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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

Eternal God, whose approval we seek above the hollow applause of humanity, may the deliberations of this historic Chamber start and end with You. Provide the foundation for the thoughts, words, and actions of our Senators, as they remember that You are the author and finisher of their faith. Make our lawmakers conscious of the great tradition on which they stand, as You fill them with the spirit of wisdom, understanding, knowledge, and reverence. May the tyranny of partisanship and expediency never bend their consciences to low aims which betray high principles.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 22, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, following leader remarks, if any, the Senate will proceed to S. Res. 591, which is a resolution recognizing and honoring the 20th anniversary of the enactment of the Americans with Disabilities Act. There will be 2 hours for debate. It will be divided equally between Senators HARKIN and ENZI or their designees. Upon the use or yielding back of that time, the Senate will proceed to the consideration of H.J. Res. 83, which is a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act. There will then be up to 20 minutes for debate equally divided between Senators BAUCUS and MCCONNELL or their designees.

Upon the use or yielding back of that time, the Senate will proceed to vote on the resolutions. The first vote will be on the Burma joint resolution, and the next vote will be on the Americans with disabilities resolution. We hope these votes will begin at around 12 o'clock today, maybe a little sooner.

Following the votes, the Senate will resume consideration of the small business jobs bill. As a reminder, last night I filed three cloture motions relative to the small business jobs bill. I hope we can reach an agreement to have these votes today. If no agreement is reached, we would have the first cloture vote tomorrow morning.

Senators will be notified when any additional votes, other than those I have mentioned, will be brought up.

MEASURE PLACED ON THE CALENDAR—S. 3628

Mr. REID. Madam President, S. 3628 is at the desk and due for a second reading.

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

The assistant legislative clerk read as follows:

A bill (S. 3628) to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes.

Mr. REID. Madam President, I object to any further proceeding with respect to this bill.

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

Mr. REID. Madam President, will the Chair now announce the business for the day.

RESERVATION OF LEADER TIME

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

20TH ANNIVERSARY OF ENACTMENT OF THE AMERICANS WITH DISABILITIES ACT OF 1990

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of S. Res. 591, which the clerk will report.

The assistant legislative clerk read as follows:

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

A resolution (S. Res. 591) recognizing and honoring the 20th anniversary of the enactment of the Americans with Disabilities Act of 1990.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 2 hours of debate, with the time equally divided and controlled between the Senator from Iowa, Mr. HARKIN, and the Senator from Wyoming, Mr. ENZI, or their designees.

Mr. REID. Madam President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged against both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECOGNITION OF THE MINORITY LEADER

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

SMALL BUSINESS LENDING FUND ACT

Mr. MCCONNELL. Madam President, Republicans today will continue to look for a way forward on the small business bill. This is an opportunity to deliver some real relief to small businesses struggling to dig themselves out of the recession.

Ultimately, Democrats seem to have other priorities. In the middle of a debt crisis, Democrats cannot seem to pass trillion-dollar spending bills fast enough. In the middle of a jobs crisis, they continue to push one bill after another containing job-stifling taxes, new rules and regulations, and government intrusion into business.

Their signature piece of jobs legislation appears to be a bill that borrows $34 billion from our grandchildren to help folks who cannot find a job in the environment Democrats have created over the last year and a half.

This small business bill gives us an opportunity to have a real jobs debate. But Democrats clearly do not want to have that debate. That is why they have repeatedly pulled this bill from the floor to move on to what they consider more important things or to get together downtown to pat themselves on the back after signing another job-killing bill.

Let's have a real debate about jobs. Let's consider amendments that would help small businesses—amendments like the one Senator JOHANNS wants to offer to eliminate a burdensome paperwork mandate and that small businesses are pleading with us to approve.

Our leader on the Small Business Committee, Senator SNOWE, is fighting to keep a provision out of this bill that amounts to another bailout. Members of both sides oppose it.

There is no evidence this new lending program will work. Even the Congressional Oversight Panel has expressed skepticism it will even be effective in increasing small business lending. The panel's report is skeptical it will improve access to credit. Moreover, the panel says this provision looks uncomfortably similar to the TARP bailout.

The problem banks and small businesses are facing is not that they don't have incentive to lend; it is that the government is threatening them with a 2,300-page bill full of new rules and regulations while their customers—small businesses—are threatened by pending tax hikes and more government intrusion.

For more than a year and a half, the President and his Democratic allies on Capitol Hill have pushed an antibusiness, antijobs agenda on the American people in the form of one massive government intrusion after another. Then there is a celebration. Here is an opportunity to have a real debate about job creation. Here is an opportunity to do something that might actually make a positive difference.

Small business owners are already being hammered by the health care bill. They are about to get hammered by the financial regulatory bill. It is time to do something they actually want for a change.

The American people are connecting the dots. They don't think the financial regulatory bill will solve the problems in the financial sector any more than they think the health care bill will be able to lower costs or lead to better care; any more than the stimulus lowered unemployment.

Republicans had offered amendments that would create the conditions for real private sector job growth. If Democrats shared this priority, this bill would have been law by now. Instead, they seem committed to the same approach that has led to 3 million lost jobs in the past year and a half.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. HARKIN. Madam President, I have come to the floor today—and we have a couple hours now—to introduce a Senate resolution which is now at the desk recognizing and celebrating the 20th anniversary of the Americans With Disabilities Act. Twenty years ago, the ADA was a great bipartisan legislative initiative. I am pleased this resolution also enjoys broad bipartisan support. I am grateful to all those who have cosponsored this resolution, including my chief cosponsor, Senator HATCH, and 31 other Senators.

