example of the way the Senator misunderstands the work of the Appropriations Committee.

In his remarks yesterday, the Senator noted that the bill includes \$1.8 million for the work of the Financial Crisis Inquiry Commission and stated that it was inappropriate to include \$1.8 million in emergency funding to continue the efforts of this Commission. Several Members of this Chamber disagree with the judgment of the Senator that the Commission is unnecessary, but on one point I agree with the Senator. I share his views that the continuation of the Commission does not constitute an emergency, and for that reason, the Financial Services Subcommittee has been directed to identify an offset in discretionary funds to pay for this Commission, and they did. The cost of the Commission is fully offset with discretionary rescissions.

I will reiterate what I said on Monday. The vice chairman and I worked to ensure that only emergencies were funded in this act. In the few cases where nonemergency projects were funded, we insisted that these programs be offset. This may be the first time in decades that the committee has followed such a strict policy. Collectively, it was the judgment of the members of the committee that these are, indeed, tough times and we have to be very stingy with our taxpayers' funds. But let me repeat: The fiscal crisis the country faces cannot be overcome by failing to invest in those programs which are essential to our Nation.

The amendments offered by the Senator are unworkable. They represent a classic case of robbing Peter to pay Paul. Should we cut the pay of our employees at the same time we are asking them to be more efficient? That makes little sense.

Should we cap the number of Federal employees when demands for veterans services, border security, and ferreting out waste are on the rise?

Again, in sound bites, it does sound good. But in implementing the concept, we see it is unworkable.

Finally, I think the Senate should thank the Senator from Oklahoma for drawing attention to the matter that we need to do more with less.

As chairman of the Appropriations Committee, I can see the belt tightening that will be required in the coming years as we get our fiscal house in order. There are elements of this proposal I intend to have our subcommittees incorporate as we move bills for fiscal year 2011.

I can assure the Senator and all members of the committee that the committee will continue to stress the requirement to uncover waste and cut it. We will scrutinize all aspects of the Federal budget to identify the duplication and unnecessary spending, and we will use these savings to invest in the shortfalls the Nation faces.

I urge my colleagues to reject these amendments because, on balance, they are the wrong approach to solving our Nation's emergency needs.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Madam President, I am taken aback by the chairman's remarks. We now sit at \$13 trillion worth of debt, we have 10 percent unemployment, we are 4 years away from being Greece, and we are going to do what we have always done. The reason we can freeze Federal pay is because there is absolutely no inflation in this country. So instead of giving the raise, we don't. Every private sector business out there today is getting extremely more with less—to the tune that the productivity in the private sector was up 6.8 percent. If we had that same productivity in the Federal Government, we could lose 150,000 employees and do the same thing. But we would not accept what is necessary—the necessary pain—to protect this country for its future.

The chairman mentioned unobligated balances, but he spoke about obligated balances. We are not talking about money that has been obligated; we are talking about hundreds of billions of dollars that is not obligated. Last year, at the end of the fiscal year, there was in excess of \$700 billion from the previous year that was unobligated, sitting there.

So it is about managing our money properly. That is like saying if you have \$30,000 in a savings account and you want to buy a new home, you are going to leave it there and go borrow \$60,000. No, you are going to use part of that to buy your new home. So we have the same approach that is disgusting America: We can't, we can't. What we can do is borrow against the future of our children. That is what this bill does.

So the first time we come out here with two good amendments that will offer a choice for the Senators of this body to actually make a downpayment on change in this country, to make a true downpayment on change, we get the same thing I have heard for 5½ years: We can't.

Let me tell you what we can do. We can cap Federal employees. We have added 180,000 Federal employees in the last 17 months in this country. By the way, their average salary is \$30,000 more a year than in the private sector. Their benefits are \$40,000 a year, which is twice what it is in the private sector. So capping Federal employees is a great way to start slowing down the growth and cost of government.

If the bureaucracy isn't responding, then it requires management changes rather than adding more people. The worst managers in the world always give the excuse: I need to have more people, rather than: I need to be creative about getting more out of the people I have today.

We need to change the standard under which we operate our govern-

ment. We need to expect more, and we need to pay less. The American people cannot afford the government we have. We are unaffordable.

The chairman brings to the floor a bill that is more of the same. You can be critical of what we have offered. We don't have the advantages of the staff the chairman has. But this is an honest attempt to pay so we don't charge it to our children.

Notice he didn't say anything about the savings of \$4.6 billion for not printing this paper every day that nobody reads but reads on the Internet. Yet we are going to spend \$460 million a year printing government reports from this body and the White House that nobody looks at in hard copy. I would assume you would take by unanimous consent that we would cut \$4.6 billion from the American Government. We didn't hear about that. That is not one of the bad ideas. We weren't attacked on that.

This Federal Government has to change if our kids are going to have a future. It isn't going to change until we have the courage and the fortitude to start making the hard choices. What the Appropriations Committee has said is that we are not going to make hard choices, we are just going to borrow the money. How many of you think the war is an emergency? How long have we known, or how long have we been in Afghanistan? It is not an emergency. Here on the chart is the definition of our own rules for emergencies. Nothing in this bill meets that except FEMA—nothing. Yet we have the gall to bring to the floor a bill called an "emergency" because we don't want to have to pay for it. We don't want to make tough votes or make choices between competing priorities.

We are just kicking the can down the road, and we are kicking the soup that was in the can all over our kids. We lack courage. It is not popular, it is not fun to make the hard choices, but we don't have any leadership that will bring the hard choices. That is why you have this amendment. Had we brought this amendment and we made the choices, we probably would not have gotten much kickback. But we decided we are just going to charge it to our children.

Guess what is coming after this. Another \$200 billion that isn't paid for. Since the chairman of this committee voted for pay-go, we have borrowed \$173 billion outside of pay-go because we voted and said it didn't count, and we had this wonderful celebration that we are not ever going to borrow money again. We are going to live within pay-go. But every time it has been there, we kicked it down the road. Pay-go means nothing. It means the American people will pay and we will go spend it. That is what it means. That is what this bill does. American people—you kids, you grandkids—you are going to pay, and we are going to go spend it. How are you going to pay? Your standard of living will decline.

This body—Republicans and Democrats alike—is complicit in ruining the

future for our children. It is time we change. We have a committee that makes fun of attempts to try to change things; actually, it stretches the truth. This isn't going to cost one TSA person their job or one FBI person. This government is so fat and so overlaid with excess that any smart manager can come in and streamline it and we can save 10 percent and the American people know that.

We have 12 million people on SSI and SSDI. Do you know what we have discovered? We have discovered that 6 out of 100,000 of them are operating commercial vehicles right now, but they are "disabled."

We have all sorts of fraud going on. We will not address that. We will not fix that. There is waste—at least \$350 billion the American public—maybe not this body—would agree we can cut out of the discretionary in fraud and Medicare tomorrow, and nobody would feel a thing. Yet we have a stoic Appropriations Committee that comes to the Senate floor and tells us we can't pay for it. It is not that we wanted to pay for it, we didn't want to pay for it because the staff on the Appropriations Committee knows where the dollars are, but they weren't told to pay for it. They are not going to be told to pay for the extenders bill that is coming either. What will have happened since February 12 when we passed pay-go? I will tell you what will have happened: \$500 billion—\$½ trillion—more in spending that is unpaid for and charged to our kids, and that will happen before July 1. So in 4½ months, after we say we are going to put in the discipline, that we are not going to spend money we don't have, we are going to spend another \$½ trillion.

No wonder the country is sick of Washington. Our behavior causes them to wonder about the future of our country. I don't apologize for offering this amendment. I hope you vote against it because the voters, this time around, are going to be looking at how you vote and whether you are voting to make the hard choices, willing to eliminate things—maybe some things that are good but not as good as what we need to be doing—and make this a priority.

We don't have that courage. My challenge to my colleagues in the Senate is, let's buck up. It is OK to take heat from the special interests, the well-connected and well-endowed. Let's do what is the best and right thing for the country, not the easy thing for us, because this bill, the way it is written now, is easy for us.

With that, I yield the floor.

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

AMENDMENT NO. 4173

Mr. JOHNSON. Madam President, I will speak for a few minutes regarding amendment No. 4173, offered by Senators SESSIONS and McCASKILL.

While I understand the imperative of balancing the budget, an across-the-board amendment that sets an artifi-

cial ceiling for all discretionary spending is not the solution. If Sessions-McCaskill is adopted, the Senate will be forced to slash funding for the Department of Veterans Affairs and its related agencies—including Arlington National Cemetery—by \$1.1 billion below the requested level.

If we take medical care off the table—and I for one am not willing to cut medical care for vets—we put every other VA program at risk, including claims processing, medical and mental health research, and hospital and clinic maintenance and renovation. This would translate into an \$862 million cut below this year's appropriation for non medical care VA programs. We are talking about a serious funding shortfall for essential VA programs.

This year, the VA's budget request includes \$460 million over fiscal year 2010 to hire more than 4,000 new claims processors. After years of budget requests that ignored the backlog of claims and the unacceptable wait times for vets to get disability benefits, we finally have a responsible budget request that doesn't simply expect Congress to fill the holes.

The current wait time for a vet to have a disability claim processed is 160 days, and because of new benefits coming on line that will stress the system even more, the wait time is expected to spike next year. Asking a combat vet to wait 6 to 7 months before receiving payments for injuries they suffered while defending this Nation is wholly unacceptable. We cannot afford to delay the hiring of more claims processors.

Likewise, we cannot afford to defer critical research into combat-related medical and mental health conditions, such as traumatic brain injury and post-traumatic stress disorder. To do so while this Nation is at war would be the height of irresponsibility.

For construction, the VA's request already reduces these accounts by \$293 million from fiscal year 2010. Further reductions in the program will only increase the backlog of construction projects.

I hope the authors of this amendment did not intend to reduce funding for veterans, but this amendment does nothing to protect them, and the subcommittee will only be able to fund programs to the level to which funding is available.

I urge my colleagues to reject this amendment and pass a sensible budget resolution that tackles the Federal deficit in a holistic approach rather than simply attempting to balance the Federal budget on the discretionary side of the ledger.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Madam President, I thank and commend my friend for his presentation. He is one of the hardest working subcommittee chairmen of the Appropriations Committee.

If I may, I wish to be a bit personal. As some of my colleagues are aware, I

did put on the uniform of this land and served in a war that was fought about six decades ago—ancient times. A few things happened between that time and this war. For example, although the regiment I was privileged to serve in had about the highest casualties per capita in the European conflict, it may be hard to believe but there was not a single double amputee survivor.

Today, if one goes to Walter Reed Hospital, one will see dozens of double amputees. Why? Because of high tech. For example—I am being personal now—in my case, it took 9 hours to evacuate me. Nine hours? That is a long time. But in Italy, they have hills. We had no helicopters in those days. You had to be carried by hand. As a result, no brain injuries survived and no double amputees survived. So the families did not have the problem then that they are having now.

There is another big difference. For example, if I wrote a letter as a soldier in Italy, that letter was censored by my commanding officer. I could not say anything about the war. All I could say is: Italy is a beautiful place. The food is fabulous. Nothing else. You could not say that my buddy Tom was shot. What they received at home were pleasant notes.

Today we have what is known as cell phones and other technology. You can communicate with your spouse every day. And these items are not censored.

I have had members on my staff with husbands fighting in Iraq and Afghanistan. They communicate all the time. Imagine if you are communicating with your husband in Iraq and suddenly you see that evening on CNN a program with that outfit in combat and your husband does not call you the next day. The stress disorder complex is not only hitting the GIs, it is hitting families. And now we are trying to cut VA, the Veterans' Administration, when the need is much greater? I cannot understand that.

I concur with the chairman that, if anything, if we are to show appreciation and gratitude, we should not be cutting, we should be helping. I commend the Senator.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I feel honored that I was on the floor and able to hear the chairman of the Appropriations Committee reflect on his own service and also compare the differences between World War II and the experience of our soldiers, our sailors, our airmen, and marines in the current conflicts.

My own father is a World War II veteran who was wounded twice in the Battle of the Bulge. The second time he was wounded was when he was waiting to be evacuated. I can relate slightly, from the experience of my own father, to what we just heard from the distinguished chairman of the Appropriations Committee. I cannot imagine being so badly wounded and waiting for 9 hours to be evacuated.

It is a good reminder to all of us, as we engage in the day-to-day debates and arguments and, at times, contentiousness, that we have true heroes in our midst. Certainly, the Senator from Hawaii is one of those. I thank him for his service—his lifelong service. It was an honor to be on the floor and to hear him talk about it because, like many of our World War II veterans, he does not talk about it very often.

I wanted to say that before beginning my remarks.

AMENDMENT NO. 4253

Madam President, I ask unanimous consent to set aside the pending amendment and to call up amendment No. 4253, which is at the desk.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself, Mr. ALEXANDER, Mr. BOND, Mr. VOINOVICH, Mr. INHOFE, Ms. SNOWE, Mr. BEGICH, Mr. THUNE, Mr. COBURN, Mr. GREGG, and Ms. MURKOWSKI, proposes an amendment numbered 4253.

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

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

The amendment is as follows:

(Purpose: To prohibit the imposition of fines and liability under certain final rules of the Environmental Protection Agency)

On page 79, between lines 3 and 4, insert the following:

PROHIBITION ON FINES AND LIABILITY

SEC. 20 _____. None of the funds made available by this Act shall be used to levy against any person any fine, or to hold any person liable for construction or renovation work performed by the person, in any State under the final rule entitled "Lead; Renovation, Repair, and Painting Program; Lead Hazard Information Pamphlet; Notice of Availability; Final Rule" (73 Fed. Reg. 21692 (April 22, 2008)), and the final rule entitled "Lead; Amendment to the Opt-out and Record-keeping Provisions in the Renovation, Repair, and Painting Program" signed by the Administrator on April 22, 2010.

Ms. COLLINS. Madam President, this is a modified version of an amendment I offered yesterday. I am joined by Senators ALEXANDER, INHOFE, BOND, VOINOVICH, SNOWE, BEGICH, GREGG, BROWN of Massachusetts, MURKOWSKI, COBURN, THUNE, and CORKER in supporting this amendment.

On April 22, the EPA's new lead paint rule went into effect. As I explained to my colleagues yesterday, unfortunately the EPA completely botched the implementation of this important rule. This rule is intended to make sure that lead-based paint is removed safely from our homes and, thus, it requires those involved in house renovations to participate in a training course in the proper removal of lead-based paint, and then be certified.

Unfortunately, the EPA did not plan well for the implementation of this new rule. Across our country, it did not

have in place the necessary trainers and classes so that individuals could be trained to comply with this new rule.

What our amendment would do is to delay the fines that would apply in cases of violations of this new rule until September 30. Indeed, it would prohibit the EPA from imposing these fines, which are as high as \$37,500 per day per violation for violating this rule.

I want to make clear that I support efforts to rid our homes of toxic lead-based paint in a safe manner. But it is simply not fair to impose these burdensome, onerous fines on contractors who have been unable to get the EPA-provided training because the EPA did such a lousy job in planning for implementation of this new rule.

In my State, for example, as of last week, we have only three EPA trainers to certify contractors for the entire State. As a result, only about 10 percent of the State's contractors have been certified. Hundreds of home renovators have had their names on waiting lists, some for as long as 2 months, but they simply cannot get the necessary training, and that is through no fault of their own.

I note that my amendment has been endorsed by the National Federation of Independent Business, our Nation's leading small business advocacy organization. It has been endorsed by the Window & Door Manufacturers Association and the National Lumber and Building Material Dealers Association.

These groups have endorsed it because they are hearing from their members of the tremendous burden and the tremendous fines that their members are potentially at risk of receiving through no fault of their own.

As the NFIB pointed out in its letter, the new EPA lead rule applies to virtually anyone who is involved in home renovations involving lead-based paint. That includes painters, plumbers, window and door installers, carpenters, electricians, and other specialists. Its reach is very broad.

What we found throughout the country is the EPA completely underestimated the number of people who would have to be trained. They also seem to be operating under the false assumption that contractors either do new construction or renovation. Madam President, I don't know about your State, but that is not true in my State. In my State, the home renovators do all sorts of work, particularly in this economy.

This imposes a tremendous burden on those of us who represent large rural States. In my State, most of the courses were held in the southern part of the State, requiring painters and other contractors to travel hundreds of miles to get the training they need. There are three States where EPA does not have any certified trainers available.

This is a commonsense amendment attempting to put some sense in the decisionmaking at the EPA by extend-

ing, until the end of this fiscal year, the time for compliance.

I want to make clear that I believe we should try to proceed with the removal of lead-based paint and that we need strict safety standards. But it does not make sense to impose huge fines on contractors who are unable to get the required training, the mandatory classes because the EPA did not have the trainers in place before putting the rule into effect.

In my State, the building industry is still struggling, and for a lot of individuals who are involved in the building industry, their only work is to do home renovations.

My State also has an old housing stock, one of the oldest in the Nation. Ironically, this new rule may result in not having anyone who is qualified to remove lead-based paint from homes because of the way this rule has been implemented.

I talked at some length about this issue yesterday. I am not going to repeat what I said yesterday. But let me point out that a lot of the contractors in my State who are struggling already financially do not earn in a whole year the \$37,500 they can be fined for one violation by the EPA. It is simply unfair that these heavy fines can be imposed when it is the EPA's fault that the classes have not been made more readily available.

All I am attempting to do is to provide the EPA with more time to increase the number of certified trainers. This is a matter of fairness.

Madam President, I ask unanimous consent to have printed in the RECORD the endorsement letters from the NFIB, from the National Lumber and Building Material Dealers Association, and from the Window & Door Manufacturers Association.

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

NATIONAL FEDERATION OF INDEPENDENT BUSINESS, Washington, DC, May 25, 2010.

DEAR SENATOR: On behalf of the National Federation of Independent Business, the nation's leading small business advocacy organization, I am writing in strong support of the Collins Amendment to H.R. 4899, the Supplemental Appropriations bill, to delay the enforcement of the Environmental Protection Agency's (EPA) lead rule until September 30, 2010. The NFIB will consider a vote in support of this amendment as an NFIB Key Vote for the 116th Congress.

On April 22, 2010, the EPA's lead rule went into effect requiring home renovation contractors to complete a mandatory training class at an accredited facility. The new EPA lead rule applies to virtually any industry affecting home renovation including: painters, plumbers, window and door installers, carpenters, electricians, and similar specialists. The penalty for non-compliance can be up to \$37,500 per violation per day. NFIB appreciates the intent of the law to ensure lead-free painting, home renovation, and repairs. However, we continue to be concerned that the tight enforcement deadline unfairly punishes contractors who have not been able to become accredited through no fault of their own.

NFIB has recently heard from several of our members in the home renovation industry who were unaware of their responsibilities under the new law. EPA did little to plan for the implementation of the rules until it was too late, and many home renovators had little information about how to comply, where to comply, and the resources needed to comply. Those that became aware of the rules have had difficulty signing up for classes due to limited or no availability in their area. In addition, several members have mentioned that scheduling conflicts made it almost impossible to find time to become accredited before the April 22 deadline.

We are concerned that the high penalty for non-compliance should be enforced without first taking every step possible to make sure the small business community is fully aware of its responsibilities. The Collins Amendment extends the deadline until September 30, allowing the EPA to get more information to home renovators about how to comply with the new rule. This time period will allow the home renovation industry to schedule an appointment with an accreditor in their area and make sure they have the necessary resources together to be in compliance.

NFIB supports the Collins Amendment to help small businesses comply with the new lead rule. I look forward to working with you to reduce regulatory burdens on the small business community.

Sincerely,

SUSAN ECKERLY,
Senior Vice President, Public Policy.

WINDOW & DOOR
MANUFACTURERS ASSOCIATION,
Washington, DC, May 25, 2010.

Re Collins LRRP Amendment to Supplemental Appropriations Bill.

Hon. DANIEL K. INOUE,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

Hon. THAD COCHRAN,
Ranking Member, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN INOUE AND RANKING MEMBER COCHRAN: On behalf of the Window and Door Manufacturers Association (WDMA), we are writing to urge your support of Senator Collins' Lead: Renovation, Repair and Painting (LRRP) amendment to the emergency supplemental. As you know, EPA's new LRRP rule, which took effect April 22, 2010, requires all renovation work that disturbs more than six square feet and all window replacements in housing built before 1978 must be supervised by a certified renovator and performed by a certified renovation firm.

WDMA has consistently supported measures to protect those most vulnerable to potential lead poisoning if lead-based paint is disturbed during renovation and repair of existing homes and buildings. Our members have made a concerted effort independently and in cooperation with other organizations to ensure that window replacements and other remodeling activities they engage in are performed in compliance with the certification requirements, work practice standards, and all other requirements of the final LRRP rule.

However, we continue to remain concerned that there are an inadequate number of certified renovators to implement the LRRP rule. This is having a serious impact on the remodeling construction industry at a critical time in our economic recovery, and when consumers are attempting to respond to the call for reducing their carbon footprint and green house gas emissions by renovating their homes to make them more energy efficient. Window replacement is essen-

tial to that effort. The targeted housing stock (pre-1978 homes) is estimated to be 80 million homes nationwide. Currently, there are only 204 trainers and 140,000 EPA-certified lead rule renovators across the country, with some states having no trainers at all. EPA estimates that 300,000 renovators will be needed for targeted housing. The availability of EPA trainers is insufficient to meet contractor demand.

We believe the new lead rule cannot be effectively implemented until there are enough certified renovators to meet the rule's compliance goals. We therefore strongly urge you to allow Senator Collins' LRRP amendment for consideration to the emergency supplemental, which would delay enforcement of the LRRP rule until September 30, 2010. This delay in implementation will allow the EPA to devote more resources to compliance assistance, increasing public awareness and accelerating the approval of trainers.

WDMA will continue its efforts to ensure compliance but we strongly urge that Senator Collins' LRRP amendment to include this needed delay in enforcement of the LRRP rule until September 30 is allowed for consideration. Once the amendment is under consideration, we urge your support for its passage.

Thank you for your attention to this matter.

Sincerely,

JEREMY STINE,
Manager of Government & Public Affairs.

NATIONAL LUMBER AND BUILDING
MATERIAL DEALERS ASSOCIATION,
Washington, DC, May 25, 2010.
Re Sen. Collins EPA Lead Rule Amendment to Emergency Supplemental.

Hon. DANIEL K. INOUE,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

Hon. THAD COCHRAN,
Ranking Member, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN INOUE AND RANKING MEMBER COCHRAN: On behalf of the National Lumber and Building Material Dealers Association (NLBMDA), we are writing to urge your support of Senator Collins' Lead: Renovation, Repair and Painting (LRRP) amendment to the emergency supplemental. As you know, the Environmental Protection Agency's (EPA) new LRRP rule, which took effect April 22, 2010, requires all renovation work that disturbs more than six square feet in housing built before 1978 must be supervised by a certified renovator and performed by a certified renovation firm, as outlined in 40 CFR §745.85.

NLBMDA represents over 6,000 members operating single or multiple lumber yards, building material supply companies and component plants serving homebuilders, subcontractors, general contractors, and consumers in the new construction, repair and remodeling of residential and light commercial structures. Many of our members engage in installed sales operations, such as window and door replacement and insulation installation, that are covered by the LRRP rule.

NLBMDA supports reasonable measures to protect those most vulnerable to potential lead poisoning if lead-based paint is disturbed during renovation and repair of existing homes and buildings. Our members have made a concerted effort independently and in cooperation with other organizations to ensure that remodeling activities performed in target housing will be done in compliance with the certification requirements, work practice standards, and all other requirements of the final LRRP rule.

However, NLBMDA also believes that despite the progress that has been made, the

numbers of certified trainers, firms, and renovators is still too limited, and that when coupled with the current lack of accurate test kits and public awareness, EPA is not fully prepared to effectively implement and administer the program established by the final rule. Our members are reporting that it is taking up to four months for EPA to process their applications to have their firm certified by EPA as required under the rule. We therefore wholly agree with Senator Collins and her amendment, which would delay enforcement of the LRRP rule by EPA until September 30, 2010. We believe this new date of enforcement will provide enough time for our members to become registered with the EPA for lead certification.

NLBMDA will continue its efforts to ensure compliance but we strongly urge you to delay enforcement of the LRRP rule until September 30 by allowing Senator Collins' LRRP amendment for consideration to the emergency supplemental. Once the amendment is under consideration, we urge your support for its passage.

Thank you for your attention to this matter.

Sincerely,

MICHAEL P. O'BRIEN, CAE,
President & CEO.

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

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There does not appear to be a sufficient second.

Ms. COLLINS. Mr. President, I understand that the chairman has temporarily stepped off the Senate floor, so I will withhold that request.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. 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. Mr. President, I was not on the floor when the Senator from Maine made her remarks about the EPA's lead paint rule, but she and I have discussed it numerous times, and I wanted to congratulate her for her leadership and persistence on seeing the impracticality of what the Environmental Protection Agency is trying to do.

She discussed this in the Appropriations Committee, she has discussed this with Senator FEINSTEIN, the Chairman of the Interior Appropriations Subcommittee, and with me—I am the ranking member on the Appropriations Subcommittee on Interior—and as more of us paid attention to what Senator COLLINS was saying, we found a significant problem in our own States.

Of course, the lead paint rule is a good idea. The idea is that for structures that were built before 1978—they mostly have lead paint—any work done by a repairman or contractor or painter that disturbs 6 square feet of lead paint must be done by someone who knows how to do it safely. This is especially important to children under 6

and to pregnant women. So we want to do that.

But in the State of Tennessee, it is a special problem to impose and enforce this new rule requiring contractors to be certified where we have just had severe flooding in our State that affects 52 counties, from Nashville to Memphis. This is the single largest natural disaster since President Obama took office.

People who hear me say that, say: Well, Senator ALEXANDER, haven't you heard about the gulf oilspill? Yes, I have heard about that, but that wasn't a natural disaster. The biggest natural disaster we have had since President Obama took office is the flood in Tennessee, affecting 52 counties.

One of the reasons you haven't heard as much about it is because a lot of other things have been going on in the world, including the gulf oilspill, but another reason you have isn't because Tennesseans are busy cleaning up and helping each other and not complaining and looting, so it doesn't make a lot of news. But the mayor of Nashville says there is \$2 billion of damage just in that city alone. There was water 10 feet high in the huge Opryland Hotel, where 1,500 people had to be rescued and taken to a high school gym. There was 2 feet of water on the Opryland stage.

There are 11,000 structures in Nashville alone which have to be repaired as a result of the flood. So I think you can see where I am going, Mr. President. This isn't just a problem in certifying these EPA inspectors in ordinary times. We have 11,000 structures in Nashville, 900 in Millington, 300 in Dyersburg—maybe it is the reverse, but those are 2 other small towns and counties. People are going into their basements, they are taking down drywall, they are repairing their air-conditioning, they are repainting, they are cleaning up and getting back on their feet. This is a special problem because we only have 3 EPA trainers to certify up to 50,000 contractors who might have to be working on these homes.

In fact, we have over three-quarters of a million structures in Tennessee—that is, 750,000—which are homes or childcare centers or schools or other buildings that were built before 1978 that would be covered by this rule. So having a good rule is one thing; having a thoroughly impractical application and implementation period is another. And then to do it in the middle of a flood which is the largest natural disaster since President Obama took office is tone-deaf to reality.

So I have asked the EPA to delay the implementation and enforcement of its rule until September if a contractor registers for a training class. I am a cosponsor of Senator COLLINS' amendment, and I think it is very important that the Environmental Protection Agency hear what Senators from all around the country are saying, especially in our State of Tennessee where

we have thousands of repairmen, painters, and workmen who need to go to work on tens of thousands of homes, and we don't want to have a risk where they may have to pay a fine of \$37,500 for each violation. There are a lot of them who don't make \$37,500 in a year. We are not talking about Wall Street financiers here; we are talking about workmen, repairmen, and painters who are helping people dig out after a huge natural disaster.

So Senator COLLINS has not only done the State of Maine a service by her persistence, intelligence, and leadership on this issue, but she has done a service for every citizen in the State of Tennessee in 52 counties who have been damaged by the severe flooding of the year 2010. So I thank her for her leadership and say to her that I am proud to be a cosponsor of her amendment, and I pledge to her—insofar as I am able as the ranking member of the Appropriations Interior Subcommittee—to work with other Senators on both sides of the aisle to try to get some common-sense implementation plan for this lead paint rule—a good rule, a bad plan.

Thousands of people are going to find that they can't repair their homes or that if they do, it will cost them thousands of dollars more because the repairmen they need to work on their homes can't get certified by the EPA because there are only three trainers in the whole State of Tennessee to do the job.

I thank the Presiding Officer, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, I want to thank my colleague and friend from Tennessee for his comments and his support. We have been working on this since we first began discussing it during the appropriations markup, and he has illustrated what truly can be a devastating impact of this rule. It could prevent the renovations, the cleanup, the reconstruction work from going forward in his State. In his State even more than most States, the impact could truly be devastating. It is serious everywhere but truly devastating in Tennessee.

I have also commented to my colleague from Tennessee how proud he must be of the residents of his State. You hardly have heard of any complaints from Tennessee even though this has truly been a devastating flood. I sometimes worry that perhaps because they are trying to help one another, they are not getting enough attention in the press or from Congress. Fortunately, they have a very fine advocate in Senator ALEXANDER and Senator CORKER, and they are continuing to look out for them by cosponsoring this amendment.

I thank the Senator for his support.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from Maine, and I

see the Senator from Mississippi here. I would be remiss if I did not thank him and the chairman of the committee for including within the supplemental appropriations bill several provisions that will make it easier for the people of Tennessee, the important one being \$5.1 billion in money for the Federal Emergency Management Agency. That helps everybody who has had a disaster. FEMA is out of money. That account is dry. Whether it is a flood in Iowa, a drought in Oregon, a river in Georgia, a flood in Tennessee, or what is happening in the gulf coast today in Mississippi, that account needs to be furnished.

But there are other provisions in the supplemental appropriations bill. The President didn't ask for these, but he mentioned that in his visit with us yesterday in the Republican caucus. He mentioned the flooding in Tennessee, which I appreciate.

I should also say that the FEMA representatives who have come to Tennessee since the flood have done a first-class job. As of last week, about \$100 million had already been delivered to more than 30,000 Tennesseans who have been damaged by the flood. This has happened in just 10 days. The very experienced director of FEMA for Tennessee, Gracia Szczech, said she had her breath taken away by the amount of damage and the number of individuals affected and how rapidly it has gone out.

Tennesseans understand that Federal money is not going to make anybody whole. We are going to have to rebuild our own homes and our own buildings. But the actions of the supplemental appropriations bill will help.

Most impressive, though, as I have mentioned—and I appreciate the Senator from Maine saying something about it—is the spirit and attitude of Tennesseans. In Clarksville, where Fort Campbell is—the most deployed troops in America—they got a day off. They do not have many days off. Five hundred of them went out and cleaned up three neighborhoods in Clarksville, Montgomery County.

I visited the Bellevue Community Center in Nashville, and it was terrific to see so many volunteers walking in and asking to help. Whole congregations in Tennessee—a 1,500-person congregation—went en masse to help other counties and other neighborhoods.

I would say to the Senator from Mississippi, during the Katrina episode a few years ago, our church, the Westminster Presbyterian Church, sent dozens and dozens of Tennesseans down to help out at the gulf coast. Well, now our church is the headquarters for many Mississippians and others who are returning to Tennessee to return the favor and help Tennesseans get back on their feet.

This is going to be a long, several-year recovery for us, but this supplemental appropriations bill will help, just as it will help disasters all over the country.

It would be another big help if the EPA did not make it worse. That means stepping back to take a look and realizing that we have maybe 50,000 contractors who would need to be certified to work on up to 750,000 buildings in Tennessee. Many of them are flooded; many of them are not flooded. But we cannot get all that done in the next few days, and people cannot afford \$37,500 fines for a violation. Most Tennesseans do not want to pay a few thousand more dollars to fix their flooded basement or their flooded house.

The repairmen and contractors and painters need the work. The construction industry that has about a 22-percent unemployment rate right now—that is more than twice what the overall unemployment rate is nationwide. So the EPA rule needs to adjust the implementation or execution in some sensible way so we can endorse the lead paint rule, but we can do it in a way that does not seriously disadvantage Tennesseans damaged by the flood.

The Collins amendment deserves the support of the Senate, and I am glad to have the opportunity to add my support to her efforts.

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

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Tennessee for his kind comments about yielding time. I congratulate him and the Senator from Maine on their aggressive move to make sure the Federal rules and laws do not get in the way of humanitarian efforts that are extremely important in a time of natural disaster.

The flooding in Tennessee is a horrible mess. It has been overlooked in the wake of the gulf oil spill and other things that have probably claimed center stage in terms of its national publicity and television coverage that has been occasioned by these disasters. But my assurances are that we will continue to try to be active in a way that will be a constructive influence in the interpretation and application of Federal rules in these situations.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I have five amendments I would like to speak briefly about that I will not call up at this point. I was advised they are still trying to see if there is any objection to these being called up. I would still like to discuss them and explain to people why I would like to see these amendments adopted.

The first amendment I want to discuss is amendment No. 4279 related to bark beetles. This is a serious problem all of us in the West have observed. This amendment is cosponsored by Senator MURKOWSKI, who is the ranking member on our Energy and Natural Resources Committee, Senator UDALL of Colorado, and Senator BENNET of Colorado. We are, of course, looking for additional cosponsors.

This amendment addresses an important issue we have in our forests in the West. Bark beetles have affected some 6.5 million acres of these forests. The epidemic has resulted in a dangerous situation where dead trees are falling onto roads, trails, campgrounds, utility lines, and other infrastructure, posing a substantial risk of personal injury or death and property damage.

The Forest Service and National Park Service already have had to redirect tens of millions of dollars of funds that were appropriated for other projects and priorities in order to remove trees killed by bark beetles.

This amendment provides \$50 million to help address the unbudgeted needs of the Forest Service and the National Park Service to remove bark-beetle-killed trees around roads, trails, campgrounds, and utility lines to protect public health and safety.

While the bark beetle epidemic has most significantly affected the forests and agency budgets in the central and northern Rockies, the need to redirect funds to address these needs has an adverse affect on other projects around the country.

The amendment is fully paid for. As I mentioned before, I appreciate that Senator UDALL of Colorado—who has been a strong advocate for doing this work—has cosponsored the amendment, along with Senators MURKOWSKI and BENNET of Colorado. Senators JOHNSON and BAUCUS also have advocated for emergency funding for this work.

I hope we can quickly get approval to go ahead and call up this amendment so it can be considered as part of this legislation.

The next amendment I wanted to discuss briefly is No. 4266, regarding Coast Guard funding.

This amendment looks around the corner, or beyond the horizon a little bit, at a problem that is likely to hit us in the future. Under the Oil Pollution Act, if BP denies the claim for damages associated with the Deepwater Horizon disaster, the rejected claimant has the right to file a claim with the Federal Government through the National Pollution Funds Center. I can see a virtual inevitability that this will occur and perhaps occur reasonably soon. Then the National Pollution Funds Center could find itself swamped with claims. They do not have adequate funds in their annual appropriation to deal with it.

The amendment simply allows them, for this one incident, to access further appropriations for these administrative costs. I think it is prudent for us to do this in light of what may well transpire in the reasonably near future.

The third amendment I want to talk about deals with the abandoned mine lands legislation we have on the books. I added Senator BUNNING as a cosponsor. It is amendment No. 4187.

This amendment would clarify that certain funds provided to the States under the Abandoned Mine Lands Pro-

gram, administered by the Department of the Interior, could be used for two purposes: No. 1, for high-priority noncoal reclamation as well as coal reclamation; and, second, for State set-aside programs for the remediation of acid line drainage. The funds involved are those that have accrued to the States under the formula in the Surface Mining Control and Reclamation Act but had not been previously appropriated. Use of these funds for noncoal reclamation and acid mine drainage had been allowed prior to amendments made by the Tax Relief and Health Care Act of 2006. There was no intent at that time to change that result.

However, in 2007, the Solicitor in the Department of the Interior interpreted the amendments that we adopted in 2006 as limiting the ability of States to use these funds under the Abandoned Mine Lands Program for these purposes.

With respect to the use of funds for noncoal reclamation, while activities on noncoal sites have consumed a relatively insignificant portion of the funding provided for the overall AML Program, use of targeted funds for high-priority noncoal abandoned mines in the West is essential in terms of public health and safety.

With respect to the use of funds for acid mine drainage, allowing the funds to again be used for State set-aside programs for remediation of acid mine drainage has considerable benefits in terms of the environment and water quality, particularly in Appalachian States such as Kentucky and Pennsylvania and West Virginia.

This amendment does not score. It does not increase any funding to the States or to the tribes. It simply clarifies that States have the flexibility to use AML funds for these two uses, as was the case prior to the 2006 amendments, and at the appropriate time I will offer that amendment as well.

Let me discuss one other amendment. I have two other amendments I want to discuss. The first is amendment No. 4267.

The amendment I have mentioned contains a number of process improvements to help the DOE Loan Guarantee Program to operate more efficiently and effectively. I am pleased to have Senators MURKOWSKI and SHAHEEN as cosponsors of this amendment.

The amendment does six important things:

No. 1, it provides the flexibility to allow applicants to pay a portion of the credit subsidy cost, in concert with the use of appropriations for other parts of the cost. This feature will allow us to make more effective use of the appropriations provided to the program.

No. 2, it drops the requirement for expensive third-party credit reports in cases where the projects are small and are being proposed by start-up firms, which generally do not have a credit rating. The Department would treat these firms as having the lowest credit rating, which is what start-up firms

without a balance sheet generally have in any case.

No. 3, it provides enhanced hiring authorities for the DOE loan guarantee office and for professional advisors to help analyze projects being proposed for support through the program and the related advanced vehicle technology loan guarantee program.

No. 4, it fixes a glitch in DOE's rules for the loan guarantee program that prevents a project being guaranteed from being located on more than one site.

No. 5, the amendment also removes a requirement that keeps an applicant from submitting more than one application to the program.

No. 6, finally, the amendment allows the loan guarantee appropriation made as part of the Recovery Act to be used for energy efficiency projects, in addition to renewable energy and electricity transmission projects.

These proposed changes have substantial bipartisan and bicameral support. They do not add to the score of this bill, but will greatly help move the loan guarantee program forward.

I urge the adoption of this amendment.

The final amendment I want to speak briefly about is amendment No. 4268.

Amendment No. 4268 contains an important process improvement to help the Department of Energy Loan Guarantee Program to operate more efficiently and effectively. It sets a 30-day limit for dealing with or reviewing loan guarantee applications by the Office of Management and Budget once they are approved for conditional commitments by the Department of Energy. The time consumed by OMB reviews and the delays this has engendered in the program have been a substantial impediment to the effective functioning of the program.

This amendment would provide for a much greater degree of certainty and clarity in the operation of the program.

Again, I am pleased to have Senator MURKOWSKI as a cosponsor of the amendment. I hope we can adopt it as part of this legislation.

I will wait until I am advised by the floor managers that it is appropriate to call up these amendments, and at that time I will hope to be able to do so. I hope we can get the necessary support to adopt the amendments.

I yield the floor.

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

Mr. WEBB. Mr. President, I would like to speak today on an amendment I filed, amendment No. 4222, which I hope at the appropriate time will be called up on my behalf. Actually, I suggest and hope this will become a part of the managers' package.

It is a relatively simple amendment, but I think it is very important in terms of clarifying the role of the Congress versus the role of the executive branch in a lot of decisionmaking.

Last October, the Secretary of Veterans Affairs announced his intention to establish a presumption of service connection for three medical conditions, including ischemic heart disease, for veterans who were exposed to Agent Orange. He stated this rulemaking was necessary as a result of the Agent Orange Act of 1991, which requires the Secretary of Veterans Affairs to promulgate regulations establishing a presumption of service connection once he finds a positive association of exposure to herbicides in the Republic of Vietnam and the subsequent development of any particular disease.

The Department of Veterans Affairs made a request on the basis of this rulemaking. It is contained in this supplemental. It is an amount of about \$13.6 billion for the service connection, principally of coronary heart disease, to Agent Orange in Vietnam.

I think we need to proceed very carefully in terms of our role in the Congress in examining this presumption. It is not yet official policy in the Department of Veterans Affairs. It is still in the review process. The Congress is going to have 60 days beginning at some point this summer to examine this decision that General Shinseki made.

My amendment basically says: We should fence this money. And I think it is appropriate that, no pun intended, the Appropriations Committee honor the request of the DVA in this issue. But we should fence this money until the review process is complete.

This is the difficulty here. When the Agent Orange legislation was passed in 1991, it created two different sorts of presumptions. The first was that everyone who had been in Vietnam, everyone who had served in Vietnam, was presumed to have been exposed to Agent Orange. I would say, as a committee counsel in the House of Representatives more than 30 years ago, I counseled the Agent Orange hearings. There were four Agent Orange hearings. That was a very generous assumption that was made in this law, to say that everyone who was in Vietnam was, in fact, exposed to Agent Orange.

We do want to take care of those who were. We do want to take care of our veterans who served and who incurred disabilities or diseases as a result of that service.

The second presumption in this legislation was that, as a matter of executive discretion, the Secretary of Veterans Affairs could then look at information and decide which diseases or medical conditions should be also presumed to have resulted from exposure to Agent Orange.

So, first, everyone who served in Vietnam is assumed to have been exposed to Agent Orange, and then certain medical conditions are determined so that the presumption is they were the result of Agent Orange exposure.

In 2001, it was decided that type 2 diabetes was the result of Agent Orange exposure. It was decided by the then-

Secretary of Veterans Affairs. By 2009, more than 263,000 Vietnam veterans were receiving disability compensation related to this decision. That is 10 percent of everyone who went to Vietnam, has been service connected, through this Agent Orange bill, with respect to type 2 diabetes.

The estimates we would have on coronary heart disease are much higher. We are talking about the potential, at a minimum, of spending \$31 billion in the next 10 years as a result of this presumptive service connection, and I must say I have not had the opportunity, as a member of the Veterans' Committee, to hear from the Secretary of Veterans Affairs as to how he made this connection.

Looking at the review chart, there was a category called "level of connection." In other words, when you take the scientific information and you apply it to this condition, what is the level of connection? For instance, when they looked at B-cell leukemia, there was sufficient evidence. That was a category.

When we are looking at coronary heart disease, it is "limited or suggestive evidence." I do not know what that means. But what I wish to say is that we have an obligation in the Congress, A, to make sure we take care of our veterans but, B, that we also hold the executive branch to some sort of accountable standard.

That accountable standard will be occurring over the next couple of months. I think it is appropriate in this particular supplemental that we mark this—it is either \$13.4 billion or \$13.6 billion for this increase in the service connection, that we mark this as "not to be spent" until we can clarify this issue.

This is not in any way an issue as to whether we support our veterans. I take a back seat to no one in my concern for our veterans. I have spent my entire adult life one way or the other involved in veterans law. But I do think we need to have practical, proper procedures, and I do believe that the executive branch, whether it is the EPA or the State Department or the Department of Veterans Affairs, needs to be held to an accountable standard.

With that, I hope very much that we can get this amendment as a part of the managers' package. As the issue resolves itself, we can decide the appropriate level of funding that will go to the connection between medical conditions and exposure to Agent Orange.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

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

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

The assistant editor of the Senate Daily Digest proceeded to call the roll.

Mr. WHITEHOUSE. 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. WHITEHOUSE. Mr. President, I rise to speak about important funding in the supplemental appropriations act that will help my State of Rhode Island recover and rebuild from the recent devastating flood which left homes destroyed, businesses closed, and thousands and thousands out of work. The help in this bill is very important to us. Residents of our Ocean State were in a tough spot long before the rain started to fall. Our economy had been in severe recession for 28 months. Unemployment has remained over 12 percent, putting us in the top 5 States for unemployment for 12 months. Homelessness is on the rise. We are in the top 10 States for foreclosures, and our State budget is simply a disaster. The historic back-to-back floods in March hit an already hard-hit State. Rhode Island saw more rain during this disaster than any month on record ever, over 16 inches, with over 5 inches of rain falling on March 30 alone.

The devastation wrought by these storms exceeds anything in living memory. Meteorologists who have reviewed it are calling this the most damaging storm to hit the Ocean State since 1815. It is too soon to estimate the full economic impact of the March flooding, but it is clear that the economic damage to Rhode Island will be prolonged and severe. The peak storms of March 30 and 31 brought commerce not only in Rhode Island but in the region to a halt. Route I-95, the main artery that connects the major cities of New England and the middle Atlantic States, was closed for 2 full days. It flooded out following a surge of the Pawtuxet River. The river, which has a flood level of 9 feet, crested at its all-time high, almost 21 feet, on March 31.

It is hard to overstate the importance of I-95 to Rhode Island's economy because not only is it a regional artery, it is probably the single most heavily traveled local commuter and commercial artery for our State. Similarly, even Amtrak service through Rhode Island was suspended for 5 days due to the flooding out of the Amtrak rails.

At the height of the rains, Providence Street, a main road in West Warwick, looked more like a river than a road. This picture shows local emergency workers rescuing people who have been flooded into their homes and apartments, driving them through the flood in a boat with jet skis. It is not often that one sees local emergency workers driving down the roads of Rhode Island towns on boats and jet skis. But that is what it took to get residents out who had been trapped by rising flood waters.

A few days later, this was the scene at Angelo Padula & Sons auto salvage yard in West Warwick. The waters have receded, but we can clearly see the damage left behind. All of these cars were covered and filled with water. We can see the mud from the river heaped all over them. I don't know whether it can be seen on television, but hanging

in the fencing is leaves and grass and other bits of trash, because the river was over all of this. This fence was a strainer, picking leaves, trash, and other debris out of the flow. This was completely under water when the river was at its height. When it came back, it left the devastation of this auto and salvage yard. According to local news reports, the floods destroyed 1,200 cars in this salvage yard as well as 16 cars in a sales lot and thousands of dollars worth of car parts. The damage to the surrounding neighborhood and the other businesses near Councilman Padula's yard was equally severe and devastating.

This legislation will enable the Army Corps of Engineers to examine the factors that led to the severe flooding in our State. It will help Rhode Island apply effective mitigation measures to forecast the risk of and prevent future flooding. Our communities are now hesitant to rebuild for fear of another flood. We must take steps to prevent a disaster such as this from happening again. People have to know where the danger area is. When you get two back-to-back floods in a matter of weeks that both blow through the 100-year flood line, one of which blows through the 500-year flood line in places, something is wrong with the measurement of the flood risk. The people who have been subjected to these floods know that. As one local business owner said in a recent report on WRNI, our local NPR station: What happens if it floods again in 2 months?

We need this knowledge. We need the support from the Army Corps to get in there and tell us what the real present flood risk is. Clearly, the previous estimates were badly wrong.