Other Senators who are watching and would like to be added as cosponsors, I ask them to please call their respective cloakrooms and we will add their names to the list. Right now, I think we are at 22 or 23.

The Americans With Disabilities Act—signed into law on January 26, 1990—has been described as the Emancipation Proclamation for people with disabilities. The ADA set four goals for people with disabilities: Equal opportunity, full participation, independent living, and economic self-sufficiency. But as the chief Senate sponsor of the ADA, I can tell my colleagues that at its heart, the ADA is very simple. In the words of one disability rights advocate, this landmark law is about securing for people with disabilities the most fundamental of rights: ''The right to live in the world.'' It is about ensuring that people with disabilities can go places and do things that other Americans take for granted.

I will always remember a young woman by the name of Danette Crawford from Des Moines, IA. In 1990, she was just 14 years old. She used a wheelchair. She lived with constant great pain, but she worked and campaigned hard for passage of the Americans With Disabilities Act. When I told her the ADA would mean better educational opportunities, prevent discrimination in the workplace, better mobility—I was going through all these things the ADA would do—Danette said to me:

Those things are very important. But, you know, what I really want to do is just be able to go out and buy a pair of shoes like anybody else.

Well, two decades later, people with disabilities can do that and so much more.

Our society is so dynamic and changes so rapidly that we are often oblivious to quiet revolutions taking place in our midst. One such revolution has been unfolding for the last 20 years since the signing of the Americans With Disabilities Act. How soon we forget that, prior to ADA, Americans with disabilities routinely faced prejudice, discrimination, and exclusion, not to mention the physical barriers to movement and access in their everyday lives. In hearings prior to passing the law in 1990, we heard heartbreaking testimony about the obstacles and the discrimination that people with disabilities encountered every day of their lives. We heard stories of Americans who had to crawl on their hands and knees to go up a flight of stairs or to gain access to their local swimming pool, who couldn't ride on a bus because there was no lift, who couldn't go to a concert or a ball game with their families because there was no accessible seating, who couldn't even cross the street in a wheelchair because there were no curb cuts. In short, we heard thousands of stories about people who were denied ''the right to live in the world.''

The reach and the triumph of the ADA revolution is all around us. It has become a part of America. Today, streets, buildings—think about this—every building designed and built in America since the passage of the ADA is fully accessible—every building. Sports arenas. I just went to a sports arena the other day for a ball game and everything is accessible. There is seating for people, where they can sit with their families—not segregated out someplace, but they can sit with their

families. The same is true in movie theaters. Transportation systems: Every bus delivered in America today is fully accessible. It has a lift—every single bus. All our Metro systems today are fully accessible. But that is not all. Information is offered in alternative formats so it is usable by individuals with visual or hearing impairments. New communications and information technologies that are accessible to people with disabilities continue to be developed. It is hard to imagine we lived in a time without closed captioning on television. Think about it. I will talk more about my brother Frank, who is deaf and who never could understand what was on TV until we got closed captioning. That is what I mean. New technologies, new ways of doing things are now making life so much better. Thanks to the employment provisions in the ADA, many individuals with disabilities can get reasonable accommodations so they can do a job, they can get assistive technology, accessible work environments or more flexible work schedules.

But the ADA is more than accessible buildings and books that speak and traffic lights that talk to you. It is also hundreds of stories of opportunities and hope.

These changes are all around us. They are so integrated into our daily lives that sometimes it is hard to remember how the world was before.

Just as important, we have seen a big change in attitudes—attitudes—toward people with disabilities. Our expectation is we will do what it takes to give individuals with disabilities not just physical access but equal opportunity in our schools, in our workplaces, and in all areas of our economy and our society. The attitudes are so different today. A lot of it has to do also with the Individuals With Disabilities Education Act which preceded the ADA because now kids go to school with kids with disabilities. Kids grow up with kids with disabilities, so it is no big deal if they work alongside them later on. So the whole attitude has changed on how we deal in our society with people with disabilities. Perhaps that may be one of the biggest changes of all.

It is important for us to remember also—with all the political firefights that go on around here and the partisan bickering that goes on around here all the time that we bemoan—it is important to remember the passage of the ADA was a bipartisan effort and a bipartisan victory. Here in the Senate, I worked shoulder to shoulder with Senator Bob Dole and others from both sides of the aisle. We had invaluable assistance from Senator Kennedy, Senator HATCH, who will be speaking shortly, Senator MCCAIN, and others, including leaders who are no longer in this body, people such as Dave Durenberger and Lowell Weicker. The final Senate vote on the ADA conference report was 91 yeas and only 6 nays.

I just mentioned Senators HATCH and MCCAIN. I also wish, at this point, to mention the other Senators currently serving who voted for the ADA conference report on July 13 of 1990. They are Senators AKAKA, BAUCUS, BINGAMAN, COCHRAN, CONRAD, DODD, GRASSLEY, INOUYE, KERRY, KOHL, LAUTENBERG, LEAHY, LEVIN, LIEBERMAN, LUGAR, MCCONNELL, MIKULSKI, SPECTER, and REID. That is truly, I believe, a roll of honor.