This bill also contains funding for community development block grants and economic development assistance grants for long-term recovery efforts that will help restore and rebuild Rhode Island communities. As I traveled around the State for days following the flood, the sheer magnitude of the damage was unprecedented. The Federal response came quickly. The President issued a disaster declaration almost immediately. Homeland Security Secretary Napolitano was on the ground within days. FEMA quickly came in to set up emergency assistance centers and begin processing disaster assistance applications. They set up offices all across the State. They did a phenomenal job of getting people into the State, of reaching out across the State and making sure they were widely spread and available to victims of the flood. So far FEMA has processed more than 25,000 claims and, in a State of a million people, that is a big number. I thank them for their hard work. Of course, FEMA delivers a particular specified product that is defined by law and regulation. They haven't been able to help everyone. People have fallen through the cracks, and so many Rhode Islanders remain frustrated.

I recently held one of my community dinners in Cranston for people to come

and ask questions about flood aid. I heard from a number of people who feel as though they have fallen through the cracks in the wake of this disaster or feel that the help they have received is not enough.

Small business owners, for instance, have been limited to receiving low-interest loans from the SBA to recover from their flood damage. But for many of the small businesses which were already struggling through the terrible economy I described before the floods even came, the prospect of taking on more debt in order to repair flood damage is not feasible. They need grant support.

What is important about this legislation is that CDBG and EDA will allow the local municipalities to design appropriate programs to catch the people who were not those 25,000 satisfied customers of FEMA but are the people who, because of the nature of the program and the nature of their flood damage somehow managed to fall through the cracks.

For our towns and cities in Rhode Island, again, this could not have come at a worse time. I have already shown you some of the damage that was sustained in West Warwick. That is a town that was already experiencing hard economic times. Now the town's already stretched budget has been pushed to the limit by the overtime shifts and the emergency repairs and all of the extra effort required to deal with the flood and its aftermath. By lowering the State and municipal cost share from 25 percent to 10 percent, this appropriations package will be a big relief to the people of West Warwick. Frankly, the city of West Warwick and others will have the ability now to design packages to help their residents and their small businesses that were not adequately compensated by FEMA to try to get them back on their feet. So it is two good things for the municipalities: It is a reduction from 25 percent to 10 percent in their share, and it is an opportunity to create a plan that will help serve their constituents.

In Cumberland, RI, Hope Global, one of the town's largest employers, was completely washed out by the flood. This is a picture of Hope Global I have in the Chamber. This is their loading dock. Normally, there would be no water there at all. There would only be a parking lot there, and a truck would back up to this level. This would be several feet off the ground. As it was, I floated through those loading docks in an inflatable boat at Hope Global.

They are an enterprising company. Cheryl Merchant, who is their CEO, is an astonishing woman. She had all of the equipment in that factory jacked up on temporary pallets of one kind or another, so when the flood came in, it did not damage the machinery because it had been jacked up. When the floodwater went back down, they put the machinery back down on the ground. They got their electricity going again. They plugged back in, and they were

running in no time. Before their executive offices were cleaned up, while everything was still a wreck, the machinery was already spinning and the Rhode Islanders at Hope Global were already back at work. That was a great thing. But now they face the problem of, do we stay? Should we go on? Should we find a location where we do not face this kind of a risk?

One of the important decisions Hope Global needs us to make is to reduce the threat of future flood damage. Can there be a berm that protects them from the river overflowing, as it did here? They would like to see that berm constructed along the riverbank for their protection, and we are hopeful the funding in this appropriations package will help Cumberland to assist the Army Corps in getting that done quickly.

I will close by pointing out that the motto on the Rhode Island State flag is "hope." That is our symbol. That is the phrase, the word that has seen us through tough times in the past. The flooding has destroyed homes. It has closed businesses. It has put careers on hold. But the people of Rhode Island have stood up remarkably well. However, the job of rebuilding roads, rebuilding bridges, rebuilding sewage treatment plants, rebuilding public facilities, homes, and businesses is a colossal and daunting task for a State already 28 months into severe recession. Rhode Islanders are a resilient bunch. We will recover and rebuild. But this will certainly help us to get there.

Since this appropriations package was passed unanimously in committee, I hope for quick passage on the floor.

I see the very distinguished ranking member of the Appropriations Committee, Senator COCHRAN of Mississippi, who represents a State that has seen its own share of flooding and difficulty recently. I know how sympathetic he is to our concerns and how effectively and helpfully he has worked with JACK REED, my senior Senator, who is also on the Appropriations Committee, who has worked to see that this gets done. So I want to take this moment, as I conclude my remarks, to pass on my gratitude to the chairman, Senator INOUE; the ranking member, the distinguished Senator from Mississippi, Mr. COCHRAN; and my senior Senator, JACK REED, for all of their work in pushing this funding through the Appropriations Committee to where it is now on the floor. Our State is lucky to have had their support, and I look forward to continuing my work with Senator REED to make sure Rhode Island rebuilds.

I yield the floor.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4174

Mr. MENENDEZ. Mr. President, I ask for regular order with regard to the Reid amendment No. 4174.

The PRESIDING OFFICER. The amendment is now pending.

AMENDMENT NO. 4289 TO AMENDMENT NO. 4174

Mr. MENENDEZ. Mr. President, I offer a second-degree amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. MENENDEZ], for himself, Mr. NELSON of Florida, Mr. LAUTENBERG, Mrs. MURRAY, Mr. SCHUMER, Mrs. GILLIBRAND, and Mr. KAUFMAN, proposes an amendment numbered 4289 to amendment No. 4174.

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

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

The amendment is as follows:

(Purpose: To require oil polluters to pay the full cost of oil spills)

At the end of the amendment, add the following:

TITLE V—OIL SPILL LIABILITY

SEC. 5001. REMOVAL OF LIMITS ON LIABILITY FOR OFFSHORE FACILITIES.

(a) IN GENERAL.—Section 1004(a)(3) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(3)) is amended by striking "plus \$75,000,000" and inserting "and the liability of the responsible party under section 1002".

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on April 15, 2010.

Mr. MENENDEZ. Mr. President, the amendment I rise to offer today as a second-degree will do something several of my colleagues and I have been seeking to do on the floor for the last 2 weeks or so; that is, to make absolutely certain that big oil polluters pay for oil spills and not the taxpayers—not fishermen, not small business owners, not coastal communities, not States, not municipalities.

This amendment would eliminate the artificially low liability cap that is currently in place—a cap that is currently set at \$75 million—which means companies such as BP are only on the hook legally for less than 1 day's profits. BP made nearly \$6 billion in 3 months of this year in profits—not proceeds, profits. That comes out to about \$94 million a day. So the present liability cap—the cap that says, yes, you have to be responsible for all the clean-up, all of the efforts, but to the extent you have damaged shrimp fishermen, commercial fishermen, to the extent you have damaged coastal communities—to all of that extent—there is a \$75 million limit. Well, if we let that stand, that would be less than 1 day's profit for BP. So we want to make sure they are legally on the hook and their spill, which wreaks complete economic devastation on small business and local communities and our environment that

could very well last for years to come, does not allow them to get away with not being fully responsible.

I believe yesterday we had a big day in the Senate in this debate about liability caps for oil companies that spill. First, the administration finally clarified. It had originally said we believe the cap should be lifted, but it had not quantified as to what that should be. Yesterday the administration clarified its position to say it will support unlimited liability for damages caused by future spills in deep waters. Then several of my Republican colleagues came to the floor of the Senate to support unlimited liability for damages caused by this particular spill, not a broader range. I think that is progress.

We certainly embrace the fact that for this and any potential future spill there should be unlimited damages. So from when I started this effort with several of my colleagues, including Senator NELSON, Senator LAUTENBERG, Senator MURRAY, and others, we have come from opposition to lifting the cap, to a determined amount, to now having an understanding that unlimited liability certainly in a spill of this nature should, in fact, take place.

However, we cannot depend on BP's good word or BP's statements. There is no consent judgment. There is no written guarantee. We need to make sure those communities within the gulf and that we as a nation and as taxpayers do not have to pay for BP or any other responsible party.

So it is encouraging to see colleagues coming around to see it the way I and 20 Senate cosponsors of my bill are supporting, but we still have a bit of a ways to go. We all should agree all oil companies should pay for all damages caused by spills from offshore facilities, certainly if they are doing deep-water drilling, certainly if they create the risk; and if that risk ultimately ends in damage, we should be able to universally agree they should be responsible for the liability. But we should not depend upon doing that just when an oil company makes statements they promise to pay; not just when the company is so big it can pay with a few weeks' worth of profits. We need to make sure people whose livelihoods are ruined by an oil spill are protected no matter what. We need to ensure big oil companies are held accountable no matter what.

That is why I am offering this amendment to remove the cap on liability completely so we can truly hold oil companies accountable for all of their potential damages.

I have heard some people referring to keeping the oil companies responsible, such as BP, as un-American—un-American—to hold a multibillion-dollar corporation accountable for the very disaster it created. I think it is un-American not to be able to pursue such a corporation for the purposes of holding them accountable for the disaster they have created to the economic well-

being of commercial fishermen, shrimp fishermen, seafood processing plants, coastal communities, wetlands, and a whole host of other consequences that we have.

This is a chance to show if we are going to stand up with big oil or with small businesses, including fisheries and coastal communities, whether we are going to stand up with multibillion-dollar corporations or with the taxpayers of this country so they have no liability whatsoever. I think the choice is pretty clear.

I hope everyone in our Chamber will do the right thing, to hold big oil accountable for the damages they have caused. I hope our colleagues will join us in this effort. I am truly pleased to see there is a movement in this direction. I hope we can make it a bipartisan movement. I think the American people are seeing that regardless of what BP ends up committing to pay or what they don't commit to pay, when they came before the Energy Committee and the executives were there and they were asked what are all the legitimate claims, they equivocated on a series of answers: Well, is this a legitimate claim? Is this a legitimate claim? Is this a legitimate claim? Is this a legitimate claim? They equivocated on all of that.

When the three different entities—BP, Transocean, and Halliburton, all of whom may be responsible parties—had the opportunity, they all did the finger-pointing at the other one. That does not give me a sense of security or a guarantee that this enormous consequence to our environment and to our economy is going to be taken care of by the words of those who both shift blame and equivocate on their responsibility. I think we have clearly learned there obviously is no such thing as a rig that is too safe to spill, and there should be no legal wiggle room for oil companies that devastate coastal businesses and communities now or in the future.

This spill, if nothing else, tragedy that it is, should serve as a rallying cry for holding big oil responsible for the damage it has caused. That is our choice. That is our opportunity. I urge that is the fierce urgency of now, as we look at that live feed of that oil gushing every day for now well over a month. It is our fiduciary duty to the taxpayers of this country. It is our duty to the next generation of Americans in this country to make sure the company and companies that created this set of circumstances and these enormous damages are fully liable for it. That is the opportunity we have by virtue of this second-degree amendment.

I hope my colleagues will embrace the opportunity and live up to those responsibilities.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. 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. KYL. Mr. President, in a moment I am going to talk about both the amendment offered by my colleague, Senator MCCAIN, to provide funding for members of the National Guard to be deployed to the border, our southern border with Mexico, for the purpose of better border security, as well as the amendment which I have offered as a second-degree amendment to the Cornyn amendment which provides funding for Operation Streamline, which is the process by which people who are apprehended crossing the border illegally are sent to jail for a couple of weeks as a deterrent so that they then don't want to cross in the future because they know they are going to be in jail rather than working someplace for the money they came to work for.

Just to explain one thing: when there is a member of the majority on the Senate floor, I will ask unanimous consent to modify my amendment with a technical modification. But the amendment is the same. What it does is to provide the sum of \$200 million for additional funding for multiagency law enforcement initiatives—that is the way they are described—for the Tucson sector of the border, and that is roughly the eastern half of the Arizona border with Mexico.

Mr. President, \$155 million of that would be available for the Department of Justice for the purpose of hiring additional deputy marshals, constructing permanent detention space, and other related needs of the Secretary of Homeland Security and the Attorney General, then \$45 million available to the judiciary for courthouse renovation and administrative support, including judges and court clerks.

This is offset, and the emergency designation would be appended to it as the modification I will submit. The purpose of this is to enable the Border Patrol and the Department of Justice, when illegal immigrants are apprehended crossing the border, to present them to court. They are represented, and they can enter a plea or they can waive further proceedings. For those who, in fact, are found to have crossed the border illegally, they can be sent to jail. Ordinarily, if it is the first time, it is a 2-week sentence. If they have done it repeated times, it can be 30 days or it may be that some will serve 60 days. I am not sure.

The point is, where this has been done, for everybody who crosses the border—with some exceptions—for almost everybody who cross illegally, it has created a very effective deterrent to crossing. It becomes apparent to people who are trying to cross in that particular vicinity that if they do, and they are apprehended, they are going to jail.

About 17 percent of the people who come across illegally are criminals, wanted for crimes in this country, and obviously they don't want to go to jail. For the other 83 percent, roughly, those are people coming here to work. They cannot work and make money if they are in jail. They cannot send money back to family in Mexico or El Salvador or wherever it might be, so they, too, want to avoid this result.

The effect of this in the Yuma sector of the border—which is one of the two sectors, Del Rio, TX, being the other—where it is fully implemented, is that there is virtually no illegal immigration attempted in that sector of the border anymore. There are effective fences—about 11 miles of double fencing—and they have sufficient Border Patrol agents in the area.

There are some other factors for the reduction of illegal immigration in that sector. In the last 5 years, the apprehension has declined from 18,500 down to about 5,000—some—a 94-percent decrease. The head of the Border Patrol and others tell me one of the primary reasons for that reduction is this operation streamlining—the sure knowledge if they cross into that sector, they are going to jail. If we can provide that same kind of deterrence in the Tucson sector, where about 50 percent of all illegal immigrants are crossing into the United States from Mexico, then we would have gone a long way toward securing the border. Certainly, in Arizona we would have substantially eliminated illegal immigration in the State.

If we add to that the amendment of Senator MCCAIN, which would provide the funding for deploying National Guard on the border, I think we can go a long way toward securing the border in a relatively short period of time. So when the President has said he agrees with us that we need to secure the border, and he even proposed some funding or some National Guard troops on the border, I think this is a recognition that it is the right way to go.

I will make two quick points about Senator MCCAIN's amendment. First, the President has proposed far fewer numbers than Senator MCCAIN has proposed, which is a total of 6,000 National Guard, or 3,000 on the Arizona border. We believe it will take that many in order to accomplish the goal. The President's numbers are far fewer. It is unclear from the lack of detail in this proposal, but it appears those will not be literal boots on the ground but, rather, these National Guard troops will be there for the purpose of training and for administrative work, investigative work, and will, for the most part, be back from the border and not actually engaged in the work at the border itself.

The importance of that is we are told—at least anecdotally—the one thing the people who are coming across the border illegally fear more than anything else is National Guard troops. Border Patrol, they don't like them.

They don't like a county sheriff or anybody else, but when it comes to the National Guard, they want to avoid them. So this represents a real deterrent.

The second thing I want to say is, there is a letter from the National Security Adviser and John Brennan, the President's intelligence adviser, contending that the McCain amendment is an interference in the Commander in Chief's responsibilities because it purports to order National Guard troops to the border.

I want to make it clear that is not true. This appears to be another case of somebody in the administration spouting off about a law they have not read. In this case, it is the McCain amendment. It is all on one page. It is very easy. It says—by the way, remember, this is an appropriations bill we have, a supplemental appropriations bill. We are appropriating money. That is all the McCain-Kyl-Hutchison-Cornyn amendment does.

It says:

Additional Amount [that refers to money]—For an additional amount under this chapter for the deployment of not fewer than 6,000 National Guard personnel to perform operations and missions under section 502(f) of title 32 United States Code, in the States along the southern land border of the United States for the purposes of assisting U.S. Customs and Border Protection in securing such border, \$250 million.

Then there is the offsetting rescission. It doesn't order National Guard troops to the border at all. It simply provides \$250 million of additional funding for the purpose of the Guard, to the extent, obviously, or up to or fewer than 6,000 troops on the border. So it doesn't order anybody, doesn't interfere with the Commander in Chief's responsibilities.

For that reason, I hope when we have an opportunity to vote on this amendment—and I think one of the questions I want to ask my colleagues with regard to this vote is, when we vote and support the McCain amendment for funding for the National Guard, the Kyl amendment, which supports Operation Streamline, and the Cornyn amendment, which he will soon describe—the key is to get a vote.

It is now 20 minutes until 4. Cloture has been filed on this bill. It will ripen tomorrow morning and, presumably, we will have a vote. The question is, Will we have a vote on these amendments? Are we being slow-rolled?

I hope a member of the majority can come to the floor so we can ask, Are we going to get votes on our amendments? They are in order. They are not going to be out of order, from the Parliamentarian. They will provide funding for something all of us agree we need to do, and the President also agreed we need some funding, in any event.

The bottom line is, if we don't vote today on these and cloture ripens, this body will never have had an opportunity to express itself on this issue. What I want to do is, when the majority arrives, ask unanimous consent that we set these amendments for a vote so we can vote.

I yield to the Senator from Texas.

Mr. CORNYN. Mr. President, I ask the Senator—and we now have both distinguished Senators from Arizona on the Senate floor—is he aware of a new poll that came out today—CNN, I believe—that said nearly 9 out of every 10 Americans in this poll support putting more Border Patrol and Federal law enforcement agents on the border because of border security?

This isn't just something we thought was a good idea. It looks as though the American people recognize not only the incipient violence in Mexico and the spillover effect here but our inability to protect ourselves from the organized criminal activity of smuggling drugs, weapons, and people. Is that the Senator's experience, that this is the sort of thing that has broad public acceptance?

Mr. KYL. Mr. President, yes, I do think it has broad acceptance. I wasn't aware of this particular poll. I will ask my colleague from Arizona about this because he is very much aware of the public sentiment on this issue.

Mr. MCCAIN. Mr. President, I ask unanimous consent to be included in the colloquy with the other Senator from Arizona and the Senator from Texas.

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

Mr. MCCAIN. I will respond to the Senator from Texas, and I thank him. We who are from border States have perhaps a better understanding of the violence—the dramatically increased violence over the last several years. In the last 3 years, 22,000 Mexican citizens have been murdered in this struggle between the drug cartels and the Mexican Government. It is the worst kind of brutality: people being beheaded, bodies hanged from the overpasses. I think it was on the Mexican side of the Texas border the other day. There was a wedding—if the Senator recalls—and the drug cartel people went in and took the groom, the brother, and nephew out and murdered them. That brutality and violence, we all know, is spilling over the border. I believe three American citizens were murdered in Juarez—who were coming back from Juarez.

So the violence and the connection between human smuggling and drug cartels now is incredibly intertwined. They use the same routes, the same intelligence, the same sophisticated communications equipment. It is a threat to our security. That is why we Senators have asked for the Guard to be sent to the border.

What happened yesterday in what was clearly a PR stunt, the President announced 1,200 National Guard to the border. Now we find out they are going to do desk jobs. One of the things we have found out is that the presence of the uniformed Americans on the border has a significant effect on the drug cartels because the only threat they feel from Mexico is from the Mexican Army because of the terrible corruption that exists.

These people who have come across the Nogales border into Tucson and Phoenix have been distributed nationwide. People all over America are beginning to appreciate—according to the polling number the Senator from Texas pointed out—the American people are beginning to understand that our broken borders affect all of America. This violence is increasing, certainly, on that side of the border. The drug cartels make—the number I hear is as high as \$65 billion a year. When I tell people we intercepted, in the Tucson sector alone, over 1.2 million pounds of marijuana, people don't believe it. When we tell them we intercepted 241,000 illegal immigrants—and we figure that 4 to 5 to 1 crossed our border to Tucson illegally—over 1 million people—what does the President do? He said he is going to send 1,200 troops to the border. We need 6,000. We need 3,000 for the border and 3,000 for the Arizona border. That is what we hear from the people who are enforcing the law.

This is a national security issue. It is something that all Americans are now more and more aware of and are supporting. I hope the administration and my colleagues on the other side of the aisle who also are being affected by this will understand we need to secure the borders first. Then we can work out an orderly system to address the results of our failure to secure the border.

I ask my friend and colleague from Arizona, what would happen if we enacted comprehensive reform and didn't secure the border?

Mr. KYL. Mr. President, I might respond by noting that my colleague from Arizona likes to talk about exactly what would happen. When President Reagan did exactly that, and the promise was to secure the border with amnesty for 3 million illegal immigrants, the amnesty was granted, but the border was not secure. I know there is an argument on the other side that, well, if we secure the border, then some people will not want to do comprehensive reform because they would not have any incentive to do so anymore.

I don't think that is right. I think there would be more of an incentive once we do secure the border. In any event, we certainly should not hold securing the border hostage to passing some law in the future. That is our obligation and the President's obligation irrespective of what other laws we pass.

Mr. MCCAIN. I ask the Senator from Texas this: There is another important point. There is the belief that we can't secure our borders, that there is just going to be an unending flow of illegal immigrants into this country. I ask my friend from Texas, isn't it true that in at least parts of Texas, with the combination of surveillance, fencing, and proper staffing, there has been basically a secure border?

Mr. CORNYN. The Senator is absolutely right. Where there is a combination or layered approach to dealing

with illegal immigration, there have been great successes, including an effort to use prosecution of people for crossing and incarcerating them for a short period of time, which acts as a further deterrent.

The Senator raises another important point. While I certainly support his effort to try to get sufficient National Guard on the border, 1,200 won't cut it, not with a 2,000-mile border. We need more boots on the ground. We need to also make sure we support our local and State law enforcement people who are standing in the gap in the short term. That is why I appreciate the Senators' support on the other amendment we hope to vote on. We need the Southwest border task force to deal with these high-intensity drug trafficking programs. We also need to make sure we use the latest technology.

The distinguished Senator is the ranking member on the Armed Services Committee. He is well aware of the use of the military unmanned aerial vehicles and, I believe—and I think he would agree with me—they could be used as a good effect, as a multiplier effect for the Border Patrol and National Guard there, something that could be used for training purposes for the National Guard, who have had experience using those in Iraq and Afghanistan.

Finally, we need not only Border Patrol and National Guard, we need Alcohol, Tobacco, and Firearms. These are the people who actually catch the guns that are bought in bulk through straw purchasers and brought across the border that are used by the cartels. All of these Federal agencies—from ICE, CBP, DEA, ATF—all of them represent additional boots on the ground that could be used to help secure our border.

I appreciate the support both Arizona Senators have given, as well as Senator HUTCHISON, who is a cosponsor. But we need a permanent solution, not a temporary Band-Aid which I believe the President's proposal represents.

Mr. MCCAIN. Mr. President, bringing the issue back to my home State of Arizona, I ask my friend, Senator KYL, who has, along with me, traveled extensively to the southern part of our State, many of the residents of the southern part of our State, particularly those who are ranchers who live near the border, basically do not have a secure existence. They have people crossing their property illegally. They have home invasions. They have wildlife refuges on the border being trashed because of the overwhelming human traffic and the garbage and the items that are left behind. I have talked with ranchers' wives who said they could not leave their children at the bus stop.

I want to be very clear. Many of these illegal immigrants are just people who want to come and get a job. But the change over the last few years is that they are escorted by these coyotes who are also associated with

the drug cartels who are amongst the most cruel and inhuman people in the world.

When people criticize the law in Arizona as being discriminatory, where is their concern for the individuals who are being escorted by these coyotes who inflict on them the worst abuses, terrible abuses? They bring them to Phoenix. Phoenix is the No. 2 kidnapping capital in the world. No. 1, Mexico City. No. 2, Phoenix, AZ. Can my colleagues understand why the people of Phoenix are upset?

They bring them to these drop houses, they jam them into these homes, and they hold them for ransom. Then once they get the money, sometimes they let them go, sometimes they ask for more money. In the meantime, they are suffering under the most inhumane conditions.

When the advocates for "legal immigration" are up, I say: Where is your compassion for the people who are being so terribly abused that the coyotes are bringing in the most inhumane fashion across our border and kept in the most inhumane fashions? Isn't that an argument to secure the border? Isn't that an argument to stop this human trafficking? They are unspeakable things. I will not on the floor of the Senate talk about some of the stories I have heard.

We have a situation in the southern part of our State where the residents are living in a state of, if not fear, certainly deep concern and insecurity. Then we have this terrible human trafficking tied to the drug traffickers who are committing the most terrible human rights abuses.

Mr. KYL. Mr. President, I will respond to my colleague by noting, these are the crime statistics that are never reported. Let's face it, the people who are accused of these crimes cannot go to the police and report what has happened.

Again, there is an argument made that crime statistics have actually gone down in the last 2 or 3 years. In the cities—the cities of Tucson and Phoenix, for example—that may well be true. I don't know. What I do know is this: In the rural ranch areas that my colleague, Senator MCCAIN, speaks of, families who used to have no worries at all, left homes unlocked at night, windows open, and if an occasional illegal immigrant or two came by and needed a sandwich or water, frankly, they got it, now fear for their lives.

One of our constituents was killed a couple months ago, a rancher who was beloved in the area. Others have been robbed. There have been physical assaults. They are no longer safe in their homes and in those more rural areas.

In the urban areas, I, too, will not describe on the Senate floor what goes on. If you can imagine large numbers of women and children who are brought across the border by people who have absolutely no scruples about committing any crimes whatsoever. They com-

mit rapes and leave articles of clothing hanging from trees as a warning to anyone who dares to report it or as a way of bragging about what they have done. The things they do to these people cooped up in the safe houses for weeks on end, as my colleague said, are unspeakable.

There are so many reasons to secure the border. But this is one that is never spoken of. It bothers me as much as it does my colleague because we have people who speak of the human rights issues that might relate to an Arizona law enforced by sworn police officers in the city of Phoenix and the city of Tucson who, I am quite sure, will do their job as professional police officers, and not a word is spoken about the kind of situation my colleague and I have described. That bothers us significantly. It is just one more reason we do need to secure the border, as my colleague said.

AMENDMENT NO. 4228, AS MODIFIED

Mr. President, I wanted to wait until a member of the majority was here. I ask unanimous consent to modify the second-degree amendment that was offered yesterday, No. 4228.

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

The amendment, as modified, is as follows:

(Purpose: To appropriate \$200,000,000 to increase resources for the Department of Justice and the Judiciary to address illegal crossings of the Southwest border, with an offset)

At the end of the amendment, add the following:

(k) OPERATION STREAMLINE.—For an additional amount to fully fund multi-agency law enforcement initiatives that address illegal crossings of the Southwest border, including those in the Tucson Sector, as authorized under title II of division B and title III of division C of Public Law 111-117, \$200,000,000, of which—

(1) \$155,000,000 shall be available for the Department of Justice for—

(A) hiring additional Deputy United States Marshals;

(B) constructing additional permanent and temporary detention space; and

(C) other established and related needs of the Secretary of Homeland Security and the Attorney General; and

(2) \$45,000,000 shall be available for the Judiciary for—

(A) courthouse renovation;

(B) administrative support, including hiring additional clerks for each District to process additional criminal cases; and

(C) hiring additional judges.

(3) The amounts in this subsection are designated as an emergency requirement and are designated to meet emergency needs pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for FY 2010.

(l) OFFSETTING RESCISSION.—On the date of the enactment of this Act, the unobligated balance of each amount appropriated or made available under division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), other than under title X of such division, is hereby rescinded pro rata such that the aggregate amount of such rescissions equals \$200,000,000.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, if I may react briefly to the comments of the two Senators from Arizona, whether their concern translates into something like this: that the people who suffer the most from the current illegality and broken immigration system are, for example, a young woman who is a victim of domestic violence who has nowhere to report that crime because she is afraid of being deported, or the worker who earns money believing they have earned their pay but only to be jilted and not paid because the employer realizes they have nowhere else to turn or, as Senator MCCAIN mentioned, the coyotes, as they are known, the human smugglers who care nothing for these individuals as human beings but they are a commodity they trade in, just like drugs, weapons, and people.

This is a very real problem. It is true that most of it is not reported in the newspaper because people are afraid of being exposed because of what the consequences might be. But because we live in border States, because we interact with our constituents and see the consequences of the spillover effect of this kind of violence and lawlessness, that is why we feel so strongly that these amendments need a vote, as the Senator said earlier.

Mr. MCCAIN. Mr. President, I will point out another aspect of this issue. We are proud in my home State of our Spanish heritage. Spanish was spoken before English was in the State of Arizona. We believe our culture and our life and our State have been enriched by the influx of Hispanic citizens. We want that to continue, but we want it to continue legally. In a broader sense, we want everyone in the world to have an opportunity to come to our country legally. If we did secure our border, then everybody has an equal opportunity, rather than it be by geography.

Let me point out something, of which I am not sure my colleagues are totally aware. The sophistication of these human smuggling rings and drug cartels is beyond description. They have the latest equipment. They have the latest communications. They have the latest weapons. They have a network of informers and a network, unfortunately, of corruption that is of the highest sophistication. Their operations are extremely sophisticated operations which are quite successful. But there are areas and measures that have been taken in certain parts of our border that show we can secure our border. What we need is the manpower, the technology, the assets, and the funding to get our borders secured.

The State of Arizona, unfortunately, has become a funnel for this illegal human trafficking and drug cartels to the point where it has threatened the security of its average citizens.

I hope my colleagues will understand this is a humanitarian issue. This is an issue that cries out for the compassion of all of us so that we can give everyone in the world an opportunity to

come to this country, but also to give our citizens a chance to live lives of security that makes them able to enjoy the rights and privileges that American citizens everywhere should enjoy, even if they live on our southern border.

Mr. KYL. Mr. President, let me ask my colleague a question. The number of National Guard troops that would be funded under his amendment is 6,000 total. The idea would be that it would fund 3,000 on the Arizona portion of the border and 3,000 wherever they would be deployed in other places on the border. Senator MCCAIN has argued that is a number closer to what is needed to do the job the National Guard can do than a number that would be less than one-fourth that much.

Would the Senator describe a little bit more the historic levels that existed, for example, during the time our now national Homeland Security Secretary was the Governor of Arizona, when she was very supportive of the Guard as well, compared to what Senator MCCAIN has asked to be funded in his amendment?

Mr. MCCAIN. Mr. President, I say to my friend from Arizona, the situation of Secretary Napolitano, former Governor, whom I respect and admire enormously, is a classic example of it is not where you stand, it is where you sit because when Secretary Napolitano was Governor of Arizona, she made fervent pleas for reimbursement for the State of Arizona for our law enforcement problems dealing with immigration and for 3,000 additional Guard troops to be sent to the border.

Senator KYL and I wrote a letter back on April 9 asking for a decision concerning troops to the border. We still have not received an answer. Perhaps what the President announced yesterday a half hour after discussing the issue with Senator KYL and me and yet not mentioning that decision might be made to send 1,200 troops to the border—you have to laugh. It is in the spirit of bipartisanship. I hope in the case of our Secretary of Homeland Security that we could see some restoration of the same zeal she held as Governor of the State of Arizona to secure our borders and advocate for the necessary assets to achieve that goal.

Mr. KYL. Mr. President, if I recall—and I could be wrong on this—the number that had been deployed to Arizona roughly in 2005 or 2006—I do not recall the exact year—was about 2,600. It was not quite 3,000. Obviously, we needed everyone we could get.

Eventually, a lot of those troops were then deployed to Iraq, I believe. In any event, we all—the Governor and the rest of us—were distressed when they were finally pulled out. I think 2,600 or something pretty close to that was the number and that Senator MCCAIN believes 3,000 would be the appropriate number under the circumstances that exist today.

Mr. MCCAIN. I think 3,000. I know we are taking a lot of my colleagues' time.

I ask my colleagues and the American people to understand what we are facing in Arizona. I ask the American people and my colleagues to understand the frustration that the Governor and the legislature of Arizona felt about the conditions we have tried to describe on the floor of the Senate that exist, that cry out for Federal intervention, that they did not receive that assistance from the Federal Government so, therefore, they acted.

That law, by the way, upon examination certainly does not call for racial profiling. In fact, it expressly prohibits it. I would urge my colleagues to read the law. I have a copy and would be glad to provide them a copy of it.

But I hope my colleagues and the American people understand the reason why the legislature acted, the reason why we are here on the floor today asking for additional assistance is because of the plight of human beings, both the residents of my State who are there legally, whose security is being threatened, in some cases on a daily basis—those who live in the southern part of our State—and also for those individuals who are being transported across our border by these cruel coyotes and who are being terribly mistreated. There are human rights violations of the most terrible kind.

I hope we can all come together, recognizing this is a serious problem. It is not just a problem for Arizona, it is a problem for the Nation. We have a requirement to secure our borders. That is the obligation of every Nation. We happen to be, unfortunately, the State that suffers the most because of these insecure borders, but this spreads throughout the country. The drugs don't stop in Arizona; they go all over the country. The individuals who are smuggled in, all of them don't stop in Arizona; they go all over the country.

We need to help the Government of Mexico in their struggle against these drug cartels, but we also have to take the measure—which can probably help the Mexican Government as much as anything else—of getting our border secured. I want to assure my colleagues that those of us from border States, once we get our border secured, stand ready to address these other issues that need to be addressed. But if we don't get our border secured, a year, 2 years, 10 years from now we are going to be faced with the same problem over and over with a population of people who have come to our country illegally.

I ask not only for the votes of my colleagues on these amendments, but I ask for their compassion and understanding about a human rights situation that cries out for us to address as Christians and as individuals who are motivated by Judeo-Christian principles.

Mr. President, I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 4230, AS MODIFIED

Mr. ENSIGN. Mr. President, I ask unanimous consent to modify my amendment. The clerk has the modification.

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

The amendment, as modified, is as follows:

(Purpose: To establish limitations on the transfer of C-130H aircraft from the National Guard to a unit of the Air Force in another State)

At the end of chapter 3 of title I, add the following:

SEC. 309. (a) LIMITATIONS ON TRANSFER OF C-130H AIRCRAFT FROM NATIONAL GUARD TO AIR FORCE UNITS IN ANOTHER STATE.—No funds appropriated or otherwise made available by this Act or any other act may be obligated or expended to transfer a C-130H aircraft from a unit of the National Guard in a State to a unit of the Air Force, whether a regular unit or a unit of a reserve component, in another State unless each of the following is met:

(1) The aircraft shall be returned to the transferring unit at a date, not later than 18 months after the date of transfer, specified by the Secretary of the Air Force at the time of transfer.

(2) Not later than 180 days before the date of transfer, the Secretary of the Air Force shall submit to the Committees on Armed Services of the Senate and the House of Representatives, the members of Congress of the State concerned, and the Chief Executive Officer and adjutant general of the National Guard of the State concerned the following:

(A) A written justification of the transfer.

(B) A description of the alternatives to transfer considered by the Air Force and, for each alternative considered, a justification for the decision not to utilize such alternative.

(3) If a C-130H aircraft has previously been transferred from any National Guard unit in the same State as the unit proposed to provide the C-130H aircraft for transfer, the transfer may not occur until the earlier of—

(A) the date following such previous transfer on which each other State with National Guard units with C-130H aircraft has transferred a C-130H aircraft to a unit of the Air Force in another State; or

(B) the date that is 18 months after the date of such previous transfer.

(b) RETURN OF AIRCRAFT.—Any C-130H aircraft transferred from the National Guard to a unit of the Air Force under subsection (a) shall be returned to the National Guard of the State concerned upon a written request by the Chief Executive Officer of such State for the return of such aircraft to assist the National Guard of such State in responding to a disaster or other emergency.

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

Mr. PRYOR. Mr. President, I have an amendment, No. 4282, that I will speak on. I will not call it up at this moment. However, my intent is to call it up at the soonest appropriate time.

I rise today to speak on this amendment and to also ask unanimous consent that Senator COCHRAN be added as a cosponsor.

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

Mr. PRYOR. First, I wish to commend the chairman and the ranking member for their work on the supplemental spending bill. This has been a

well-crafted and pragmatic piece of legislation, but it has sometimes been difficult in putting this together and moving it to the floor. So I want to thank the leaders on the Appropriations Committee and the various subcommittees who worked to get this done.

This bill will greatly benefit our Nation's men and women in uniform. This bill also ensures that disaster victims have the services and assistance needed to help them recover from both natural and manmade disasters. I greatly appreciate the work of the chairman and the ranking member along with all of my colleagues on the Appropriations Committee.

Secondly, I wish to discuss amendment No. 4282 regarding FEMA's flood map modernization program. I wish to thank Senator COCHRAN and his staff for their hard work and diligence in preparing this amendment with me, as well as Senators LINCOLN, VITTER, and BROWNBACK, who are all cosponsors. I greatly appreciate their contributions as well.

The purpose of this amendment is to address concerns regarding economic development and the ability of communities to provide input in the development of new flood insurance rate maps. The amendment will do three simple things.

First, it would allow an extension of the flood elevation and Special Flood Hazard Area determination appeal period, upon request from an affected community.

Second, it would prevent FEMA from using technicalities to circumvent requirements to study the economic impact of map modifications.

Third, it would establish an arbitration panel for communities to appeal FEMA's proposed map modifications before a neutral third party. This sort of appeal from an independent third party is already allowed by statute, but it is rarely used. The amendment would set up an arbitration panel and highlight the ability of communities to use this as a manner of appeal.

As most of my colleagues know, I have been talking about FEMA's flood maps for the last several years. At first, I was working with a few other Senators to address the implementation of the program. Senator LINCOLN also has been a very determined advocate in this area. But now there are Senators representing 13 different States who have expressed an interest in addressing some common problems with the map modernization program.

Let me emphasize that I support modernizing our maps. I think that is good to do. I think it is something we should do. I think it is a good use of time and effort and resources to do that. However, what I am concerned about is that FEMA seems to be determined to use this as a revenue raiser for FEMA and the flood insurance program.

The way they have it set up is they will make determinations and basi-

cally greatly expand existing flood plains into areas that—because of levees and other flood control management efforts, costing billions of dollars, by the way—are not currently at risk for any flooding—or hardly any risk at all. But the FEMA flood maps, I guess on a technicality—as the maps are completed—would say they would be in a flood plain.

The bottom line effect of this is it creates a huge revenue source for FEMA. What happens, once they greatly expand the map of the flood plain, is that suddenly many of the people and businesses in that area have to purchase flood insurance. In our State, we have looked at the numbers, and that flood insurance could be as little as \$100 a year, or it could be well over \$2,500 a year. This has a significant impact on people's mortgage payments and their various loans for their businesses.

But here is what we have to keep in mind. From our perspective—and again, we are not the only State that does this; many States have river systems that flood—these people are already paying for flood insurance. What they are doing is they are paying for their local levees to protect their communities. As long as those levees are in compliance, and as long as there is not any real-life risk of a flood in a particular area, I think it is unjust that these people would be charged for flood insurance.

Some of the common problems with FEMA's approach are the lack of communication and outreach to local stakeholders; a lack of coordination between FEMA and the corps—that is the Corps of Engineers—in answering questions about flood mapping, flood insurance, and flood control infrastructure repairs; a lack of recognition of locally funded flood control projects; a lack of recognition of historical flood data; inadequate time and resources to complete the repairs to flood control structures before the maps are finalized—in other words, they may find a problem, and on day one, when they say you have a problem, even though the problem can be fixed very quickly, or within a year, let's say, they still are going to try to tag people with flood insurance in those affected areas. The other thing they have not considered is the potential impacts these new flood maps might have on economic development, particularly in small and rural communities.

Let me give an example of what we are talking about here on the ground in Arkansas. And again, if Senators think they do not have this problem, they may not today, but it is coming. Because as they redraw all these flood maps, this is going to be coming. I don't know about all 50 States, but in well over half the States it will, as they go through this flood map redrawing. So let me give an example.

In our State, of course the boot heel of Missouri is the very northeastern corner of our State. There is a levee

that is actually in Missouri, and when the Corps of Engineers inspected it, it has a sand boil. Now a sand boil is a problem for a levee, no doubt about it. There are varying degrees, and this particular one apparently wasn't that bad, but nonetheless there is a sand boil there, which means the water is starting to seep under the levee. It is totally repairable. They need a little time to fix it, but it is totally repairable. The concern we have—and when we talk to FEMA and the Corps of Engineers, we are not getting any comfort that our fears are not completely and 100 percent justified—is once they find that sand boil up in the very northern part of the St. Francis River Basin, they are going to say the whole basin is out of compliance.

In other words, in the real world, they could have a leak there. I hope they never do, and I hope they can repair it, but they could have a leak there. They could have a 100-year flood, and it could actually cause a problem to that levee. But think about it. The flooding would be local to that levee. It wouldn't be 50 miles away in a totally different part of the river basin area.

So FEMA, in my view, is doing things here that are very heavyhanded, very bureaucratic. I do believe they are searching for revenue based on the huge amount of money that FEMA had to spend on Katrina and some other disasters. FEMA's books are way out of balance as a result of that, and I see this as a revenue raiser for them.

The problem is, as I said, they are going to go into areas that have very strong levees that will never flood. Some of these levees are built to well over the 100-year standard. In many places in Arkansas they built them well over that, because in 1927—and there have been a few years since—we had very serious flooding problems in our State. So in the eastern part of our State, people believe in levees because they have needed them before. The levees have saved them before. The levees have breached before, so they have been on both sides of that equation. They believe in levees and they understand the value of them.

But that is not just true in Arkansas. You can go to Mississippi, Louisiana, Tennessee, Missouri, and Illinois, not just up and down the Mississippi, but up and down lots of other river systems in this country and this problem is coming to your State. If you haven't seen it yet, you will. This problem is coming to your State.

What we are trying to do with this amendment is to at least—and, personally, I think we ought to have various remedies available in this FEMA remapping project—at a minimum set up the ability to have an arbitration panel, so if the Corps of Engineers and FEMA make a finding, the community at least has a chance to appeal and, hopefully, effect a remedy before they get hit with the flood insurance requirement.

There is a lot more to this story, but I am not going to bore my colleagues

and talk too much about it today because it is not the pending amendment. But I would very much appreciate my colleagues' consideration. I hope we will be able to be successful in attaching this. It basically doesn't cost any money. There is no grant program. At one point we were talking about a grant program, but we don't have that in here.

We set up an arbitration panel, and the membership of the arbitration panel would have expertise in hydrology, administrative law, and/or economic development. We would let the Corps of Engineers provide the technical guidance, which I think would be very valuable. Also, we allow communities an appeal period, where they can appeal within 120 days, and it also clarifies under some circumstances that communities could be at least partially reimbursed for the cost of the appeal. That is already in existing law. That provision is already in there, but we are making it clear that the rule would apply to this process.

Mr. President, I thank you for your patience in listening to me. I know we have other Senators who, if they are not on the floor at the moment, are waiting to speak, so I wish to mention that my amendment, No. 4282—I am not calling it up at the moment, but I wish to at the earliest possible moment.

With that, I yield the floor, 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.

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

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

AMENDMENT NOS. 4214 AND 4202

Mrs. HUTCHISON. Mr. President, I rise to speak today in favor of the McCain amendment and the Cornyn amendment. I am cosponsor of both of these amendments. I understand we will be voting very shortly on these amendments as we move forward on the supplemental appropriations.

I am cosponsoring these amendments. The border State Senators have worked together, particularly in light of the escalating violence that is happening on the other side of the border with Mexico. It has particularly hit Texas and Arizona. So Senator MCCAIN and Senator KYL and Senator CORNYN and I have repeatedly asked for reinforcements to support controlling our border.

I offered versions of both of these amendments in the committee that produced this bill. I certainly hope we will be able to agree to these amendments—which are fully paid for, I might add. They will not add to the deficit. But it is so important that we have as a priority in this country the control of the borders of our sovereign Nation.

We cannot allow the illegal activity and the unspeakable violence to con-

tinue along our shared border. Ten thousand people have been killed in Mexico in drug cartel-related violence, many of them police officers and law enforcement officials, just this year; 2,000 over the last 3 or 4 years. It is escalating. We are seeing effects of the illegal activity spill over on our side of the border for sure.

We have an increase in the activity in our judicial system, in our law enforcement, our local law enforcement. American taxpayers are paying for local law enforcement for us to be able to try to stop this activity from coming across. But there is evidence that it is coming across as we see drug cartels setting up operations in cities on our side of the border.

I have invited the President to tour the border with me. That offer still stands. I welcome the opportunity to show the President exactly what the security challenges are and to see what the Border Patrol and DEA agents are going through on a daily basis, not to mention our border sheriffs and policemen.

After deemphasizing border security and even proposing to cut the border patrol on the southwest border in the President's own budget, I was pleased to finally hear a better set of words and proposals from the President—that he will agree to increase border funding. But it is a little late coming since so many of us have been asking for months, and even over a year, for this extra border security. Border Senators and Congressmen have repeatedly called on the President to focus on this issue. Then we find that his original budget actually decreased the number of border patrol.

What we know is that the President is now calling for an additional 1,200 National Guard to be deployed to the border. Texas alone has requested 1,000 National Guard. Spreading 1,200 National Guard over four States is really an insufficient response to a national security priority.

The McCain amendment specifies title 32 authority for the National Guard. It is fully offset, and it deploys 6,000 National Guard to the southwest border. This is much more aggressive than the President's proposal of 1,200. Although I am pleased the President is making a start, 1,200 is barely going to cover Texas, much less Arizona and California. It would certainly be an addition, if we can agree to the McCain amendment, to really show we are serious about beefing up the border security for our country.

Under the McCain amendment, the National Guard would help the CBP, the Border Patrol, get operational control of the southwest border. It will augment our security forces until a continued scale-up and training of Border Patrol agents can take place.

Basically, what the McCain amendment does is say this is a temporary fix. We are not asking that Border Patrol be a permanent fixture on our border. We don't want that. I was even

hesitant to ask for Border Patrol. But the situation has gotten so serious that we now have to take stepped-up measures as a stop-gap while we train the Border Patrol to do their job.

The Department of Homeland Security has 17,000 personnel assigned to the southwest border. Well under half the agents—about 7,700—are currently assigned to Texas even though 63 percent of the border runs through our State. Arizona has only 4,000 agents. We all need more support.

Adequate National Guard support is critical to help patrol spillover violence and address all of our security challenges until we have more of the Border Patrol agents ready to go.

Another amendment offered by Senator CORNYN, which I also cosponsor, will drastically increase support for law enforcement at every level, Federal, State, and local. I wish to speak particularly to the portion of Senator CORNYN's amendment that funds the unmanned aerial vehicle, the UAVs as we call them, which I introduced in committee and on the floor as stand-alone amendments.

I have worked with the FAA and Customs and Border Patrol so we can quickly increase the presence of unmanned drones, or UAVs, to help protect the Southwest border. These unmanned drones are able to monitor the progress across the border, and also monitor crossings that might be illegal across the border, places where you cannot put a Border Patrol agent. There are many miles that have to be covered. You cannot have a Border Patrol agent every 12 or 15 feet on the border.