As I said, one of those who helped manage the bill when we put it through back in 1990 and who has always been there helping to make sure we did this in a bipartisan fashion, get the bill through, and get it signed is Senator ORRIN HATCH. Later, we worked together on the ADA Act amendments that we just passed 3 years ago and that President Bush signed just 3 years ago. I couldn't ask for a better friend personally, but people with disabilities couldn't ask for a better friend either than the distinguished Senator from Utah, Mr. ORRIN HATCH.

I yield the floor at this time to Senator HATCH.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Madam President, I thank my dear colleague for his kind remarks. I remember those days we spent on this floor, and the days before that, when we had to convince people throughout the Congress that this was the right thing to do; that civil rights for persons with disabilities were absolutely necessary if we were going to be a gracious and understanding country, setting an example for all the rest of the world.

I remember when Senator HARKIN and I, after the vote, walked out into the anteroom out there, and there were hundreds of persons with disabilities in their wheelchairs and crutches, with various forms of disability, and both of us stood there and broke down and cried—two tough guys. You know that Senator HARKIN was a pilot and went through the war and has a tremendous reputation. I have been tough—too tough for some people around here—from time to time. But we both broke down and cried. And they cried. It was such a wonderful day, as far as I am concerned.

I thank my dear colleague from Iowa for his leadership in this matter. He mentioned all of the others we both want to recognize today. I will not repeat those. I will incorporate that in my remarks today.

This is a very special anniversary. Twenty years ago last week, we stood on the floor of the Senate and voted 91 to 6 to pass the Americans with Disabilities Act. Twenty years ago next Monday, President George H.W. Bush signed it into law.

The ADA is landmark civil rights legislation that represents our ongoing commitment to equality and opportunity for our fellow citizens who suffer with disabilities. The ADA is a special type of civil rights statute. On the negative side, it prohibits discrimination and provides for remedies when wrongs occur. But more important, on the positive side, the ADA requires reasonable accommodation for individuals with disabilities in the areas covered by the statute, such as employment. This accommodation obligation is what quite literally opens doors and keeps them open, improving lives in innumerable practical ways on a daily basis.

The original ADA in 1990 and the revision enacted 2 years ago are examples of both how hard legislating can be and the results sticking with it can produce. I know of few policy areas in which—on the surface, at least—political or ideological interests appear to be more at odds. I also know of few policy areas in which the objectives are more important and for which a deep and broad consensus is more crucial to achieve those objectives. Keeping our eyes on the goal helped keep everybody willing to listen, to compromise, and to do what had never been done before. The result has been a transformation in attitudes, perceptions, and actions throughout our society that have helped make countless lives better.

These two statutes, ADA and the ADA Amendments Act, also demonstrate that it is Congress that is responsible for national disability policy. Lawsuits, of course, bring the courts into the picture, and the Supreme Court was called upon to construe and apply the ADA on some questions the ADA itself did not clearly or directly address. I, for one, believe the courts must take statutes as they are and may not make or change them in order to achieve certain results. But whether or not the Court did its part properly, the Constitution gives the power to legislate to Congress. That is why, even if the Court had not had any such cases at all, we have the authority and the ongoing responsibility to establish, revise, and refine laws that help Americans with disabilities. That responsibility will never end.

I am pleased with my role in developing and passing both the ADA and the ADA Amendments Act. I am pleased to have been able to partner with my friend Senator HARKIN from Iowa. I am proud to stand here today with that friend, Senator HARKIN, without whom these statutes would not have been possible. I know these are more than simply statutes, more than pieces of legislation; it is what they represent—our ongoing commitment to making sure individuals with disabilities can participate in the American dream—that makes these statutes so important and this anniversary so very special.

I have seen those who are blind now taken care of, in many cases. I have seen those with various disabilities who are able to get jobs and show they are capable—not only capable but better than capable—of doing some things people never thought they could do. I have seen persons with serious disabilities who have become productive members of our society because they

have been given a chance. I have seen persons of courage in this area that I have never seen before, who literally live with their disabilities every day with smiles on their face, with an ability to be able to encourage others, and with an exemplary approach to life that makes all of us better people. I think these things have been magnified and blessed by these two acts that my colleague and I and others have been able to put through. I am proud of what we have done. I believe millions of people are better off because of what we have done.

This is a very appropriate thing to do—to recognize the Americans with Disabilities Act, and the other statute as well, so that everybody in this country realizes they are part of making these statutes work. I am so pleased with all of our American citizens who have pitched in and done what they could, from architects, to engineers, to skilled tradesmen, as I used to be, who have really made it possible for people to not only embrace life but to be a part of life and to be able to have the accessibility they never had before, and we are a better nation for it. Our people are better for it. Above all, these folks who have suffered with disabilities, who are so courageous, are better for it.

I will never forget, I mentioned when we passed the original ADA that I carried my brother-in-law, who was afflicted with both types of polio and, of course, lived in an iron lung but went on to get his college degree in engineering and a master's degree in electrical engineering—he worked for Edgerton, Germeshausen, and Grier in Las Vegas, went to work every day and at night got into an iron lung at home. He was a member of my Mormon faith, the Church of Jesus Christ of Latter-Day Saints, and I can remember carrying him, with his very light weight, through the Los Angeles Temple for church. It was meaningful to both him and me. I carried him in my arms all the way through that temple. It was a spiritual experience for both of us.