But these unmanned aerial vehicles do provide so much of our intelligence gathering and information gathering that it would supplement the Border Patrol, and what I hope are additional National Guard.

Last week, I, along with members of the Texas delegation, met with FAA Administrator Babbitt. We urged him to allow the UAVs to operate along the Texas border. He committed to working closely with the Border Patrol to approve the use of UAVs in my State, as well as to streamline the approval process across the Nation.

We have no UAVs in Texas, none. The FAA and the Border Patrol have gone back and forth about who is responsible for this. But the bottom line is we have 1,200 miles of border with Mexico and no UAVs to help bridge the gap between Border Patrol stations and cameras.

The UAV amendment will allow the Border Patrol to obtain and operate at least six new drone systems and hire pilots, with the goal of covering the United States-Mexico border in Texas, New Mexico, Arizona, and California every day of the week, including nights. We now have a system that only operates in the daytime—not in Texas, but in other areas. That is not good enough, because so much of the activity takes place at night.

The amendment provides funding and direction to quickly implement the drone procurement and maintenance. It provides funding for 60 pilots and crew. All of the costs are fully offset. Border Patrol currently operates six unmanned drones in the United States, but only three in the Southwest border. The six additional UAVs will provide full Southwest border surveillance 7 days a week without diminishing drone surveillance along the Northern border and off our Nation's coast.

More UAVs will help the Border Patrol gain consistent control of our borders. Using the drone systems is a force multiplier, and it allows border enforcement officials to more efficiently and consistently monitor the border and respond to illicit activity.

I am a cosponsor of the two amendments. This is very important to the whole Southwest border. But I do feel that my home State of Texas has been particularly challenged because we have had no UAVs. We have had only 7,700 Border Patrol personnel across the 1,200 miles, and you cannot be serious about border security. This has escalated because of the violence in Mexico. The heinous crimes that are being committed in Mexico, many against law enforcement officers, are something we read about in the papers. We have even had our own U.S. State Department people killed in Mexico. We have evidence that the cartels are setting up shop in cities in my home State of Texas, and I imagine they are setting up in Arizona as well, maybe California. I do not know about that. But I do know in Texas they are. I know that when you are facing people who have automatic weapons, they have very sophisticated intelligence gathering—these are the cartels, not the government. They are killing police officers. They are putting signs on the burial places of these police officers saying: These are next. Then they will come back and they will cross off on the sign the people they have just killed, leaving the ones who are still alive to know they are being watched every moment and they are targets.

We cannot sit here and let this happen without aggressive action. That is why we have to act, and why his original budget that was submitted to Congress is laughable in this context.

Now he is saying he will do 1,200 National Guard. Texas is asking for 1,000, Arizona is asking for 600—Arizona is asking for—I don't know. They only have 4,000 Border Patrol agents and they are asking for 3,000 National Guard. I did find my place. They are asking for 3,000. Texas is asking for 1,000.

We need to pass this amendment. It is fully offset. We would like for the whole stimulus bill that is going through, the supplemental appropriations, to be offset. We should have not more debt. We have enough money in our system if we prioritize border security. It is a national security issue and it should be in this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, at the appropriate time I will ask for amendments Nos. 4242 and 4287 to be called up for consideration.

I ask unanimous consent that Senator LANDRIEU be added as a cosponsor on amendment No. 4242, and Senator LEMIEUX be added as a cosponsor on amendment No. 4287.

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

Mr. SHELBY. Mr. President, it is now day 37 of the oil spill. We are no closer to finding a solution to this crisis than we were on day one.

Oil continues to pour into the gulf at an unprecedented rate, significantly more than the estimate of 5,000 barrels a day.

Oil has reached deep into the Louisiana marshes. Tar balls have washed up on the shores of Alabama and Mississippi.

As long as this oil continues to flow into the gulf we have a real and unprecedented disaster.

On May 18, I requested that the Secretary of Commerce declare a fisheries disaster in the Gulf of Mexico. Alabama's fishing industry represents one of the largest economic engines in the State, accounting for more than \$800 million in annual sales and nearly 18,000 jobs.

On Monday, the Secretary declared a fisheries disaster in Alabama, Mississippi, and Louisiana.

Now, it is up to Congress to ensure that our fishermen who will be adversely impacted by this oil spill for years to come receive adequate assistance.

Today, I offer an amendment to help our gulf coast communities mitigate the disastrous effects of the oil spill. This amendment is not more spending but offset from the oil spill liability trust fund. It further requires "responsible parties" to reimburse the trust fund for funding the Federal Government puts towards this amendment.

First, this amendment provides \$20 million to fund the Secretary of Commerce's disaster declaration. NOAA has closed 22.4 percent of the commercial and recreational fisheries in the gulf because of the spill.

This declaration will allow the Federal Government to put additional, immediate Federal resources towards this disaster to alleviate and recover from the devastating impacts to the gulf's fisheries.

However, this declaration has no teeth if it is not funded. While I hoped the administration would realize this by requesting an amendment to the supplemental, they have not. My amendment will provide the resources necessary to help our gulf coast region.

Second, it provides NOAA with the resources necessary to begin an expanded stock assessment in the gulf.

A comprehensive stock assessment is critical to the gulf, where there are

hundreds of species managed under fisheries management plans or international conventions. NOAA recently identified the needed steps to improve and expand stock assessments in the gulf and to do so, they will need the best and most timely data on the health and abundance of the stocks. This amendment will provide \$15 million to NOAA to begin an expanded stock assessment. We must know what the fisheries stocks in the gulf are now, so we will have a better idea how the oil has affected them.

Finally, this amendment will provide funding to the National Academy of Sciences to study the long-term ecosystem impacts of the spill on the gulf.

It is critical to proactively work to adequately deal with this man-made crisis. If the oil continues to spill in the gulf unabated, it will not only destroy the fisheries this year, but will adversely impact the gulf's ecosystem for decades.

We cannot simply sit by and wait for this problem to solve itself. Clearly, we all know that BP has not yet come up with a solution.

We must continue to ensure that BP, as the responsible party, pays for all damage related to this oil spill, but that does not mean BP can make all the decisions as to what to do and how to handle the disaster that continues to unfold.

We have been dealing with this crisis for 37 days and are no closer to stopping the oilspill than we were on day 1. Since the spill, BP has failed in every attempt to stop the oil flow.

We need to begin putting resources in the gulf to help mitigate the long-term effects of what could be the largest and most devastating oilspill in American history.

I ask my colleagues to support the people of the gulf coast by supporting my amendment.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENTS NOS. 4231 AND 4232

Mr. MCCAIN. I would say to the distinguished chairman, if there is a unanimous consent agreement concluded, I would be more than happy to be interrupted. I know that business in the Senate needs to proceed. I am proud to be joining forces with my colleague from Oklahoma, Dr. COBURN, to insist that we stop burdening our children and our grandchildren with massive debt.

We have before us today a supplemental appropriations bill totaling nearly \$60 billion, most of it not paid for, simply being added to the ever growing debt, to be paid for by future generations of Americans.

If we are serious about our commitment to reduce our debt and eliminate our deficit, then Congress needs to start making some tough decisions about our national priorities and we need to start now.

Dr. COBURN is seeking a vote on one of two reasonable amendments, both of which would fully offset the cost of

this bill. Yesterday, Dr. COBURN very eloquently laid out his reasons for offering those two amendments. Essentially our fiscal situation is extremely perilous and we can no longer afford to approve any new Federal funding without eliminating wasteful and unnecessary spending in other areas.

Mr. President, a kind of bizarre thing happened yesterday. In the middle of his speech and his argument before the Senate, Dr. COBURN yielded the floor to the majority leader who proceeded to file cloture on this bill after only 1 day of floor consideration and not a single vote on any amendment. So on a \$60 billion bill, most of it not paid for, we are now going to, without a single amendment having been voted on, be voting on a bill, in fact, that will not be paid for. As my colleagues know quite well, the editorial page of the Washington Post is by no means a conservative, right-leaning, penny-pinching bunch, but even they are perplexed about what we are doing here. Yesterday, in an editorial entitled "Congress as Usual: There's an election coming. Time to spend," the Post wrote:

All across the Western world, fiscal stimulus is starting to give way to fiscal consolidation. In London, the new British government has announced \$8.6 billion in immediate budget cuts. In Paris, French President Nicolas Sarkozy is negotiating to raise that country's retirement age. In Madrid, Spanish civil servants are facing a 5 percent pay cut, followed by a wage freeze. Even Italy is talking about tightening spending. And don't get us started on Greece.

Only in Washington, it seems, is the long awaited "pivot" to fiscal restraint nowhere to be seen. As the mid-term elections draw near, Congress is considering a passel of new spending, necessary and otherwise, most of which won't be paid for.

Sadly, the Washington Post hit the nail on the head and the bill before us is the perfect example of Congress's inability to deal with the very serious fiscal realities that are facing this Nation.

Under this supplemental, DOD receives \$33.7 billion for operations in Afghanistan, Iraq, and Haiti. The bulk of this money, \$24.6 billion, is for operations and maintenance, and much needed other funding. The remainder of the DOD funding is for military personnel costs and other equipment.

Some say the fiscally responsible way to pay for our war costs is to increase taxes. We disagree. The American people, particularly our soldiers and their families, are sacrificing enough already. It is time for Congress to start making some sacrifices and forgo the earmarks and other special deals to help provide our troops with the support and equipment they need.

The first amendment of Dr. COBURN saves taxpayers \$59.6 billion by doing the following: freezing raises, bonuses, and salary increases for Federal employees for 1 year; collecting unpaid taxes from Federal employees, \$3 billion; reducing printing and publishing costs of government documents, \$4.4 billion over 10 years; reducing exces-

sive duplication, overhead, and spending within the Federal Government, \$20 billion; eliminating nonessential government travel, \$10 billion over 10 years; eliminating bonuses for poor performance by government contractors, \$8 billion over 10 years; repealing the Energy Star Program, \$627 million over 10 years; eliminating an increase in foreign aid for international organizations, \$68 million; limiting voluntary payments to the United Nations, \$10 billion over 10 years; striking unnecessary appropriations for salaries and expenses of a government commission Congress ignored, the Financial Crisis Inquiry Commission, 1.8 million; rescinding a State Department training facility that was not requested by the community where it is to be constructed, \$500 million.

On the second amendment we can save taxpayers \$60 billion by cutting budgets of Members of Congress, by disposing of unneeded, unused government property, auctioning and selling unused and unneeded equipment, rescinding unspent and uncommitted Federal funds, \$45 billion.

We have ways we can cut spending. We have ways we can reduce the government, in the first amendment, by nearly \$60 billion, and in the other one by \$60 billion.

In a letter to Speaker PELOSI in April of last year, President Obama wrote:

As I noted when I first introduced my budget in February, this is the last planned war supplemental. Since September 2001, the Congress has passed 17 separate emergency funding bills totaling \$822.1 billion for the wars in Iraq and Afghanistan. After 7 years of war, the American people deserve an honest accounting of the cost of our involvement in our ongoing military operations.

Quoting from the President's letter of April of last year:

We must break that recent tradition and include future military costs in the regular budget so that we have an honest, more accurate, and fiscally responsible estimate of Federal spending. And we should not label military costs as emergency funds so as to avoid our responsibility to abide by the spending limits set forth by the Congress.

The President emphasized, again quoting from his letter to the Speaker of the House:

After years of budget gimmicks and wasteful spending, it is time to end the era of irresponsibility in Washington.

I could not agree more. That is why I am disappointed to see yet another supplemental spending bill designated as an emergency without offsets. Dr. COBURN and I agree with what the President said last year. "After years of budget gimmicks and wasteful spending, it is time to end the era of irresponsibility in Washington." That is precisely what we are seeking to do with these two amendments.

In the past 2 years, America has faced her greatest fiscal challenges since the Great Depression. When the financial markets collapsed, it was the American taxpayer who came to the rescue of the banks and the big Wall Street firms. But who has come to the

rescue of the American taxpayer? Certainly not Congress.

So what has Congress done? By enacting inexplicable policies that can only be described as generational theft, we have saddled future generations with literally trillions of dollars of debt. Since January of 2009, we have been on a spending binge the likes of which this Nation has never seen. In that time, our debt has grown by over \$2 trillion. We passed a \$1.1 trillion stimulus bill.

Remember the assurance that unemployment would be at a maximum of 8 percent? Now it is 9.9. We passed a \$2.5 trillion health care bill. The American people are still angry about that. The President submitted a budget for next year totaling \$3.8 trillion. We now have a deficit of over \$1.4 trillion, and we just passed, a week or so ago, the \$13 trillion debt mark which amounts to more than \$42,000 owed by every man, woman, and child in America.

This year the government will spend more than \$3.6 trillion and will borrow 41 cents for every \$1 it spends. Unemployment remains at 9.9 percent and, according to *forbes.com*, a record 2.8 million American households were threatened with foreclosure last year. That number is expected to rise to well over 3 million homes this year. With this bill, we are poised to tack another \$60 billion onto the tab.

I travel a lot around my State. I know all of my colleagues do. Every place I go I meet county supervisors, city councilmen, mayors, elected officials from all over the State. I talk to the Governor, the legislature. They make tough decisions. The city of Phoenix had to cut its budget by some 30 percent last year, a very tough decision. Meanwhile, we increased domestic spending by 20 percent. What is the difference between the city of Phoenix and us in the Capitol? We print money. A debt of \$1.4 trillion this year, estimated to be \$1.5 trillion this year, how can we continue this?

These two amendments by Dr. COBURN can achieve a significant savings, \$60 billion in each. That is \$120 billion that both of these amendments could save the taxpayers. Wouldn't it be wonderful to show the taxpayers that maybe we are going to do something like cutting the budget, cutting our budgets? Wouldn't it be nice to tell the American people we are going to eliminate nonessential government travel? Couldn't we at least freeze bonuses?

We have an opportunity to show the American people we are going to tighten our belts a little bit, too; that we care about generational theft; that we care about future generations of Americans. I know some of these measures will not be popular, but Dr. COBURN has never been one who has tried to win a popularity contest. What Dr. COBURN has tried to do is steer the American people on a path to some kind of fiscal solvency so we can stop this terrible generational theft we are committing.

The greatness of America, certainly one of her greatest attributes, is we have handed on to every generation a better one than the one they had before them. That has been the great wonder and beauty of America. With these kinds of debts and deficits, what can we pass on to our children and grandchildren?

I applaud Senator COBURN not only for this effort but many of the other efforts he has made. I am pleased to join him. I hope my colleagues will understand that the American people are angry and frustrated. Look at the latest polling numbers—we do read polls. Do you want to reelect your Member of Congress? What is our approval rating? It is 14, 13, 12 percent. We are down to blood relatives and paid staffers. The point is, let's send a message to the American people we are serious.

Yes, there are tough decisions and tough things that are embodied in this legislation. I urge my colleagues to at least take a look at them and consider putting this Congress and this Nation on a different path.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Mr. President, I rise today to voice my support for H.R. 4899, the Fiscal Year 2010 Supplemental Appropriations Act. This bill is critical to our future success in Iraq, Afghanistan, and Pakistan and also delivers much needed humanitarian aid to Haiti. Today, I wish to highlight how some of the provisions in this legislation support U.S. foreign policy goals, strengthen our military and civilian efforts, and defend against security threats around the world.

This bill does a great deal to support our ongoing counterinsurgency effort in Afghanistan. As General McChrystal has said, counterinsurgency is not an "event," but rather, a "process," and this supplemental provides the essential resources needed at each stage of the process.

First, the military must "shape and clear" in a military operation. The President made the bold decision in December that an additional 30,000 troops were needed in Afghanistan, and this bill fully funds the additional deployment. As we saw earlier this year in Marjah and will witness this summer in Kandahar, the U.S. military is partnering with the Afghan security forces for the "clear and hold" portion of counterinsurgency, and I am pleased this bill provides \$2.6 billion to train and equip the Afghan security forces.

Next we must "build," which requires a unity of effort between the military and civilian agencies and which is why this bill provides \$1.48 billion to the State Department for continued reconstruction and law enforcement programs. As I have stated before, our goal is to transfer authority to the Afghans. For this, we must continue to train and mentor the Afghan Army, police, and civil servants, so they may assume greater responsi-

bility to provide security and effective governance themselves.

On a recent trip to Afghanistan in March, I saw firsthand the improvements that have been made with the Afghan National Army, ANA, training program. Thanks to a recent pay raise for ANA recruits and intensified partnering with U.S. forces, we are on track to exceed the stated goal of 134,000 trained ANA by October. The additional resources in this bill will help ensure we stay on this positive trajectory for ANA training and mobilization.

Unfortunately, the same progress has not been realized in training the Afghan National Police, ANP. A lack of oversight, coupled with high rates of attrition, drug use, illiteracy, and widespread corruption have severely undermined our efforts to establish a credible police force.

I was appalled—appalled does not describe it—I was appalled to learn we have spent \$6 billion on training the ANP in the past 9 years, with little to show for it. I have been in literally 60 to 100 meetings—before my three trips to Afghanistan, in Afghanistan, and my trips back. I have yet to hear anyone say anything good about the Afghan national police. It was not until I got on the Homeland Security Subcommittee that I found out we were spending \$6 billion to train them. I would have been shocked if I had heard we were spending \$100 million to train them. However, this is key to our success in Afghanistan, and I believe the administration is now fully aware of the problems that have become endemic to this program and is focused on eliminating them in the months ahead.

Funding in this bill will support efforts to get police training back on track, which is one of the most critical elements of our strategy in Afghanistan.

This bill also does a great deal to reinforce our partnership with Pakistan. After traveling three times in the past year to Pakistan, I cannot underscore enough the importance and strategic value of this partnership to our shared fight against violent extremism. This resonates at home today in the wake of the failed Times Square bombing and Faisal Shahzad's alleged ties to Pakistani extremists in Waziristan. In light of mutual security interests, we must continue to nurture our relationship with the Pakistani people and military, demonstrating our enduring long-term interest in the region.

Last year, Congress validated that commitment in the form of a 5-year, \$7.5 billion economic aid package, otherwise known as the Kerry-Lugar bill, and in the past 2 years, we have invested over \$1 billion in military aid in the Pakistan counterinsurgency capability fund. This bill reaffirms these commitments with \$259 million to support ongoing programs to strengthen democratic governance, rule of law,

and social and economic services to improve the lives of the people of Pakistan. Of the total, \$10 million would be provided for the Pakistani Civilian Assistance Program, \$5 million for human rights programs, and \$1.5 million to facilitate the implementation and oversight of USAID and Department of State programs.

This bill also provides \$50 million for the purchase of helicopters for Pakistan which will be used to combat terrorist groups and other extremist organizations. I am hopeful that this level of commitment will help persuade the Pakistanis to redouble their efforts to address security concerns along the border with Afghanistan. I cannot emphasize enough the importance of Pakistan's contribution to the security situation in the tribal areas, especially as it pertains to targeting the Afghan Taliban—not just the Pakistani Taliban—including the Haqqani Network and Quetta Shura.

This bill also helps ensure a stable and secure Iraq in preparation for the drawdown of United States forces and complete withdrawal of combat troops by September. During my recent visit to the region, I was struck by the helicopter view of Baghdad at night. The glimmering lights of the city and the traffic looked similar to any city in the U.S. That sight illustrated the progress that has been made in Iraq and the enduring mutual commitment and partnership that has been created in recent years. As a means of reinforcing this commitment and continued progress, this bill provides an additional \$1 billion for the Iraqi security forces fund. It also provides \$650 million in additional economic and security assistance for Iraq which includes \$450 million for the Iraqi police program.

These measures support the security framework in Iraq, which will provide Iraq's leaders with the stability they need to form a new government. With the election recount recently completed, the groundwork has been laid for Iraqi elected officials to work toward a common goal of establishing a government representative of the people of Iraq. While a functioning government should not just be cobbled together in the interest of time, it is important to note that a prolonged delay could create a power vacuum that may exacerbate ongoing security concerns. This bill reinforces and continues to build upon the security infrastructure that the Iraqis have created, and the goal of building and sustaining past success.

Finally, I am grateful this bill includes \$3 million for the Voice of America's Creole language broadcasting in Haiti. The VOA Creole broadcasts include public service announcements from U.S. Government agencies, which have been so valuable in previous crises around the world, and have helped Haitians find loved ones, shelter, medical assistance, and aid, in the aftermath of the earthquake.

Since then, it has provided a vital service in helping them to find essential resources and assistance. VOA runs public safety and relief supply updates, as well as a call-in line to broadcast messages from families and friends of the injured and missing. The additional resources in this bill will help to sustain these critical public services, and I commend the VOA for its commitment and its great contribution to disaster relief globally, and especially in Haiti.

This bill reinforces our foreign policy goals and secures our interests at home and abroad. It also funds our Armed Forces which are deployed in harm's way, and supports the civilian diplomatic and development initiatives that are necessary to our efforts in Afghanistan, Pakistan, and Iraq. I thank the leadership for moving this bill forward, and I call on my colleagues to join me in supporting this supplemental.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 4231, AS MODIFIED

Mr. COBURN. Mr. President, I ask unanimous consent that amendment No. 4231 be modified with the changes at the desk.

The PRESIDING OFFICER. Is there objection?

The Senator from Oklahoma.

Mr. COBURN. Mr. President, I want to tell you that I concur in what I just heard—

The PRESIDING OFFICER. The Senator's request has not yet been agreed to.

Mr. COBURN. The modification has not?

The PRESIDING OFFICER. That is correct.

Mr. COBURN. There is an objection?

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the end of the bill, add the following:

TITLE IV—PAYMENT OF COSTS OF SUPPLEMENTAL APPROPRIATIONS

SEC. 4001. TEMPORARY ONE-YEAR FREEZE ON RAISES, BONUSES, AND OTHER SALARY INCREASES FOR FEDERAL EMPLOYEES.

Notwithstanding any other provision of law, civilian employees of the Federal Government in fiscal year 2011 shall not receive a cost of living adjustment or other salary increase, including a bonus. The salaries of members of the armed forces are exempt from the provisions of this section.

SEC. 4002. CAPPING THE TOTAL NUMBER OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the head of each relevant Federal department or agency shall collaborate with the Director of the Office of Management and Budget to determine how many full-time employees the department or agency employs. For each new full-time employee added to any Federal department or agency for any purpose, the head of such department or agency shall ensure that the addition of such new employee is offset by a reduction of one existing full-time employee at such department or agency.

(b) INFORMATION ON TOTAL EMPLOYEES.—The Director of the Office of Management and Budget shall publicly disclose the total number of Federal employees, as well as a breakdown of Federal employees by agency and the annual salary by title of each Federal employee at an agency and update such information not less than once a year.

SEC. 4003. COLLECTION OF UNPAID TAXES FROM EMPLOYEES OF THE FEDERAL GOVERNMENT.

(a) IN GENERAL.—Chapter 73 of title 5, United States Code, is amended by adding at the end the following:

“SUBCHAPTER VIII—COLLECTION OF UNPAID TAXES FROM EMPLOYEES OF THE FEDERAL GOVERNMENT

“§ 7381. Collection of unpaid taxes from employees of the Federal Government

“(a) DEFINITION.—For purposes of this section—

“(1) the term ‘seriously delinquent tax debt’ means an outstanding debt under the Internal Revenue Code of 1986 for which a notice of lien has been filed in public records pursuant to section 6323 of such Code, except that such term does not include—

“(A) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or section 7122 of such Code; and

“(B) a debt with respect to which a collection due process hearing under section 6330 of such Code, or relief under subsection (a), (b), or (f) of section 6015 of such Code, is requested or pending; and

“(2) the term ‘Federal employee’ means—

“(A) an employee, as defined by section 2105; and

“(B) an employee of the United States Congress, including Members of the House of Representatives and Senators.

“(b) COLLECTION OF UNPAID TAXES.—The Internal Revenue Service shall coordinate with the Department of Treasury and the hiring agency of a Federal employee who has a seriously delinquent tax debt to collect such taxes by withholding a portion of the employee's salary over a period set by the hiring agency to ensure prompt payment.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 73 of title 5, United States Code, is amended by adding at the end the following:

“SUBCHAPTER VIII—COLLECTION OF UNPAID TAXES FROM EMPLOYEES OF THE FEDERAL GOVERNMENT

“Sec. 7381. Collection of unpaid taxes from employees of the Federal Government.”.

SEC. 4004. REDUCING PRINTING AND PUBLISHING COSTS OF GOVERNMENT DOCUMENTS.

Within 90 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall coordinate with the heads of Federal departments and independent agencies to determine which Government publications could be available on Government websites and no longer printed and to devise a strategy to reduce overall Government printing costs by no less than a total of \$4,600,000 over the 10-year period beginning with fiscal year 2010. The Director shall ensure that essential printed documents prepared for Social Security recipients, Medicare beneficiaries, and other populations in areas with limited internet access or use continue to remain available.

SEC. 4005. REDUCING EXCESSIVE DUPLICATION, OVERHEAD AND SPENDING WITHIN THE FEDERAL GOVERNMENT.

(a) REDUCING DUPLICATION.—The Director of the Office of Management and Budget and the Secretary of each department (or head of each independent agency) shall work with the Chairman and ranking member of the

relevant congressional appropriations subcommittees and the congressional authorizing committees and the Director of the Office of Management Budget to consolidate programs with duplicative goals, missions, and initiatives.

(b) **CONTROLLING BUREAUCRATIC OVERHEAD COSTS.**—Each Federal department and agency shall reduce annual administrative expenses by at least five percent in fiscal year 2011.

(c) **RESCISSIONS OF EXCESSIVE SPENDING.**—There is hereby rescinded an amount equal to 5 percent of—

(1) the budget authority provided (or obligation limit imposed) for fiscal year 2010 for any discretionary account in any other fiscal year 2010 appropriation Act;

(2) the budget authority provided in any advance appropriation for fiscal year 2010 for any discretionary account in any prior fiscal year appropriation Act; and

(3) the contract authority provided in fiscal year 2010 for any program subject to limitation contained in any fiscal year 2010 appropriation Act.

(d) **PROPORTIONATE APPLICATION.**—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in such subsection; and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President's budget).

(e) **EXCEPTIONS.**—This section shall not apply to discretionary authority appropriated or otherwise made available to the Department of Veterans Affairs and the Department of Defense.

(f) **OMB REPORT.**—Within 30 days after the date of enactment of this section, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the account and amount of each rescission made pursuant to this section and the report shall be posted on the public website of the Office of Management and Budget.

SEC. 4006. ELIMINATING NONESSENTIAL GOVERNMENT TRAVEL.

Within 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget, in consultation with the heads of the Federal departments and agencies, shall establish a definition of "non-essential travel" and criteria to determine if travel-related expenses and requests by Federal employees meet the definition of "non-essential travel". No travel expenses paid for, in whole or in part, with Federal funds shall be paid by the Federal Government unless a request is made prior to the travel and the requested travel meets the criteria established by this section. Any travel request that does not meet the definition and criteria shall be disallowed, including reimbursement for air flights, automobile rentals, train tickets, lodging, per diem, and other travel-related costs. The definition established by the Director of the Office of Management and Budget may include exemptions in the definition, including travel related to national defense, homeland security, border security, national disasters, and other emergencies. The Director of the Office of Management and Budget shall ensure that all travel costs paid for in part or whole by the Federal Government not related to national defense, homeland security, border security, national disasters, and other emergencies do not exceed \$5,000,000,000 annually.

SEC. 4007. ELIMINATING BONUSES FOR POOR PERFORMANCE BY GOVERNMENT CONTRACTORS.

(a) **GUIDANCE ON LINKING OF AWARD AND INCENTIVE FEES TO OUTCOMES.**—Not later than 180 days after the date of enactment of this Act, each Federal department or agency shall issue guidance, with detailed implementation instructions (including definitions), on the appropriate use of award and incentive fees in department or agency programs.

(b) **ELEMENTS.**—The guidance under subsection (a) shall—

(1) ensure that all new contracts using award fees link such fees to outcomes (which shall be defined in terms of program cost, schedule, and performance);

(2) establish standards for identifying the appropriate level of officials authorized to approve the use of award and incentive fees in new contracts;

(3) provide guidance on the circumstances in which contractor performance may be judged to be excellent or superior and the percentage of the available award fee which contractors should be paid for such performance;

(4) establish standards for determining the percentage of the available award fee, if any, which contractors should be paid for performance that is judged to be acceptable, average, expected, good, or satisfactory;

(5) ensure that no award fee may be paid for contractor performance that is judged to be below satisfactory performance or performance that does not meet the basic requirements of the contract;

(6) provide specific direction on the circumstances, if any, in which it may be appropriate to roll over award fees that are not earned in one award fee period to a subsequent award fee period or periods;

(7) ensure that the Department or agency—

(A) collects relevant data on award and incentive fees paid to contractors; and

(B) has mechanisms in place to evaluate such data on a regular basis; and

(8) include performance measures to evaluate the effectiveness of award and incentive fees as a tool for improving contractor performance and achieving desired program outcomes.

(c) **RETURN OF UNEARNED BONUSES.**—Any funds intended to be awarded as incentive fees that are not paid due to contractors inability to meet the criteria established by this section shall be returned to the Treasury.

SEC. 4008. ELIMINATING GOVERNMENT WASTE AND INEFFICIENCY.

Within 30 days after the date of enactment of this Act, the Energy Star program administered by the United States Environmental Protection Agency shall be terminated and no Federal tax rebates or tax credits related to the Energy Star program shall be any longer available.

SEC. 4009. STRIKING INCREASE IN FOREIGN AID FOR INTERNATIONAL ORGANIZATIONS.

Notwithstanding any other provision of this Act, the total amount appropriated under the heading "CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES" under the heading "INTERNATIONAL ORGANIZATIONS" under chapter 10 of title I of this Act is hereby reduced by \$68,000,000 and no more than \$28,500,000 may be made available by this section. *Provided That*, this section does not prohibit additional funds otherwise appropriated to be spent for emergency security in Haiti in accordance with law.

SEC. 4010. \$1,000,000,000 LIMITATION ON VOLUNTARY PAYMENTS TO THE UNITED NATIONS.

Notwithstanding any other provision of law, the Secretary of State shall ensure no

more than \$1,000,000,000 is provided to the United Nations each year in excess of the United States' annual assessed contributions.

SEC. 4011. RETURNING EXCESSIVE FUNDS FROM AN UNNECESSARY, UNNEEDED, UNREQUESTED, DUPLICATIVE RESERVE FUND THAT MAY NEVER BE SPENT.

Notwithstanding any other provision of law, unobligated funds for the Women, Infants and Children special supplemental nutrition program appropriated and placed in reserve by Public Law 111-5 are rescinded.

SEC. 4012. STRIKING AN UNNECESSARY APPROPRIATION FOR SALARIES AND EXPENSES OF A GOVERNMENT COMMISSION.

Notwithstanding any other provision of this Act, no funds shall be appropriated or otherwise made available for salaries or any other expenses of the Financial Crisis Inquiry Commission established pursuant to section 5 of the Fraud Enforcement and Recovery Act of 2009 (Public Law 111-21).

SEC. 4013. RESCINDING A STATE DEPARTMENT TRAINING FACILITY UNWANTED BY RESIDENTS OF THE COMMUNITY IN WHICH IT IS IT IS PLANNED TO BE CONSTRUCTED.

Notwithstanding any other provision of law, no Federal funds may be spent to construct a State Department training facility in Ruthsburg, Maryland, and any funding obligated for the facility by Public Law 111-5 are rescinded. *Provided That*, this section does not prohibit funds otherwise appropriated to be spent by the State Department for training facilities in other jurisdictions in accordance with law.

Mr. COBURN. I thank the Chair.

I want to say I enjoyed very much Senator KAUFMAN's words, and I agree with him. I think what he talked about and what we are doing for our military in this bill is appropriate. It is something that has to be done. The only difference I would have with him is it is not an emergency. We all know it is not an emergency. The reason it is being classified as an emergency is because we do not want to make the hard choices of getting rid of something else to pay for it, and we do not want to have another violation of pay-go, so what we do is we classify it as an emergency.

The only thing in this bill that is an emergency is the FEMA money. That is the only thing that meets the definition of our own rules for an emergency: unforeseen, unpredictable, and unanticipated. Everything else in this bill is predictable, foreseen, and anticipated. So we are actually violating our own integrity when we bring a bill to the floor and call it an emergency when everybody knows it is not.

Why are we doing that? We are doing that because we do not want to have to live with the rule we set for ourselves called pay-go. I did not vote for pay-go. I do not believe in pay-go because pay-go is exactly what I said it would be when we had the vote. The American taxpayer, you go pay, and we will go spend, and we will not diminish any of our spending, our profligate spending, because of this rule.

Since we have passed the bill on pay-go on February 12 of 2010—that is when it was signed into law—we have borrowed \$46 billion and waived pay-go;

borrowed \$10 billion and waived pay-go; borrowed \$99 billion and waived pay-go—that was all in March. We borrowed \$18 billion.

This one is not going to count against pay-go because we put a false emergency designation on it, and we have another \$190 billion coming to us from the House for extenders, and we are going to waive pay-go on that. So we will have spent \$530 billion since February 12 that we do not have, and we refuse to make choices about lower priority programs and eliminating them. That is the truth. Nobody is going to dispute it. You cannot even get anybody to debate you on these things. They will not debate you because they know it is the fact. They will not stand and even counter it because they know it is the fact.

Well, what are the other facts? Here are the other facts: FEMA is broke. Medicare is broke. Medicaid is broke. Fannie and Freddie are broke. Social Security is broke. It is running a negative balance. The U.S. Post Office is broke. The highway trust fund is broke. And guess what. So is the Federal Government. If we are not careful, we are going to add our kids to the list and say they are broke. That is where we are headed: broke. That means our liabilities are greater than our assets. That means the money we have is not sufficient to cover the debts we have.

We have seen this tremendous volatility in the markets over the last 2 weeks. They are upset because they are not sure there is a stable Euro right now. The Euro has dropped from \$1.43 in the last 4 months to \$1.22. That is a significant decline in that currency. Why is that? Because there is no confidence they are going to be able to solve their problems of being broke, because they are not making the hard choices among priorities that are necessary for them to get out of the problems they face. And we are just starting to see a backstop and IMF demands of Greece—and you are going to see it of many others—that they are going to have to make certain cuts in spending.

We have a couple of choices. We can wait 2 or 3 years, when we are in the same shape, to where the world currency and the world bankers are demanding of us that we make those hard choices or we can start making them now when they are a lot less expensive and a lot less costly.

I know the amendments we have offered have been sent to CBO, and CBO is saying—which tells us another entire problem we have—they cannot score a freeze in Federal salaries. Well, we know it is going to go up \$3.1 billion next year if we do not score it, but CBO will not score it. We know regardless of the significant increase we had in our own budgets—4.6 percent—I have averaged turning back more than 400,000 a year. Everybody in this Congress, everybody in this Senate, could do that easily if they wanted to. We have offered \$100 million in cuts to our own budgets. That is where we ought to

start. If we are going to set an example, we ought to start with our own budget. CBO will not score that either.

Why won't they score it? We are clueless to what the real world is about in terms of spending and budgets. We cannot get a score even though the direction in the amendment is to sell off \$15 billion in unused properties and physical plants that we know we do not use that cost us \$8 billion a year to maintain. CBO is not going to score that either—so that is not going to be scored as savings—and rescinding unspent and uncommitted Federal funds, of which there is over \$350 billion sitting in the bank right now that is unobligated. I am not talking about obligated funds. I am talking about unobligated funds, which says we are going to manage our money better. We are going to make it stream. We are not going to let it sit there for so long. We are not going to borrow the money. We are going to borrow it more on a time-as-needed basis, and we are not going to have as much money sitting in unobligated funds.

We are going to have criticism against our first amendment because CBO does not score it. Do you know what. CBO's accuracy is about as good as mine at throwing a baseball: not very good. I cannot hit the strike zone, and neither do they. That does not mean anything against them because we are giving them lots of unknowns. But we have also set up a set of rules that are designed to not give us what we need to have: the real information. No business, no family operates their budgets with such loose rules.

Where are we going? Here is where we are going right now. This chart shows discretionary spending in the United States since 1999. In 2010—and this is in real dollars; this is not inflation-adjusted dollars; it would not look quite as bad if it were in inflation-adjusted dollars—but we are going from \$572 billion to \$1.408 trillion. And do you know what. That does not count any of the spending—any of the spending—the \$500 billion we are going to pass outside of pay-go. It does not count any of it.

So in a time when our country owes \$13 trillion—it is going to over \$26 trillion in 9 years; that is the path we are on—we are increasing spending, and we are not paying for any of it. We are not making one hard choice. One of the few things that is paid for in this bill continues to fund a commission we do not even need because we just passed the financial reform bill, and yet we are going to spend \$1.8 million on the Financial Inquiry Commission. Why would we do that? You talk about throwing money down a rat hole. Why has the commission continued to meet? We have already decided in all our knowledge and all our wisdom we knew how to fix it, even though we did not even fix the underlying causes for the real collapse: Fannie Mae and Freddie Mac. We did not address it at all. We did not address leverage ratios.

That is where we are going: \$1.4 trillion this year, not counting everything

we are passing out of here that is not paid for. What does it mean? We heard Senator McCain talk about generational theft. Here is the face of it. Here is little Miss Madeline. When I first put this picture up in the Chamber less than 7 months ago, it was \$38,000. It is now \$42,000 per man, woman, and child in this country. That is what they owe individually on our net debt. That is not our gross debt; that is our net debt. The \$13 trillion does not represent our real debt. That only represents what we owe outside. It does not represent what we owe ourselves.

So she is at \$42,000. Extrapolate the increase from \$38,000 to \$42,000 every 6 months and see what you get. What you get 20 years from now—if you include unfunded liabilities—Madeline, when she is 24, will owe \$1,113,000. That is what she is going to be responsible for. So when we hear somebody talk about generational theft, what they are talking about is robbing opportunity.

If you had a 6-percent interest rate on \$1,113,000, it is not hard to figure out that is \$66,000 a year in interest that Madeline is going to have to pay before she pays any taxes to run the government, defend the country, pay for Medicare for me and the rest of the people in this room, before she owns a home, before she educates her kids. It is thievery.

How hard is it? How hard is it in a \$3 trillion budget for us to find the money—find the money—to pay for this war? How hard is it? It is only as hard as we make it. We are risk averse. We do not want to be criticized because some program that had somebody who was for it is not going to be there anymore. We are going to do it. We are going to eliminate those programs. I can promise you we are. The question is when we are going to do it, and how drastic it is going to be, and who is going to make us do it. If we do not do it ourselves, then the priorities are not going to be the priorities of the body. They are going to be the priorities of the world bankers. That is who is going to do it. We are going to do this. We are going to cut spending. The question is, Do we do it now and make it less painful or do we wait until we are forced into it like the Greeks?

I think our history, I think our culture, and I think our children are worth us starting to make those kinds of difficult decisions. It is my hope we will give consideration—I do not care what combination of cuts we make. I just offered some. I am willing for the appropriators to make the cuts. But we no longer live in a time when we can borrow from the future of our children to pay for now. It has to start. I would ask my colleagues to support that start.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I rise to discuss a huge challenge in the State of Oregon—specifically, a

drought that is affecting the southern Klamath Basin. This is an area that had a terrible drought in 1992. This drought set everyone in this basin against each other. How do you allocate those few precious drops of water between the river and the lake and the irrigation, the fish, the farmers?

It is terribly tough when it doesn't rain. It so happens that this year, the water that has come into the lake is lower than at any time the water levels have been recorded and lower by very significant amounts. So this isn't just a shortfall of rain below the average or a modest few weeks without precipitation; this is the worst drought in the Klamath Basin in recorded history. That is why it has received status as a Federal disaster. The Governor of Oregon wrote on March 16 and on April 5 requesting a disaster designation for Klamath County, OR, due to the losses caused by the ongoing drought and related disasters, and the Department of Agriculture assessed that and issued that disaster declaration. There are well over 1,000 families—about 1,400 families—who farm the Klamath Basin and about 200,000 acres of land in that very productive region.

As we have immersed ourselves in discussions with the Secretary of Agriculture and the Secretary of the Interior, there are a couple key strategies that can be pursued to prevent what is a terrible situation right now from being an utter and total disaster by August and September. Those strategies are pumping ground water, which is quite expensive due to the power needs, and idling land—asking some farmers who have water rights to set aside their rights for modest payments, and by modest, meaning less than \$200 an acre for highly fertile ground. But that greatly reduces the size of this disaster to the community.

I applaud the hard work the Secretary of Agriculture and the Secretary of the Interior have done. They have worked to reprogram, to make those modest changes so they are allowed to free up a small amount of funds, a modest amount of funds. But to really address this situation, to idle basically what amounts to a fourth of that land, would take \$10 million.

I have an amendment filed, amendment No. 4251, that I hope will have a chance to be brought up and considered later on because we are addressing some major disasters around the country in this appropriations legislation, and it is certainly appropriate, when you have a declared Federal disaster in my State, to have this modest amount of money, in comparison to the other requests, receive consideration for the community.

I note that Senator WYDEN from Oregon and Senator BOXER and Senator FEINSTEIN are very supportive and co-sponsors because this Klamath Basin is on the boundary between Oregon and California, so there is territory within both States that is affected by this disaster and would be assisted by this revenue.

So I will wrap up my remarks to give an opportunity for others to take the floor, but I do ask my colleagues: We have a federally declared disaster in Oregon that needs a modest amount of help, and I ask for the opportunity to have this request duly considered by this body as this debate progresses.

Thank you, Mr. President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. 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. MENENDEZ. Mr. President, I rise to speak on some of the amendments before the Senate that I understand will be considered and coming up for some votes. To me, they are misguided efforts as it relates to how we ultimately deal with our immigration policy in this country; how we deal with the questions of national security, of our economy, of our well-being.

I have joined in supporting and take a backseat to no one in our efforts to secure the borders of the United States. However, the militarizing of the border is something I clearly do not believe is in our collective interests.

Now, Senators CORNYN, KYL, and MCCAIN seek to offer border enforcement amendments to the supplemental we are debating, but these amendments are, in my mind, merely an opportunity to grandstand instead of solving the country's real immigration problems.

These amendments would deplete critical stimulus funds that are greatly needed to support a recovering economy. It is an economy that recovers that ultimately generates the revenues to fund some of the very initiatives we would like to see. It is important to realize that many of the remaining stimulus funds—much of the funding is for mandatory programs. These are programs we must pay for under current law, such as unemployment insurance, food stamps, FMAP, to mention a few.

Furthermore, there seems to be a sense of amnesia here. We have already poured billions of dollars into border enforcement this year, more than under the last Republican-controlled Congress. Over the last 3 years alone, the Democratic Congress has increased U.S. Customs and Border Protection funding by over 23 percent, from \$8 billion to about \$10 billion. We have added an extra \$1 billion for border infrastructure and security activities as part of the American Recovery and Reinvestment Act of 2009.

Funding for border security in the last 10 years has increased substantially, with a 127-percent increase for Customs and Border Patrol inspec-

tions, a 160-percent increase for border control, and a monstrous 1,737-percent increase for construction and technology purposes—1,737 percent for construction and technology purposes.

These investments have fully funded over 20,000 Border Patrol agents—an increase of 6,000 agents or more than 50 percent since 2006. This increase was at a total cost of over \$3.5 billion this year. We have doubled the number of Border Patrol agents in a 5-year period, and the Border Patrol is better staffed and funded than at any time in its 85-year history.

We completed the southwest border fence, with over 645 miles now under effective control compared to 241 miles in fiscal year 2005. Over the last 3 years, the Democratic-controlled Congress has invested \$1.2 billion to complete the fence—20 percent more than the Republican Congress provided for that effort.

We have financed advanced new border control technologies including cameras, radars, sensors, and command and control systems to help the Border Patrol continuously monitor the border. Democrats in Congress provided \$421 million—more than four times what the Republican Congress provided—for these tools and required a high standard of oversight and accountability to ensure these advanced technologies would prove to be robust, reliable, and true force multipliers. We have funded three new Predator-B unmanned aerial vehicles for long-duration aerial surveillance of the areas between official ports of entry.

Customs and Border Patrol air and marine division manages the largest law enforcement air force in the world with 284 aircraft, including six Predator aircraft patrolling the Nation's land and sea borders to stop terrorists and drug smugglers before they enter the United States.

Since 2008, a Democratic-controlled Congress has provided \$323 million—more than five times the amount previously provided by Republicans—for the Unique Identity Initiative under the US-VISIT Program. Democrats have also doubled funding—from \$15 million in 2008 to \$31 million in 2010—for the US-VISIT effort to review biographic, travel, and biometric information of foreign visitors to the United States.

The Border Patrol is not the only Federal agency at the border. In Arizona alone, there are more than 6,000 Federal law enforcement agents—the majority employed by the Border Patrol—representing nearly 10 agents for every mile of international line between Arizona and Sonora, Mexico.

The legions of Border Patrol agents are supported by thousands of Federal agents from a wide spectrum of agencies, including several thousand Immigration and Customs Enforcement agents; 1,180 DEA agents; 1,212 air and marine officers; 6,235 Alcohol, Tobacco, and Firearms agents; 1,419 canine enforcement teams; 280 horse patrols; 208

narcotics detection teams; 32 currency detection teams; 212 narcotics-human smuggling detection teams; and 4 DEA mobile enforcement teams.

The number of Border Patrol agents has increased so rapidly there aren't even enough supervisors to effectively train new agents. The GAO found that the agency's ratio of agents to supervisors went from the normal 5 to 1 to 11 to 1.

In addition to these border enforcement increases, the democratically controlled Congress has increased ICE's budget 37 percent since 2007, the last year of a Republican majority in the Congress, and restructured the agency's budget to target aliens with dangerous criminal convictions and those who pose the greatest threat to America and Americans.

In the last 10 years, funding for immigration, customs, detention, and removal has increased by 170 percent. Over the last 16 months, the administration's comprehensive plan to secure the southwest border has resulted in record seizures of illegal weapons and bulk cash transiting from the United States to Mexico, significant seizures of illegal drugs heading into the United States, lower violent crime rates in southwest border States, and reduced illegal immigration.

Republicans now say we must pour more money into border security before we can address this issue comprehensively—more than everything I have already stated—but that has not always been their position. Let me read you a quote regarding border enforcement:

Despite an increase in border patrol agents from 3,600 to 10,000, despite quintupling the border patrol budget, despite the employment of new technologies and tactics, all to enforce current immigration laws, illegal immigration drastically increased during the 1990s. While strengthening border security is an essential component of national security, it must also be accompanied by immigration reforms. As long as there are jobs available in this country for people who live in poverty and hopelessness in other countries, these people will risk their lives to cross our borders, no matter how formidable the barriers, and most will be successful.

I ask you, who made the statement against border security policies and in favor of comprehensive immigration reform? It was our colleague from Arizona, Senator MCCAIN, on March 30, 2006.