I have seen so many others who have suffered from disabilities whose lives have been improved and are better because of what has been done in the Congress of the United States. Again, I pay tribute to my friend Senator HARKIN. He understands this as well as anybody and has played a significant and perfect role in helping to bring these things to pass. I have nothing but respect and great love for my colleague and for the others who voted for this particular bill. I am glad to be able to support this resolution, to cosponsor it, and I hope and pray that all of us will continue to help those who may not be as fortunate as are we, who suffer from disabilities, and realize that they are just as productive in our society, in most ways, as we are.

I am grateful to be able to stand here today and make these comments.

I yield the floor.

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

Mr. HARKIN. Madam President, let me say to my friend, I was proud to stand with the Senator from Utah 20 years ago. We stood here together. We got the bill through. I remember so vividly, in my mind's eye, when we walked out to that anteroom. I mean, few people are blessed in their lifetimes to have that kind of a moment where something so meaningful was done and to see so many people whose lives before that were stunted because they didn't have the accessibility. Now to see this sort of wall come tumbling down—I remember our association so well.

I know my friend would agree this was not a slam dunk; it was not a very easy thing that we brought out on one day and it just happened. Senator HATCH and I worked on this for years. It took a long time to work out. But through the good faith of people on all sides with whom we worked—the disability rights community, all the different disability groups, and the chamber of commerce supported the bill—in the end, we worked together to bring everybody together. But it was a long process, as the Senator remembers.

Mr. HATCH. It was.

Mr. HARKIN. I say to my friend from Utah, I cherish those memories. I was honored to stand with him 20 years ago. I am honored to stand with him again today. I cherish the friendship we have developed over all those years. The Senator from Utah is a true friend, not only personally but also professionally, and he has always lent his weight and his seniority and his expertise in the Senate to making sure people with disabilities have that same equal opportunity and equal access. I think maybe both of us, because of our brothers who were disabled, were affected greatly. I think it imbued us both with a spirit of working hard to make sure people with disabilities had all the access and all the opportunities everybody else enjoyed. I thank my friend for his statement, and, more than that, I thank him for his great support of people with disabilities through all of his lifetime.

Mr. HATCH. Madam President, I thank the Senator for his kind remarks, but I also recognize his great leadership. This is a complex set of issues. We had complexities among the groups. We had to bring them all together and work with them. We had to try to resolve conflicts between liberals and conservatives, as usual. We also had to work very carefully with various personalities. But we were able to get it done. In large measure, it was due to the work of my friend from Iowa. I think people in the disability community and really throughout the country ought to be very grateful for what he has done. I am grateful to have been able to have played a small role in helping him to do it.

Mr. HARKIN. Madam President, it was not a small role; the Senator from Utah played a gigantic role in making sure we got this done. Working to get the ADA Amendments Act passed 3 years ago—we worked on that for something like 4 years to get it done. We were down at the White House, and it is interesting that the first President Bush signed the first ADA into law and the second President Bush signed the ADA Amendments Act into law. That is an interesting juxtaposition—father and son.

I thank the Senator.

Mr. HATCH. I thank the Senator.

Mr. HARKIN. Madam President, I mentioned earlier all of the Members of the Senate who have been so helpful.

On the House side, we prevailed because of outstanding leadership of people such as Congressmen STENY HOYER, Tony Coelho, and Steve Bartlett, a Republican leader in the House at that time. The final vote was 377 to 27 in the House.

At the White House, Boyden Grey, counsel to President George H.W. Bush, worked with us every step of the way. As I have said so many times, without Boyden Grey being there, we could not have gotten this done. I am always grateful to him for his leadership, working from the White House with us.

One other person who was with us every step of the way and continues to provide so much leadership in the area of disability rights is then-Attorney General Dick Thornburgh.

What a champion he was and is. I should not put it in the past tense. Dick Thornburgh remains today one of the preeminent people in America who keeps focus on what we are doing in society to make sure that people with disabilities have full access and opportunity.

Then there is the disability rights community. This would not have happened without the tireless, courageous, and unstoppable work of so many activists in the disability community. I think of people such as Ed Roberts, now passed on, Bob Williams, Pat Wright, Wade Blank—so many others. Of course, everyone recognizes the indispensable leadership of the late Justin Dart who was the chairperson of the President's Committee on Employment of People with Disabilities. Only one person's name is specifically mentioned in the resolution on which we will be voting this morning, and that name is Justin Dart.

As I have said many times, I may have been the principal author of the ADA, but Justin Dart was the father of the ADA and history will recognize and honor his great contribution.

Here was an individual who used a wheelchair most of his life, who was unstoppable. Justin Dart traveled to every single State in this Nation more than once, well over 100 different cities and communities, to promote the Americans with Disabilities Act for about 2 or 3 years prior to us bringing it up, to get that kind of national support for it. He was everywhere, and he would never give up. We remember Justin Dart as the father of the ADA.

No listing of those who made the ADA possible would be complete without also talking about my disability counsel at the time, Bobby Silverstein. Again, he was tireless in his work in both the drafting and the revising. As Senator HATCH and I were reminiscing, there was not even agreement among disability groups on how to do this. We would come up with a draft. We would meet with disability groups. We would have to revise it. We would meet with other disability groups. We would have to revise it. We would meet with business groups. We would have to revise it, and on and on.

Slowly, methodically, tirelessly, we got it done, and Bobby Silverstein was there every step of the way, as I said, drafting, revising, making sure we did not lose sight of the goals, making sure we had a bill that could muster bipartisan support. No words of mine can express the deep gratitude I have to Bobby Silverstein for all he did to make this possible.

I will never forget the pre-ADA America. I remember how it used to be perfectly acceptable to treat people with disabilities as second-class citizens, exclude them and marginalize them.

I will digress a bit and talk about my brother Frank, who was the inspiration for all of my work on disabilities both in the House before I came to the Senate and in the Senate.

My brother Frank passed away 10 years ago, a month before the 10th anniversary of the ADA. He always said he was sorry the ADA was not there for him, but he was glad it is here now for the younger generation, for those who are now coming so they would have a better future.

My brother lost his hearing at a very early age. Actually, he was about 6 years old. At that time, there were no mainstream schools, so he was taken from his family. We lived in a small town. He was taken from the family and shipped halfway across the State to the Iowa School for the Deaf.

Think about how traumatic this would be. First of all, you lose your hearing. You cannot hear anything because of spinal meningitis. Then all of a sudden he is picked up, taken away from home, and sent to a school over by Omaha. Think how traumatic that is for a little kid.

In school—and I remember people always spoke about my brother being at the school for the deaf and dumb. Young people do not realize this, but it used to be very permissible, when I was the age of the pages, for people to speak about people who were deaf as deaf and dumb. Schools for the deaf were referred to as schools for the deaf and dumb.

I will never forget my brother coming home from school once—it was later on when he was in high school—and people were referring to that. They would actually ask him: How are things going at the school for the deaf and dumb?

My brother would say: I may be deaf but I am not dumb. He refused, he stubbornly refused—he was kind of a stubborn guy, my brother was—he stubbornly refused to accept the cloak that society put on him.

In school, he was told he could be one of three things. He could be a baker, a printer's assistant, or a shoe cobbler. He said he did not want to be any of those things. They said: OK, you are going to be a baker then. So they made him into a baker. That is not what he wanted to do, but that is what they said.

He kept fighting. He kept fighting against it. I remember once when I was younger—he was now out of school—he went to a store. I will never forget this. When the sales person found out he was deaf and could not hear, she looked right through him at me and asked me what he wanted. How do I know what he wants? Ask him. That is the way people were treated.

He went to get a driver's license. He was told deaf people do not drive. He broke that barrier down, too. He got a driver's license and bought a car.

I remember when my brother finally found employment at a plant called Delavan Corporation. I got to know Mr. Delavan later on when I was in high school and later on when I was in college. He went out of his way to hire people who were disabled. It was a manufacturing facility with a lot of noise. So he hired a lot of deaf people. They did not care if it was noisy.

My brother got a good job running a very delicate machine that drilled tiny little holes in engines for jet engine nozzles. It had to be finely made. Later on, when I was a Navy pilot, I found out the planes I was flying at the time were using the very nozzles made by my brother.

I came home one time for Christmas—my brother never got married. I was not married at the time—I came home for Christmas. Delavan always had a big Christmas dinner for all of the workers. I went with my brother to the Christmas dinner. Lo and behold, unbeknownst to either one of us, they honored him that night because he had worked there 10 years and in 10 years, he had not missed one day of work or late one day. They gave him a nice gold watch. It was very nice. In the 23 years my brother worked there, he missed 3 days of work because of a blizzard. He could not make it.

I tell that story for a couple of reasons. One, because I am very proud of my brother, but also because so many people I have talked with—employers who have employed people with disabilities—will tell you that the hardest workers, the most loyal workers, the most productive workers they have are many times people with disabilities. But they have to get over the hurdle of hiring them in the first place. With a little bit of support, some accessibility issues, maybe modifying the workplace a little bit, we can get a lot done and they can be the best workers.

I have one more story about my brother I have to relate, since I have the floor, and he was such an inspiration to me.

I was elected to the Senate in 1984. I was sworn in January 1985. No one in my family had ever been in politics. First of all, to be a Congressman is one thing, but to be a Senator—wow. My whole family came for the swearing in, and my brother Frank. I remember I put him in this gallery right behind me. This was January 1985. I put him up there, and I had gotten an interpreter, a sign language interpreter. I had gotten an interpreter for my brother for this gallery right back here. I got him seated up there, and I came back down on the floor. I looked up and I saw one of my other brothers—one of my hearing brothers—motioning to me. So I went back up there.

My brother John said the guard would not let the interpreter stand up there. I went out to see the guard, the doorkeeper. I said: My brother needs an interpreter. No, we cannot allow people to stand in the gallery and interpret.

I said: It can't be so.

Rules are rules.

I came down to the floor. At that time, Senator Bob Dole was the majority leader of the Senate. Senator Dole had a disability himself because of his war wounds and his maiden speech on the Senate floor when he was first elected was about disability rights. I go to the majority leader, the Republican leader. I did not know him that well. I said: Mr. Leader, here is the situation. My brother is up there. I am being sworn in. He needs an interpreter and they will not let the interpreter in.

Senator Dole said: I will take care of it. He did, and we got the interpreter.

Now we have places for people with disabilities to come and sit with their families. We have interpreters. We have closed captioning. No longer do we discriminate against people who are deaf or disabled and want to come into the Capitol.