Here is another quote:

For those who say let's just enforce our laws, I remind them that some of our laws are unenforceable. My conservative friends are the first ones to point out that the 1986 law is not an effective law. It is unenforceable. And until we change it, we are not going to be able to just enforce the laws.

That was our colleague from Arizona, JOHN KYL, in 2007.

I could go on and on about the comments made in the past. I agree in those respects with Senator MCCAIN's and Senator KYL's past statements that we certainly need comprehensive immigration reform to achieve the goal of reestablishing the rule of law

and fixing our broken immigration system.

Even former Bush administration Secretary of Homeland Security Tom Ridge wrote in a 2006 op-ed that gaining "operational control of the borders is impossible, unless our efforts are coupled with a robust temporary guest worker program and a means to entice those now working illegally out of the shadows into some type of legal status."

Now, "border security first" has been the strategy used by the Congress and the Federal Government for the past 17 years. My understanding of the definition of insanity is to keep doing the same thing, do more of it, and get the same result. That is a recipe for failure.

Several of my colleagues and I have put forward an immigration framework as an invitation to our Republican colleagues to join us in something that is critical to the national security of the United States, critical to the economy of the United States, and critical so that American citizens and legal permanent residents do not face what they are facing. I have over 200 cases of U.S. citizens and legal permanent residents of the United States—people who obey the law, follow the rules and the process, are here legally—who have been unlawfully detained in violation of their constitutional rights. In some cases, American citizens have been detained for months before their citizenship was established.

Who among us in this Chamber is willing to accept second-class citizenship simply because of the happenstance of who they are, what they look like, what their accent may be, or the happenstance of where they happen to reside? But that has happened to U.S. citizens and legal permanent residents. Then we have laws that exacerbate those possibilities of expanding. I do not accept that any citizen of the United States is a second-class citizen of this country.

Our national security, our framework, incorporates many of our Republican colleagues' ideas. It makes for an even more robust border enforcement process, in a way that deals with national security. The framework includes increases in Border Patrol and technology.

At the same time, we can never have national security if we don't know who is here to pursue the American dream versus who might be here to do it damage. Unless we bring millions of people out of the darkness into the light and find out why they are here, what is their purpose, and do a criminal background check on them and make them law-abiding insofar as they will be able to contribute to the national good, pay taxes, go through the background check, and learn English, and after a long set of years have an opportunity to adjust their status in this country, millions will be in the shadows, and we have no idea if they are here to pursue the American dream or to do it harm.

By having people come forth as the law, as we suggest, becomes reality and being able to register in a temporary status, we bring people out of the darkness into the light. We create an opportunity to do criminal background checks to make sure they have been in other respects law-abiding and that they are here to pursue the dreams that millions of immigrants who came to this country and contributed to the vitality of this Nation have enormously.

But we will never know who is here to pursue that dream versus who is here to do it harm if they stay in the shadows. That is not in the interest of the national security of the United States.

The reaction to the Arizona law illustrates that Latinos, Asians, and others do not believe they are second-class citizens in this country. I have nothing in my possession that presents that I am a U.S. citizen, even though I was born in the great city of New York. I have nothing that ultimately says that I am such. I don't carry my birth certificate or my passport around with me. In essence, I was born here, but if I want to travel to another State that says that simple lawful contact with a citizen—well, lawful contact with a citizen is a police officer on foot patrol who comes up to a group of citizens; lawful contact with a citizen is a patrol car that comes up to a group of day laborers on a corner; lawful contact is anywhere a police officer might well be in contact with any citizen. Now the idea that, well, this person gives me reason to suspect that somehow they are here in an undocumented fashion—and that process, even before the Arizona law, has led to U.S. citizens and legal permanent residents being unlawfully detained in the United States. I guess until it happens to one of us, we don't quite feel the same way. But I believe any citizen in this country is not a second-class citizen.

I am also worried when one group of people in our country becomes a suspect class—when one group of people is blamed for all the ills of the Nation. History teaches us when that happens, it has a very sad ending. It has a very sad and dangerous ending. We cannot let that happen in the United States of America. It is not who we are as a people. It is not who we are as a nation.

I believe there is much that hopefully will be in common. We believe jointly that the national security of the United States is about controlling and protecting our borders, but how we do it is going to be very important. It is about the national economy of this country because, I just have to be honest with you, we have to be honest with what elements of our economy—even in this challenging economy, elements of our economy that are done by immigrant workers.

If you had breakfast this morning and you had fruit, it was probably picked by the bent back of an immigrant worker. If you had chicken for

dinner last night, it was probably plucked by the cut-up hands of an immigrant worker. If you slept in one of the hotels or motels of the byways of our cities, it was probably cleaned by the hands of an immigrant worker. If you have a loved one who is infirm, probably their daily needs are being taken care of by the steady hand and warm heart of an immigrant worker.

I could go on and on. I believe this is also about our national economy. For so long as we permit a subclass to be exploited in an economy it hurts the wages of all others in an economy, and only bringing them out of the darkness and into the light will create a better circumstance in which we will not have such exploitation.

I do this all by way of background that says if the amendments that are now going to be proceeded on—the Cornyn amendment and the Kyl second degree—pour billions into perpetuating an inadequate strategy that would not solve the problem, dumping \$1.9 billion in additional personnel, technology, and resources along the border, when in fact we have a set of circumstances where that has shown itself time and time again not to have been the successful strategy.

It is interesting that some of the State and local grant programs for border security have led to a misuse of funds and costly litigation. The Arizona Daily Star investigation found that funding for State and local grant programs was used to compensate officer time for issuing traffic citations, crowd control at parades and soccer games, attending a funeral, monitoring gun shows, and responding to calls about loud music. That isn't about border enforcement.

The McCain amendment appropriates \$250 million, offset with Recovery Act funds. Deployments would be required to start within 72 hours of passage and last until the Department of Defense and Department of Homeland Security certify they have operational control of the border. This amendment would place a significant burden on National Guard troops who are already overburdened and interfere with the President's authority to deploy troops. We are already using the National Guard in unprecedented ways in deployments abroad. The President's authority is affected. I know the administration strongly opposes it.

General Jones, the National Security Adviser; John Brennan, Assistant to the President for Homeland Security and Counterterrorism said in an attached letter to Senator LEVIN:

There is no modern precedent for Congress to direct the President to deploy troops in the manner sought by the amendment. It represents an unwarranted interference with the Commander-in-Chief's responsibilities to direct the employment of our Armed Forces.

It would also interfere with the administration's comprehensive border security plan.

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

Mr. MENENDEZ. For all of these reasons, I am in strong opposition to these amendments. I certainly urge their defeat. We are going to send billions more after billions that have already been sent to accomplish the same negative result, and your own words speak to the very essence of how we get to a solution, which is to pursue a comprehensive nature to this reality.

If you want to ensure a continuing set of circumstances in which law enforcement turns U.S. citizens into second-class citizens, then vote for the amendments. But otherwise, you should oppose them.

I will be happy to yield.

Mr. DURBIN. I ask through the Chair, both the McCain amendment and the Cornyn amendment appear to be paid for out of funds that have already been allocated for creating new jobs in America—the stimulus funds we have voted for. If they are successful in these amendments, they would be reducing the funds that are being used to hire people in New Jersey, Illinois, Minnesota, and other places to go to work. Is that the way the Senator from New Jersey sees it?

Mr. MENENDEZ. Yes. The Senator is correct. In addition, some of the funding they take is from already mandated programs, programs that are critical to citizens and communities and States, and they would, in essence, detract from those mandated programs for which there is a Federal obligation to move it in this direction, at the same time decreasing the job opportunities at a time in which we are trying to grow this economy, not contract it.

Mr. DURBIN. I ask through the Chair, if the Senator will yield further, do I understand the statement that was sent by the administration, the National Security Adviser, that the McCain amendment would circumvent the power of the President to deploy troops in the United States in the manner sought by this amendment, an unwarranted interference with the Commander in Chief's responsibility for the direct deployment of our Armed Forces? And this McCain amendment by Senator JOHN MCCAIN—I kind of recall speeches from the other side of the aisle about the right of the Commander in Chief, the power of the President—this McCain amendment would spend \$250 million and allocate 6,000 National Guard troops to start within 72 hours, a mobilization within 72 hours of troops to the border. Is that the way the Senator from New Jersey reads this amendment?

Mr. MENENDEZ. The Senator from Illinois is correct. As a matter of fact, the same letter he read from General Jones, the National Security Adviser, and John Brennan, the Assistant to the President for Homeland Security and Counterterrorism, said:

There is no modern precedent for Congress to direct the President to deploy troops in the manner sought by that amendment.

Mr. DURBIN. If the Senator will further yield for a question, it would

seem, since two of these three amendments are emanating from the State of Arizona, there is a free-for-all in Arizona to think of more extreme ways to respond to what they consider to be a political situation there, from the passage of the legislation—and I concur with the analysis of the Senator from New Jersey of it—and now \$2¼ billion dollars to be sent down for other—I am sorry, that includes the Cornyn amendment, the Senator from Texas. It is \$200 million for Senator KYL—let's say \$450 million between Senators MCCAIN and KYL, money to be sent into this Arizona situation.

I wonder if we shouldn't declare a time out in Arizona for at least some thoughtful reflection about what works and what doesn't. It seems there is no end to ideas that are being propounded down there to respond to situations real and imagined. These amendments are clear evidence.

I don't know if the Senator from New Jersey sees it the same way.

Mr. MENENDEZ. I appreciate the question and view of the Senator from Illinois. Yes, that is why I said I respect the previous positions Senator MCCAIN had. He understood that you cannot solve this problem by throwing more money, more troops at it. At the end of the day, that has not achieved all the goals, despite enormous increases. And yet there are still challenges.

In view of the fact the President himself—something I personally don't support but nonetheless has gone ahead and made a deployment on his own, it seems to me we should see what works before we advance billions for efforts and directing troops by an amendment when those troops could be needed for a whole host of things.

I have to be honest with you. If we are going to start directing troops, then I wish to see them directed to the gulf so, in fact, we can help out with the oilspill not getting into critical wetlands and estuaries. I think that is a national emergency.

Mr. DURBIN. I ask through the Chair one last question. I don't know what the situation is with the New Jersey Guard, but many of the Illinois Guard have been deployed and redeployed in Iraq and Afghanistan at great inconvenience and hardship to their families. The McCain amendment calls for deployment within 72 hours. People will literally be removed from their families and on the road headed down to Arizona within 72 hours under the McCain amendment.

I ask the Senator if he has dealt with these Guard families and has any idea what impact this might have on their lives.

Mr. MENENDEZ. I appreciate the Senator's question. The fact is, as I mentioned earlier in my comments, we have used the National Guard in an unprecedented way. They have been called for deployment abroad, both in Iraq and Afghanistan, and elsewhere in unprecedented numbers. The stress we

have created on the force by virtue of these two continuing engagements, as well as any other national emergency that might occur, is incredibly challenging. It is real challenging to those forces. My view is the Senator is right.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

Mr. McCAIN. Mr. President, may I engage in a colloquy with my friend from Wyoming for 1 minute?

Mr. BARRASSO. Yes.

Mr. McCAIN. I understand the Senator from Illinois was talking about Arizona and the border. I wonder if the Senator from Illinois has ever been to the Arizona border. He has?

Mr. DURBIN. Is that a question to me?

Mr. McCAIN. Yes.

Mr. DURBIN. I don't know if it is proper. But, yes, I have been to Nogales and both sides of the border.

Mr. McCAIN. It is pronounced Nogales.

Mr. DURBIN. Yes, I have been there, on both sides of the border. You are always welcome to come to Illinois, too.

Mr. McCAIN. And I have been there many times. It is obvious the Senator from Illinois, even though he has been there, has no conception of what the people who live in southern Arizona are suffering under with hundreds of thousands of illegal immigrants and human smugglers and drug smuggling going through our State.

I am glad he is such an expert—he and the Senator from New Jersey—on the issue of the terrible problems that afflict our State and our need to try to get our borders secure, which every citizen has the right to expect.

I thank my colleague for yielding.

TRIBUTE TO SHAWN WHITMAN

Mr. BARRASSO. Mr. President, it is with great pride as well as regret that I rise today in the Senate to recognize a great son of the State of Wyoming. He is my chief of staff, Shawn Whitman. He joins me today on the Senate floor. Shawn is leaving the Senate this month after a consummate career working for our State and for our country.

Many in the Senate know Shawn. To know him is to like him. He was the chief of staff for our late Senator Craig Thomas. For nearly 3 years, he has continued in that role serving me. In all of that time, he has demonstrated what it means to be a loyal and trusted adviser, a superior manager, and a terrific friend.

I know that all in the Senate will want to join me in wishing Shawn well and to thank his wife Kristen and his two daughters, Lauren and Katherine, for sharing their dad with us. All of us are sorry to see him go, and we will miss him.

Shawn has actually served three different Wyoming Senators. He began in

1994 right after he graduated from the University of Wyoming. He came to work as an intern for Senator Al Simpson. Later he joined Senator Thomas's staff and filled just about every role, every position that a congressional office can have. He was actually a receptionist. He was a press intern. He was a staff assistant. He was legislative correspondent, legislative assistant, senior legislative assistant, legislative director, and finally chief of staff.

It is the example of Shawn's career path that defines the character of who he is. He completed every task, whatever was asked of him, equally well. He brought enthusiasm, smarts, and good humor to every job from the front desk to the corner office.

It is his willingness to do whatever is needed and to take on any task. That is what makes him so valuable and such a great friend.

Shawn was truly tested. In June of 2007, Wyoming lost a great friend when we lost Senator Craig Thomas. As some of my colleagues know, after Senator Thomas's passing, Shawn led the staff alone. He kept them together in serving the people of Wyoming, even while the Senate seat remained empty.

In the face of this extraordinary challenge, at a time of great sorrow for our State, Shawn continued to lead. Despite his own sorrow and his own grieving, he led others. Shawn showed grace and confidence through it all.

Perhaps it was his early years working the family ranch outside Laramie, WY, that made him so tough. It is his sense of duty, once again doing the job that needed to be done and completing the task, any task that was required.

It was my good fortune to inherit Shawn Whitman. We hardly knew each other when I was sworn into the Senate. It did not take me long to understand his value and to appreciate—fully appreciate—his indispensable leadership.

President Eisenhower once talked about the many jobs he had throughout his private career, his military career, and finally as President. He said his goal was, whenever he was leaving a job, the people there were sorry to see him go. Shawn Whitman personifies that. Everyone in our office—everyone—is sorry to see him go. All who have had the pleasure and the privilege to know Shawn Whitman in the Senate will miss him as he starts a new chapter in his life.

Shawn leaves the Senate with a wonderful reputation—a reputation for integrity and a reputation for leadership, and not just for Wyoming but for the entire Senate, as Shawn led not just my office, but he also led the organization of the Senate chiefs of staff. He was the chief of all the chiefs.

Shawn has been a trusted adviser, manager, a confidante, and a friend to me and to my wife Bobbi. His service has been invaluable.

While I am losing a very important member of my staff, I know I will not be losing his friendship, his advice, and his counsel for the future.

It is here today on the Senate floor that I say: Thank you, Shawn. Thank you for your service to the Senate, to the country and, most importantly, to the people of Wyoming. I wish you well in all you do.

Mr. President, I yield the floor.

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

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

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

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

GULF OILSPILL

Mr. LEMIEUX. Mr. President, I come to the floor today to talk about an issue that is of great concern to my State of Florida, as well as to all the Gulf States—in fact, to the entire United States of America—and that is this ongoing spill disaster in the Gulf of Mexico.

It has been a month since the time this spill started, and the oil continues to flow out of the bottom of the Gulf of Mexico at a rate that has not yet been determined but appears to be thousands of gallons a day. We see those pictures on television now of the flow, and despite the efforts to siphon off some of that oil, more and more enters the Gulf of Mexico. It does so despite attempts by British Petroleum and others in the unified command to stop this flow of oil.

We are now on the fourth or fifth possible solution to cap the well. In fact, they are going to try to cap the well tonight. I believe, as we get on to each of these solutions, they are less and less likely to succeed. So as ADM Thad Allen, who is the incident commander, the admiral in charge of the Coast Guard, told us at his briefing just 2 days ago, we are unlikely to see this oil stop spilling into the gulf until the relief wells are drilled, and fully drilled, which could be as late as August. It could be later. What does that mean? That means this oilspill, which is now stretching over miles and miles in the gulf, is only going to get bigger. What we see on the surface may not be the extent of the spill. The plume of oil underneath may be far worse.

In the wake of this tragedy, I sent a letter to British Petroleum's CEO, Tony Hayward, and I requested that BP set aside \$1 billion so that the five Gulf States would have that money available today to help stop the oil from reaching our shores and to mitigate the damage once it did. The response I received in a letter yesterday, although it wasn't this emphatic, was no.

They have given some money to the Gulf States. My home State of Florida

has received about \$50 million, which is appreciated, but it is not going to be near enough if and when this oil comes ashore in Florida. Where will the oil come ashore? Will it be in the panhandle or western Florida? Will it be in Tampa Bay? Naples? Will it get into the Loop Current and go into the Florida Keys, the Florida Bay, Ten Thousand Islands, and run up the eastern side of the United States, up past Miami, Fort Lauderdale, or Palm Beach? We just don't know. But if and when this oil does come ashore in Florida, it will be a disaster. Right now, it is not there, as far as we know. Right now, those beaches are still pristine. Right now, we continue to welcome people to Florida to come and visit, to come and fish and do all the things they would normally do on vacation. Florida is open for business. But we cannot sit around and wait for the oil to come.

I am very concerned not only about the failure of British Petroleum to stop this oil from leaking, but I am concerned at the efforts that have been taken by this administration. I don't mean to say this in a partisan way because it could have been another administration that was on watch when this happened, and certainly the problems we have go back beyond the time of this administration. But I think it is fair to say, having looked at this now for a month's time, that where we are today is not acceptable. It is not acceptable that oil is washing up on the shore, on the beaches of Louisiana and into their marshes. That is not acceptable. That is a failure—a failure of the administration, a failure of our government, a failure of British Petroleum. And I don't want to be there when the oil washes up on the shore in Mississippi, Alabama, in Florida, or Texas, for that matter.

The question I have is, What is the plan? What is the plan of our government, since British Petroleum can't solve this problem on its own? What is the plan to stop the oil from coming ashore? What are we doing now besides relying upon British Petroleum to drill these relief wells?

There have been proposals that have come to the floor offered by my colleague from New Jersey and my colleague from Florida and others on the Democratic side to set up \$10 billion—to raise the cap on compensation claims from the current law, which only allows for \$75 million. Senators VITTER, myself, MURKOWSKI, and others have a similar but different bill that would have an expedited compensation process which would not go to a \$10 billion cap but, instead, look to the profits of the company, which in this case would move the cap up to about \$20 billion.

A lot of times partisanship rules the day in the Senate. This should not be one of them. Our differences are not so great that we should not be able to bridge them and come to a resolution.

Senator MENENDEZ has offered his amendment and asked unanimous con-

sent that it be brought up. It has been objected to, and I understand the reasons why. Senator VITTER has offered up his and my proposal. It has been objected to by Democrats.

We should be able to get past this and figure out a solution. We believe our proposal is better. We believe it is better because if you set it at \$10 billion, you are only going to allow two or three oil companies in the world to exist. You will potentially put all the rest out of business. Under our proposal, more than \$10 billion will be recovered from BP for this incident and still let other companies participate. Plus, by having the claims process go forward now, we could get relief to people who need it.

I think it is a better proposal. But that is a question worthy of debate, and we should be able to come to consensus on that and not have a partisan play on it.

I want to talk a minute about the Minerals Management Service. These are the folks within the Department of the Interior who are charged with overseeing drilling. By anybody's account, what they have done is a failure. We see the administration is now breaking them up into two separate units under the Department of the Interior. That may be fine going forward, but let's look back.

A report recently released by the inspector general of the Department of the Interior suggests a culture of corruption littered with several shocking conflicts of interest and professional malfeasance at the Minerals Management Service.

Among the findings, the report suggests the employees regularly accepted gifts from those they were charged to oversee; that there was a revolving door of employment in which regulators took jobs in the oil industry over which they had previously held regulatory authority; and it even suggests the oil industry officials were allowed to fill out safety oversight forms in pencil only to have the MMS employees trace over them in pen. This is not acceptable, to say the least. There is an apparent and obvious lack of oversight.

It would seem that the response to the spill itself certainly should have been more effective. I want to point this Chamber to an April 29, 2010, story by the Mobile Press-Register where it says that Federal officials, including former NOAA oil response coordinators, had a 1994 plan to respond to oil spills in the Gulf of Mexico, such as the one we are experiencing today. The former NOAA oilspill response coordinator, Ron Gouget, has said a plan was in place to immediately begin—in situ, which is a fancy word for in place or on location—oil burning. Yet it took more than 1 week for officials to conduct a test burn.

Why is that important? If there were a plan that was in place to burn the oil as soon as it came out of the wellhead, we might have been able to stop this

vast plume and expansion of oil over the Gulf of Mexico. We might have been able to stop the oil from washing ashore in Louisiana and potentially washing ashore in Texas, Mississippi, and Florida.

Why do you have to burn early? You have to burn early, as was explained to me by the Coast Guard when, about 2 weeks ago, I flew over the wellhead and saw the oil and the tar floating on the top of the Gulf of Mexico, you have to burn early because if the oil mixes with the water it loses its ability to be flammable. So the plan, if this report from the Mobile Register is right, was correct that you have to burn immediately in order to have the largest effect.

The plan called for multiple fire booms. This is the booming, the material that you see that, hopefully, keeps the oil from spilling onto our shores. There is also something called fire booming or fire booms, which is what you put around the area you are burning in order to contain the fire. The plan called for multiple fire booms to be available and deployed to deal with a spill of this magnitude. But Federal officials instead had no booms on hand and had to go out and locate fire booms in the private sector, purchase it, and then transport it to the gulf region.

Mr. Gouget, who is the former oil response coordinator, believes that 95 percent of the oil could have been captured through the timely executed burning.

I know there were weather conditions, but if that problem had been jumped on right away perhaps we would not see oil in the marshes of Louisiana. Perhaps we would not see oil on the beaches of Louisiana. Perhaps we would not see what may eventually come, which is oil on the beaches of other States in the gulf, including Florida.

Being from Florida, I have had the opportunity to be around some very good leaders in times of emergencies—Governor Jeb Bush, Governor Charlie Crist, people I worked with when we had hurricanes and tornadoes and other natural disasters. We know something about this in Florida. The lesson of these disasters is this: You have to respond to them immediately with overwhelming resources. You may over-respond, as hindsight will show you, because the disaster may not turn out to be much of a disaster. But that is a cost worth incurring.

What you should not do is fail to respond quickly and let the disaster get out of control. Small problems become big problems. That certainly seems to be the case here. We are going to learn more over time about what happened with MMS and the Department of the Interior and what happened with British Petroleum and Transocean. But right now it seems pretty apparent this Federal Government and British Petroleum were not properly prepared because there is an outcome we have to evaluate. If the oil is washing ashore,

we have failed. The government has failed and BP has failed.

Frankly, I am concerned that we are not reacting to this disaster in a way that we should. We are not giving it the proper response it deserves.

I have heard this disaster called a slow-moving Katrina, and I think that is right. But just because it moves slowly doesn't mean the Federal Government should. Everything must be done now. I know there are good people working on this. I have tremendous respect for Admiral Allen of the Coast Guard. The Coast Guard does exceptional work. But this is a results-oriented issue. If the oil is washing ashore, then the Federal Government and BP have failed. Before the oil washes ashore in Texas or Mississippi or Alabama or Florida, everything should be done that can be done to stop it. I don't have the feeling that is what is being done.