So many changes have been made to the Capitol. We have a full office in the Capitol now just for people with disabilities to take tours of the Capitol. We have interpreters for people who are blind. We have bas relief models of all the floors so as they go through the main Rotunda, the Old Senate Chamber, the House Chamber, the old Supreme Court, they can feel with their hands what it looks like. It is all accessible now.

I talk about the things that happened to my brother. It sounds like something out of the medieval past. We are hopefully overcoming—I do not say we are complete—we are overcoming this false dichotomy between disabled and able. We recognize that people with disabilities, like everyone, have unique aptitudes, unique abilities, talents. And we know America is a better and a fairer and richer nation when we make full use of the gifts people have.

One of the things that ADA has done is it has infused in so many people the

idea that we should look at people not for their disabilities but what are they able to do, what are their abilities. Do not tell me what your disabilities are. What are your abilities? That is a major step forward.

The day the ADA passed I can honestly say was the proudest day of my legislative career. I also say to the occupant of the Chair, I stood at this podium at that time and gave my entire speech in sign language. Senator Bob Kerrey, a Senator from Nebraska, was the occupant of the chair at the time. He has never forgotten that. I guess maybe I haven't either. It was the first time anyone ever gave a long-winded speech on the Senate floor and no one ever heard him. Perhaps a lot of people wish we would do that more often.

It was a great day. I think every Senator who was there who voted yes can look back 20 years with enormous pride in this achievement. We were present at the creation, but it had a robust life of its own. It has been integrated into the very fabric of American life. It has changed lives and changed our Nation. It has made the American dream possible for tens of millions of people who used to be trapped—trapped—in a nightmare of prejudice and exclusion.

I am reluctant in many ways to detract from the joy that we all feel about what has happened over the last 20 years and how far we have come in our country. But I am obliged to point out, because of my close association with so many people in the disability community and so many different parts of the disability community, that the promise of the Americans with Disabilities Act is not quite complete.

When we passed the ADA we had four goals: equal opportunity, independent living, full participation, economic self-sufficiency. There is more work to be done to fulfill those goals. For example, every person with a disability deserves the right to live where he or she wants to live. You might say everybody has a right to live where they want to in America. But think about what I said earlier, people in the disability community want the right to live in the world.

Here is what I am referring to. For years a person with a disability who qualifies for care in a nursing home, can get that care in a nursing home fully refunded, fully paid for by the Government. If you have a disability and you qualify for that level of care and you go to a nursing home, Medicaid picks that up. But let's say you don't want to go to a nursing home. Let's say you are disabled and you want to live in a community. You want to live near your family and your friends and you choose to do so. Medicaid doesn't pick up that bill. If you live in a nursing home, they will, but not if you live independently, on your own. This is something we have been trying to overcome for a long time.

Finally, 10 years ago, there was a Supreme Court case. It came to the Supreme Court. It was called the Olmstead case, a case out of Georgia. Listen to this. The Supreme Court held that people with disabilities have the right to live in the least restrictive environment and to make their own choice to receive their care in the community rather than in an institutional setting. In Olmstead, the Court held that the unnecessary institutionalization of individuals with disability constitutes discrimination under the ADA.

Listen to what the Court said. The Supreme Court said:

> Recognizing that unjustified institutional isolation of persons with disabilities is a form of discrimination reflects two evident judgments. First, institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life; secondly, confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement and cultural enrichment.

Ten years ago the Supreme Court said that. I am obliged to stand here and say, 10 years later, we have not gotten there. Ten years ago the Supreme Court said that putting people in institutions against their will when they want to live in the community is discrimination. Yet it is still going on. Under current law, Medicaid is required—required—to pay for nursing home care for a person with a disability who is financially eligible. But there is no similar obligation to pay for the same person to receive their care at home. This makes the promise of the Olmstead decision hollow for many residents of many States.

I will have more to say about this later but I see another champion who, during his career in the House and even before that in his own State of Ohio, but for all of his life and his career, has been one of our stalwarts in fighting for the rights of people with disabilities. Senator BROWN could not be harder working and more devoted to making sure that the ADA actually works and is not put on the shelf someplace.

I thank the Senator from Ohio for all of his support over all the years, for support of the ADA, the ADA Act Amendments which he was here for and helped us get through, and for all the things we do to try to make life better, more fair, and more just for people with disabilities.

I yield the floor to the Senator from Ohio.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I thank Senator HARKIN.

Before I was in the Senate, for several years in the House I watched from afar the work Senator HARKIN did. No one, and I mean no one—we hear a lot of accolades here; not always as genuine, perhaps, as they should be, but this one absolutely is—no one has worked as hard or as effectively as Senator HARKIN has on issues affecting people with disabilities. It is personal for him, but Senator HARKIN has taken up what was a personal issue for him growing up, about his brother and now about his nephew, and the impact it has had on him and the impact it has had on America is terrific and is unmatched.

I know Senator Kennedy, about whom we still think so often, was a major driver of this and other civil rights issues. But I would say Senator HARKIN has been second to none, advocating for his brother, for his nephew, but for Iowans and Ohioans and Californians and North Dakotans—all over this country, New Yorkers—everyone, those Americans with disabilities who typically make less money or are less likely to be employed because of discrimination and because of biases that we all probably too often too much hold.