I will continue to come to the Senate floor to talk about this issue as time goes on. I am urging the President of the United States to give this the focus and attention it deserves. There is no more important problem facing us in the short term than this oilspill.

My home State of Florida right now is suffering through the worst recession we have had in anybody's memory. Unemployment is 12 percent. We are either No. 1 or No. 2 in terms of the most mortgage foreclosures in the country. Our business has come to a grinding halt. While there are signs of optimism, while we see things getting better in some sectors, and we have to remain hopeful—and Florida, we know, will succeed—this is a very difficult time.

If this oil comes ashore—and, thank God, it has not so far—but if and when it does, it is not only going to have a disastrous impact on our environment and potentially impact 1,000 miles of coastline in Florida, but it is going to impact our economy. Florida welcomes more than 80 million tourists a year. They come to Florida for a lot of reasons, but one of the reasons they come is for our beautiful beaches, some of the most beautiful beaches in the world, especially in the Florida Panhandle. If that oil comes ashore, it is going to be devastating to our economy.

That is not good for Florida. It is not good for America. This crisis demands a sense of urgency that it has not received, in my humble opinion, up until now. I call upon this administration to put forth every effort and to tell us what the plan is to stop this oil from coming ashore in States such as Florida.

I yield the floor.

Mr. LEAHY. Mr. President, H.R. 4899, the fiscal year 2010 supplemental appropriations bill, provides the funds requested by the President for emergency assistance for Haiti related to the January 12 earthquake. In fact it provides approximately \$25 million more than the request.

Although the bulk of those funds are to address the immediate needs of shelter, health care, agriculture and food security, and governance, several Senators, particularly Senator LANDRIEU and Senator GILLIBRAND, have rightly pointed out that half of Haiti's children are not in school and the country suffers from an extremely high rate of illiteracy and a tiny fraction of the trained professionals it needs. There is a dire need for school construction and equipment, teacher training, and other education assistance for Haiti's children as well as high school, vocational, college and graduate students. Haiti's future depends on an educated workforce, and the earthquake has focused attention on this need as the country struggles to recover from this latest catastrophe.

For this reason, the bill includes up to \$10 million for education programs which the Appropriations Committee included even though it was not in the President's request. This is admittedly only a small amount to begin to address Haiti's education needs. Fortunately other donors, including the Inter-American Development Bank and Canada, are expected to provide significantly more funds.

Haiti will require international assistance for years to come. I hope that in future budget requests the administration will include substantially more resources to combat illiteracy and train Haiti's future workforce, because over the long term it would be hard to think of a better investment in that country.

Mrs. GILLIBRAND. Mr. President, I wish today to speak about my grave concern for the children of Haiti. Last month, Senator LANDRIEU and I traveled to Haiti, where we met with President Preval and First Lady Elisabeth Delatour Preval. We heard firsthand from the President and First Lady that if they are ever going to rebuild their nation, their children need better access to publicly funded quality education.

As everyone knows, Haiti faced incredible challenges even before the devastating earthquake. As a result, children who were already facing almost insurmountable odds are now all the more desperate.

I believe we have a duty to answer the call of Haiti's children today, deliver the relief they need, and help put them on a path toward the quality education they deserve.

Even before the earthquake, only half of Haiti's children attended school at all. The country has almost no public school system. In fact, nearly 90 percent of the schools in Haiti's education system were funded and run by nonpublic operators.

No other country in the world faces the kinds of challenges faced today by Haiti's education system:

An overwhelming majority of Haiti's school-age children live in the country's rural areas, but less than a quarter of children in rural Haiti are actually enrolled in school.

The poorest of Haiti's poor are the hardest hit. Just over a third of Haiti's poorest 20 percent were enrolled in primary schools, compared to 80 percent of the country's wealthiest.

Of those enrolled, many graduate late or never at all because they can't afford school fees, uniforms, or books or because of late enrollment or poor quality education.

Around 80 percent of children were still enrolled in primary school at the age of 13, beyond the age they should have started secondary school.

Of the schools that were standing, the earthquakes caused an astounding \$½ billion worth of damage.

We know that good opportunities in education lead to a strong national economy. But these alarming statistics show just how bleak the state of education is in Haiti.

If Haiti is ever going to rebuild and if these children are ever going to have a chance at success, Haiti needs a strong public school system to help lead the way. A strong public school system can be the foundation of each community, providing a broad range of resources for children and families—from health clinics and immunizations, to literacy education, job training, and nutrition.

It has been truly humbling and inspiring to watch the outpouring of support from America and across the globe coming to Haiti's relief. I support President Obama's request for the emergency supplemental this year to fund relief and redevelopment in Haiti. I applaud Chairman LEAHY and my dear friend Senator LANDRIEU's work to include funding for Haiti's education in this bill. These have all been lifesaving first steps. But we can't stop now. It is time now to direct our efforts to Haiti's education system.

The Inter-American Development Bank, together with the Government of Haiti, has estimated that it would take \$2 billion over 5 years to set up Haiti's education sector.

I strongly encourage President Obama and Secretary Clinton to make a high-quality public school system a top priority in our relief efforts for Haiti—and begin building schools that can save lives, create real opportunities for the children of Haiti to succeed, and lay the foundation for a Haiti rebuilt.

VETTING PROCEDURES

Mr. LEAHY. Mr. President, I note that on page 16 of the supplemental appropriations bill, H.R. 4899, under the heading "Afghanistan Security Forces Fund" and on page 17 under the heading "Iraq Security Forces Fund," which appropriate funds for training, equipment, and other assistance for these foreign security forces, there is language that makes these funds available "notwithstanding any other provision of law." I would ask my friend, the chairman of the Appropriations Committee and of the Defense Appropriations Subcommittee, whether I am correct that this "notwithstanding" language is not intended to apply to the

"Leahy" vetting procedures which are designed to ensure that foreign security forces that receive U.S. assistance have not been credibly alleged to have committed violations of human rights.

Mr. INOUE. I would say to my friend from Vermont that is correct, we intend those vetting procedures to apply to these funds.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Mr. REID. Mr. President, first, there will be no more votes today if we get this agreement worked out. I appreciate everyone's patience. We have worked long and hard to arrive at this point. It is never easy, as we have explained on a number of occasions, but we are fortunate with this bill to have two veterans of the Senate, two of the best Senators who would possibly work a bill. We are fortunate that Senator INOUE and Senator COCHRAN are managing this bill. They are both gentlemen, and they have the best interests of the country at heart in everything we do here.

I ask unanimous consent that on Thursday, May 27, after any leader time, the Senate resume consideration of H.R. 4899 and resume consideration of the following amendments in the order listed: McCain No. 4214; Kyl No. 4288, second degree, as modified; Cornyn No. 4202, as modified and amended, if amended; and that the Cornyn amendment be further modified with the changes at the desk; that there be a total of 20 minutes for debate, with the time divided 5 minutes each for Senators MCCAIN, KYL, CORNYN, and SCHUMER or their designees, with respect to the border security-related amendments; that after the first vote in the sequence, the succeeding votes be limited to 10 minutes each; that after the first vote, there be 2 minutes equally divided in the usual form prior to the succeeding votes; that no amendment be in order to the amendments covered in this agreement other than as identified in this agreement; that if a budget point of order is raised against the border security amendments, then a motion to waive a budget point of order be considered made and the Senate then proceed to vote on the motion to waive the applicable budget point of order; that if the waivers are successful, then the amendments be agreed to and the motion to reconsider be laid on the table; that if the waivers fail, then the amendments be withdrawn; that upon disposition of the above-referenced amendments, the Senate then consider the Feingold amendment No. 4204 and the Coburn amendments Nos. 4231, as modified, and 4232, and that they be debated concurrently for a total of 15 minutes prior to

a vote in relation thereto, with 5 minutes each under the control of Senators FEINGOLD, COBURN, and INOUE or their designees; that no amendments be in order to these amendments prior to the votes; that upon the use or yielding back of time, the Senate then proceed to vote in relation to the amendments in the order listed; provided further that the pending committee-reported substitute amendment not be subject to any rule XVI point of order; and that upon disposition of these amendments, the Senate then proceed to vote on the motion to invoke cloture on the committee-reported substitute amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object, I would like to ask the leader if he would be willing to modify his request this evening to include the bipartisan amendment No. 4183 that would once and for all eliminate secret holds in the Senate.

Senator GRASSLEY and I, as part of a large, bipartisan group, have come to the floor of the Senate again and again simply seeking to abolish secrecy, not holds, in the way business is done in the Senate. These secret holds are an indefensible violation of the public's right to know.

I ask the leader at this time if he would be willing to modify his request to include this bipartisan amendment No. 4183 to finally eliminate secret holds in the Senate?

Mr. REID. I appreciate the exemplary work of my friend from Oregon. I, of course, would accept the modification, but my accepting the modification would take the concurrence of the Republicans.

Mr. COCHRAN. Reserving the right to object, I am constrained to advise the leader and the Senator from Oregon that on behalf of the Senator from South Carolina, Mr. DEMINT, I would be forced to object to that.

Mr. WYDEN. Further reserving the right to object, I would inquire at this point of the majority leader—and I appreciate the graciousness of the leader and Senator COCHRAN as well—if he would agree to a consent agreement this evening that would provide for the consideration of a bipartisan resolution eliminating secret holds at a later point but prior to the July 4 recess and that that debate be limited to 2 hours, with no amendments in order to the resolution, and that upon the use or yielding back of the time, the Senate would then proceed to vote adoption of the resolution?

Mr. REID. I say to my friend, he knows how much I support his efforts. But I haven't had the opportunity to speak to Senator MCCONNELL. It wouldn't be appropriate for me to agree to something without consulting with him. I can't consult with him now. I will do everything within my abilities here to work this out so that prior to the end of our next work period, we will get this done.

Mr. WYDEN. Further reserving the right to object—and I will be brief—I thank the leader, the distinguished Senator from Nevada. His desire to finally end secret holds is clear. All Americans should understand that the Senator from Nevada has worked very closely with Senator GRASSLEY and me on this. I appreciate the Senator's statement tonight that he will try to get an up-or-down vote on this matter before the end of the next work period.

With that, I withdraw my reservation.

The PRESIDING OFFICER (Mr. BEGICH). Is there objection?

The Senator from Oregon.

Mr. MERKLEY. Mr. President, reserving the right to object, can I ask for a clarification if this would prevent a pathway through which my amendment No. 4251 might be considered?

Mr. REID. It would prevent a pathway, yes.

Mr. MERKLEY. Reserving the right to object, this is an amendment that addresses the terrible drought we have in southern Oregon. Of course, we are addressing many natural disasters, and we have a natural disaster, a federally declared natural disaster in Oregon, in which we have been seeking to have a conversation about spending \$10 million on the front end of what is a terrible situation: the worst drought in recorded history of the Klamath Basin, with 1,400 farming families and 200,000 acres affected.

I was seeking the opportunity to have a discussion and a vote on this which, in consultation with the committee, the esteemed Chair and his team had suggested a pathway. It would mean a tremendous amount to the families in trouble to have their disaster considered while we are addressing other national disasters. This is the moment. This is the moment when we can still have an impact, through land idling and the pumping of water, to save families' financial foundations and, for a few families, through the pumping of water, to save their farming season.

If my colleagues on both sides of the aisle would be amenable, I would certainly ask this request be amended to allow a debate and a vote on amendment No. 4251.

Mr. REID. Mr. President, I appreciate the good will of my friend from Oregon. I would be happy to work with my friend. But at this stage, as the Senator understands, this is two pieces of legislation we got from the President—one dealing with emergencies. FEMA is out of money, totally out of money. This will replenish the money. And there will be opportunities for FEMA, when we do this, to have the ability to do some things such as helping the State of Oregon and other problems.

As we all know, there is going to have to be some work done with the gulf. So I will be happy to work with my friend in any way I can, but I think at this stage this bill has been through a lot already. Not only do we have the

emergencies dealing with the normal emergencies that come about as a result of floods, fires, and all this, we also have the troops who have to be taken care of. We must get this done. We are running out of money there.

If the Senator wishes to modify the amendment, I, of course, have no objection there. I will work with the Senator to try to find some pathway to do this. A modification is fine. But I want to make sure the Senator understands that at this stage we will have to try to figure out something separate and apart from this consent request.

Mr. MERKLEY. Reserving the right to object—I thank the leader—it is very hard for me to go and explain to folks in Oregon we have calamities in other parts of the country being addressed and this one is not. I would greatly appreciate the unanimous consent to modify my amendment. I do understand from what the Senator has said there is probably not a pathway to have it considered. But I would appreciate the Senator's support and my colleagues' support from Mississippi to try to—there should be no party line when it comes to addressing a federally declared disaster.

Mr. REID. I would say to my friend, most of the things that are listed here emergencywise—they are not coming to Democratic States. We have had these acts of God in most instances that happen where they happen. We have two Senators from Tennessee, and this has nothing to do with partisanship. But I am committed to help my friend from Oregon. We have other problems similar to that in Oregon, and I would be happy to work with the distinguished Senator from Oregon, who is always very reasonable. I will do what I can to work with the Senator and Senator WYDEN to make sure we take care of Oregon.

Mr. MERKLEY. I very much, thank the leader.

The PRESIDING OFFICER. Is there objection to the original request of the majority leader?

Without objection, it is so ordered.

The Senator from Oregon.

Mr. MERKLEY. Mr. President, I ask unanimous consent to modify my amendment, amendment No. 4251.

The PRESIDING OFFICER. Is there objection to modifying the submitted amendment?

Without objection, the amendment is modified.

Mr. MERKLEY. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENZI. 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. ENZI. Mr. President, I ask unanimous consent that I be allowed to speak for 10 minutes as in morning

business. I will be speaking on the supplemental bill, however.

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

Mr. ENZI. Mr. President, I rise to express my opposition to the fiscal year 2010 Supplemental Appropriations Act. It represents what is reprehensible about the conduct of the Federal Government: unchecked, unpaid for, deficit spending. After a trillion dollar "stimulus," a trillion dollar health care bill, and huge increases in the budgets of the bureaucracy, Americans are fed up with Congress's out-of-control spending. Our constituents have had enough, and they have asked us to rein in spending. Unfortunately, rather than listen to their cries, we have another appropriations bill that represents the same old, same old.

Of the nearly \$59 billion of spending in this bill, all but \$103 million is designated "emergency" spending. What does "emergency" spending actually mean, and what are these emergencies the Nation is facing?

Emergency spending means deficit spending. It means we are spending money that we as a nation do not have. An emergency designation relieves Congress of the burden and the responsibility of coming up with ways to pay for the spending. We are continuing to make purchases on the taxpayer's credit card, knowing full well we have no plans to pay back the loan. We have already maxed out the credit card. The company just has not found out yet.

Some programs under this bill may be considered true emergencies. There are unforeseen disasters, such as flooding and oil spills. But there are also disasters that occurred years ago that would receive funding under this legislation. Funding may be needed for those programs, but the lack of funding was certainly not unexpected and should have been in last year's and this year's regular budget and appropriations process. But appropriations and budgeting have been so disfigured, contorted, abused, and ignored by lawmakers in recent years that the system is broken, and you have a series of omnibus and "emergency" or supplemental bills. It is not the way to do it.

Even in the writeup of this legislation, the Senate Appropriations Committee noted that the \$5.1 billion for the FEMA Disaster Relief Fund is necessary to pay for known costs for past disasters, such as Hurricanes Katrina, Rita, Ike, and Gustav, the Midwest floods of 2008, and the California wildfires, as well as needs that emerge with new disasters.

The bill also provides \$13.4 billion in mandatory funding for the Department of Veterans Affairs for disability compensation to Vietnam veterans to implement a recent decision by the VA to expand the number of illnesses presumed to be related to exposure to Agent Orange. There is no doubt Vietnam veterans exposed to Agent Orange should be properly compensated, but Congress and the administration must

find a way to pay for these programs without spending money we do not have and do not intend to pay back. There is no plan to pay back.

I want to make very clear my strong support for our Nation's veterans and the current members of our Armed Forces and the vital work they are doing in the world every day. I have the greatest admiration for today's service members and veterans for their commitment to preserving our freedoms and maintaining our national security. I must question, however, using their sacrifices to justify irresponsible spending by this Congress.

Congress must pass this bill to keep the necessary resources going to our military. America has deployed our young men and women to defend our Nation's interests, and they deserve no less than having the funding and equipment necessary to carry out their missions. But some in Congress do not see this as just about the military. They see it as an opportunity to add their pet programs to the shoulders of our Armed Forces. No one wants to leave our military operations unfunded, so our military needs are being used to leverage support for nonemergency, deficit spending.

To be fair, the Appropriations Committee found some offsets for the spending in this bill. Unfortunately, the offsets only account for .17 of 1 percent of the total cost of the bill—not even a quarter of a percent of the cost of the bill: .17 of 1 percent of the cost. You would think we could at least hit the 1-percent mark. Mr. President, .17 percent is all that is offset in this bill. That is wrong.

Senator COBURN and Senator MCCAIN have offered amendments that would offset or pay for the larger costs of this legislation. Tomorrow morning we will get to vote on those, and I hope we will take them into consideration and make sure this is paid for. I hope all my colleagues will take a look at those amendments.

The funding cut proposals are reasonable. They are well thought out. They are ideas that will help us responsibly address the serious spending problems this Congress has. It is time for Congress to step up and start making the hard decisions of prioritizing Federal spending.

The American people have made it clear that Congress needs to be fiscally responsible. They have made it clear they do not support our spending billions of taxpayer dollars with little or no debate. We have been asking Americans to tighten their spending belts and take responsibility for their personal debt. It is about time the representatives of the people do the same.

In April 2009, when making an emergency supplemental appropriations request, President Obama said:

We should not label military costs as emergency funds so as to avoid our responsibility to abide by the spending limitations set forth by the Congress. After years of budget gimmicks and wasteful spending, it is time

to end the era of irresponsibility in Washington.

End of quote by the President.

I could not agree more. Congress and the administration need to find a better way to fund current military operations. Most of these funds are expected and should be addressed in the regular budget process.

Again, I want to provide our troops with the funding and the resources they need to be successful as they work to protect America. I do not, however, want the brave men and women of the Armed Forces nor the families of America who have been truly impacted by unforeseen disasters to be used as justification for unchecked and, in some cases, unrelated spending.

The men and women of our armed services deserve better than this spending bill. The people of the United States deserve better.

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.

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

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

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

TERRORISTS AND GUNS

Mr. LEVIN. Mr. President, earlier this month, the Senate Homeland Security and Governmental Affairs Committee held a hearing on the threat posed by the ability of terrorists to purchase firearms in America and legislative proposals to address that threat. Before purchasing a firearm, an individual currently must undergo a background check to search for disqualifying characteristics such as a felony conviction or a history of domestic violence. However, if the background check reveals that the prospective buyer is on the terrorist watch list, law enforcement legally cannot block the sale unless the individual falls into another disqualifying category. In other words, being on a terrorist watch list does not prevent someone from buying a gun.

To close this dangerous loophole, I support S. 1317, the Denying Firearms and Explosives to Dangerous Terrorists Act, which was introduced by Senator FRANK LAUTENBERG. I am a cosponsor of this legislation because it would authorize the Attorney General to deny the transfer of a firearm when an FBI background check reveals that the prospective purchaser is a known or sus-

pected terrorist and the Attorney General has a reasonable belief that the purchaser may use the firearm in connection with terrorism.

Law enforcement should have the authority to block the purchase of a firearm by a known or suspected terrorist. Giving them that authority is simply common sense and has support across the political spectrum. At the May 5 hearing, New York City Mayor Michael Bloomberg expressed his support, and that of the other 500 American mayors who are members of the bipartisan coalition Mayors Against Illegal Guns, for passing S. 1317. Mayor Bloomberg focused on data recently released by the U.S. Government Accountability Office showing that between 2004 and 2010, individuals on the terrorist watch list were able to purchase firearms and explosives from licensed dealers 1,119 times. I agree with Mayor Bloomberg's testimony that this data represents a serious threat to our national security and that Congress needs to act to address it.

Representative PETER KING, ranking member of the House Homeland Security Committee, also appeared at the hearing and spoke about legislation similar to S. 1317 that he introduced in the House. Congressman KING mentioned that his bill has Republican and Democratic cosponsors and would have a positive impact on law enforcement agencies across the country, highlighting the support of the International Associations of Chiefs of Police.

Closing the "terror gap" also is supported by an overwhelming majority of American gun owners. In December 2009, pollster Frank Luntz conducted a poll showing that 82 percent of NRA members and 86 percent of non-NRA gun owners favored a proposal to prevent individuals listed on a terrorist watch list from purchasing firearms.

Closing the loophole in Federal law that prevents law enforcement from blocking the sale of firearms to terrorists is not a controversial proposal. To the contrary, legislative efforts to close the "terror gap" enjoy widespread, bipartisan support. In order to keep Americans safe, it is essential that law enforcement is provided with every legal tool to keep guns out of the hands of known or suspected terrorists. I urge my colleagues to take up and pass S. 1317, the Denying Firearms and Explosives to Dangerous Terrorists Act.

VOTE EXPLANATION

Mr. ISAKSON. Mr. President, I regret that I was unavoidably detained on May 24, 2010, and missed rollcall votes No. 163 and No. 164. I ask that the RECORD reflect that had I been present I would have voted as follows: rollcall vote No. 163, a Brownback motion to instruct conferees: "yea"; rollcall vote No. 164, a Hutchison motion to instruct conferees: "yea."

NATIONAL MENTAL HEALTH AWARENESS MONTH

Mr. JOHNSON. Mr. President, I rise today in recognition of National Mental Health Awareness Month to fight the stigma associated with mental illness that discourages people from seeking help and raise awareness of disparities in access to mental health services.

The National Institute of Mental Health estimates that while only 6 percent of Americans suffer from a serious mental illness, over a quarter of adults suffer from a diagnosable mental disorder in a given year. These illnesses—depression, bipolar disorder, anxiety, phobias, personality and body image disorders, and substance addictions—are real diseases with proven treatments.

Mental health determines how we make decisions, handle stress, and relate to others, consequently affecting our relationships with our families, our colleagues, and our communities. Normally defined as how one thinks, feels, behaves, and copes, mental health is as integral to our well-being as our physical health. However, mental health disorders are chronically underdiagnosed and undertreated.

While public education and awareness campaigns can go a long way in addressing the stigma associated with mental health disorders, improved access to high-quality mental health care should be a national priority. Unfortunately, access to mental health services is often more disparate than access to medical care, particularly in rural areas. Rural States like South Dakota have long struggled to recruit and retain an adequate mental health workforce to meet the needs of their citizens. I am pleased the new health reform law will increase investments in the health care workforce, including mental health providers. Increased access to adequate and meaningful health insurance coverage has also been addressed with health reform, ensuring more Americans can obtain the care they need. All too often, insurance companies have failed to cover mental health services or impose restrictive measures on the scope and duration of the treatment. Last Congress, I was proud to cosponsor and support passage of the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act, which ensures health insurance coverage for mental health services is comparable to coverage of physical ailments.

In the short term, however, I remain deeply concerned about our Nation's mental health safety net. I recently joined several colleagues in support of increased funding for comprehensive community services for low income and uninsured people living with mental illnesses. While the economic downturn has placed an additional financial strain on Federal, State, and family budgets, community mental health centers and other safety net providers are simultaneously reporting a significant increase in demand for mental