Senator HARKIN has always risen above that and challenged people to do the right thing on this civil rights issue and on so many other civil rights issues. For that I am grateful, as a protege, to Tom Harkin, as a mentor and well beyond that.

We know this coming month marks the 20th anniversary of the passage of one of our Nation's most important civil rights laws. It is always important to reiterate this is a civil rights issue. It does not always get as much attention as a civil rights issue, but it absolutely is a civil rights issue that affects the human right and civil right of all Americans, especially those people with disability. For the last 20 years the Americans With Disabilities Act has helped educate a child with cerebral palsy or multiple sclerosis. It has broken down employment barriers for all kinds of people with disabilities—those who are blind, those who are deaf—so many Americans. Places of work and recreation, from a courthouse to a ball park, because of this Americans With Disabilities Act, are more accessible to the wheelchair bound. So, too, are public accommodations and public transportation.

Those in this body who are as old or older than I can remember how different the world looked in terms of curbs, in terms of stairs, in terms of access, just physical access to all kinds of public facilities, let alone private facilities; how different things were before 1990 when the Americans With Disabilities Act was signed into law by the first President Bush.

Modern conveniences from the telephone to the Internet are not technological barriers but means, now, of social inclusiveness and economic opportunity. The ADA has increased graduation rates for Americans with disabilities, and it has increased public safety on our streets and in our hospitals. Simply put, since the ADA passed 20 years ago, more than 50 million—1 out of 6 of our 300 million citizens in this country—more than 50 million Americans in this country have had a greater opportunity to enjoy basic rights and

privileges afforded to every American. That is due in large part to Senator HARKIN's leadership on this bill.

He speaks about the lack of opportunities his deaf brother Frank had in school and in the workplace. At the same time he speaks about his nephew, a quadriplegic veteran, who used the GI Bill to go to school, used a wheelchair and accessible van to live a self-sufficient life. That is the difference when government chooses to assert its responsibility to extend equal opportunity to all its citizens. I understand Senator HARKIN's office is currently conducting a tour of 99 counties to collect the stories of Iowans who have benefited from the ADA. In many ways, these stories also honor the activists in the community, advocates in the courtroom, the physicians and nurses' aides and physical therapists and occupational therapists in hospitals, who pushed for change decades before the ADA.

The ADA was not the culmination of our work because it continues. But understand how many people worked so many years, working side by side with the Senator HARKINs of this body and others, to bring forward that legislation 20 years ago.

In my State, in Ohio, independent living centers and ability centers across the State have long provided the support services for Ohioans with disabilities that the law had failed to do. Ohio's school for the deaf was established in 1829 in a small house across from what is now the Capitol on Broad and High Streets in downtown Columbus. It provided the education the law did not require, in those days, of all education institutions. Through much of the last century, the 20th century, friends and families of Americans with disabilities were forced, day in and day out, to overcome daily obstacles because there was no law to help.

In the absence of a law remained the incessant bias and the chilling stigma that held back our Nation's progress—as it did with voting, with gender discrimination, as it did with racial discrimination. Passage of the ADA teaches us that wisdom and goodness persist in each of us, despite efforts to marginalize and discriminate by some of us.

Across Ohio on Monday—at the Statehouse in Columbus, independent living centers in Dayton and Cincinnati, and at the Great Lakes ADA Center in Cleveland—Ohioans will celebrate the importance of the ADA with friends and family.

In Toledo, the ability center will celebrate its 90th anniversary with an ADA celebration at the Toledo zoo, bringing together children and families to celebrate a ''Journey Together—Justice, Equality and Community.'' Such demonstrations celebrate how far laws protecting those with disabilities have come and how much work we still need to do.

We know that Americans with disabilities continue to face employment barriers, sometime legal, more often not, but based often on bias and prejudice and stigma and all the mix of human emotions that are not always so admirable in all of us. Americans with disabilities are twice more likely to live in poverty than their fellow citizens, with higher rates of unemployment and, don't forget, higher rates of underemployment. We know like all progress in our Nation the march for justice and equality for the disabled was not easy. Passage of civil rights, voting rights, labor rights is not ever easy. The fight for women's rights and fair pay was not easy. The passage of Medicare and Medicaid, recent health insurance reform was not easy. The fight is always worth it.

I wear in my lapel a pin depicting a canary in a birdcage. It was given to me 10 years ago at a workers Memorial Day rally celebrating those workers who had lost a limb or even their lives on the job. The canary says to me 100 years ago workers in this country who went down in our mines had no union strong enough or government that cared enough to protect them. They were on their own. That is why they took the canary down in the mine. If the canary died from toxic gas or lack of oxygen, the mine worker on his own had to get out of that mine.

We know what has happened in the hundred years since—mine safety laws, although obviously not quite good enough and not enforced often enough and effectively enough. We know what else happened: Medicare/Medicaid, civil rights, Social Security, ban on child labor, safe drinking water, clean air, seatbelts, airbags—all the kinds of things that have made our lives richer and better and longer in a way that no country on Earth before us had ever achieved.

Add the Americans With Disabilities Act to that long line of success, of a fight for justice in human rights that was not easy. Every one of those whom this canary pin represents, every one of those pieces of progress, whether it is the Food and Drug Administration, safe food, clean air, safe drinking water, Americans With Disabilities Act, civil rights, prohibition on child labor—every one of those victories came at great cost and with great effort. That is the story of the Americans With Disabilities Act. It is part of that lineage of government stepping in to extend equality and opportunity to all Americans, understanding some number of people in this body and in this country think there is not much of a role of government for a lot of things, but they need to think about that canary in the cage.

They need to think that 90 percent of this country thinks there should be strong mine safety laws, there should be strong civil rights laws, there should be strong labor laws, there should be strong pure food laws and safe drinking water and clean air and auto safety and all those things we do.

On April 4, 1864, President Lincoln signed into Federal law the authorization to confer collegiate degrees to the deaf and hard of hearing at a campus here in Washington, DC. To this day, Gallaudet University is the only liberal arts university in the world dedicated to the pursuit of access to higher education for deaf and hard-of-hearing people.

For the past year, I have had the honor to serve on the Board of Trustees at Gallaudet University. I did so at the behest of Senator HARKIN, who has reinforced for me the responsibility we all have to serving the public good. A visit to Gallaudet University is a visit to an institution that is a model for what we should be doing in this country in civil rights and rights for Americans with disabilities.

Three years before signing Gallaudet's charter, President Lincoln celebrated our Nation's 85th year of independence, in 1861, by declaring to the Congress:

> The principal aim of the US government should be—

These are Lincoln's words—

> The principal aim of the US government should be to elevate the condition of men—to lift artificial weights from all shoulders—to clear the paths of laudable pursuit for all—and to afford all, an unfettered start and a fair chance in the race of life.

As we celebrate the 20th anniversary of the ADA, let's work so each American has that unfettered start and that each American has that fair chance, just a fair chance, not a guaranteed result but a fair chance, to achieve the American dream, that our Nation be free of prejudice and bias and, instead, full of opportunity and access.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. HARKIN. First, let me thank the Senator from Ohio for his kind words. But more than that, more meaningfully, to thank him for all his help and support on so many broad issues that deal with working people in America and, especially now at this time, people with disabilities.

I thank him for his service on the board for Gallaudet University. It is a great institution. I would hope everybody could pay a visit to Gallaudet. It is one of the ''crown jewels'' of our government. As Senator BROWN said, it is the only place in the world where a student who is deaf can go and get a liberal arts education. Quite frankly, as the Senator knows, we do bring students from other countries over here who go to Gallaudet and then go to their home countries after graduating. I thank the Senator for his service on the board of Gallaudet University.

Before Senator BROWN spoke, I was talking a little bit about one of the

unfulfilled promises of ADA; that is, independent living, the idea that people should not be forced to go into a nursing home just to get support so they can live.

I mentioned the Olmstead decision of 10 years ago by the Supreme Court, which basically said that mandating that people have to live in a nursing home in order to get Medicaid support is discrimination under the ADA, but 10 years later it is still going on. Some States have moved ahead in this regard and have provided the wherewithal to help people with disabilities to live independently.

The problem is, most States still limit, they limit people with disabilities who can get this kind of assistance. They either do it through a waiver program or other exceptions. They include only certain particular types of disabilities, they have cost caps or they just simply limit the number of individuals who can be served. So it kind of is almost adding insult to injury. It is sort of the luck of the draw, sort of like a lottery. If you fall into a certain group, if you happen to have applied before they filled their quota, you can live in the community and get support. If you did not, you are out of luck.

So this has built up all kinds of tensions within the disabled community and among different groups of disabilities because States sometimes identify by disability who can get support in the community and who cannot.

So ever since the passage of ADA, and I can remember shortly after the passage of ADA I took to the floor and I said: Now that we have the ADA passed, the Americans with Disabilities Act, the next big hurdle is to make sure two things: People can live independently in the community, and they can get the supportive services they need in order to do that and to get employment.

So we have been trying to do that now for 16, 17 years. At first, there was a bill called MICASSA. Do not ask me what it stands for, I forgot. But it was a bill that would provide for people to be able to get the same support, whether they lived in an institution or they lived on their own in a community.

Well, we could never get that bill passed. CBO gave it all these horrendous costs. It was going to cost so much money. I always thought that was spurious; that the cost estimates were not right. Then we followed up with a bill called the Community Choice Act. Well, we did not get that. We have not gotten that done either, but we did get a couple of promises in money follows the person. In the recently passed health care bill, we saw our opportunity to do something, to help, to try to fulfill the mandate of the Supreme Court, a constitutional mandate that people should be able to live where they want to live.

So what we have now in the health care bill is we have expanded the Money Follows the Person Program; that is, the money to States to follow the person. Rather than money going to a State to go to an institution to pay for a person, why not the money go to the State to go to the person and let the person decide where he or she wants to live?

So that has been extended to 2016 in the health care bill. The other part of this, of making sure people can live independently and can have economic self-sufficiency, is personal attendant services. Again, right after the passage of the ADA, I spoke about that. I said: You can have all the wonderful accessibilities in your job, you can have transit systems and buses that will take you to your job and back or subways or whatever, and you can have the most enlightened employer that can provide accessible work spaces.

But what if you cannot even get out the door in the morning? What if you cannot even get from your bed to the door to get to work? Herein, again, I speak of my own family. My nephew Kelly was only 19, about 20 years old, when he was severely injured. He became almost a quadriplegic, severe paraplegic.

Well, he is a big strapping kid. Kelly, again, was not going to give up. So he went back to school, got his education, and then he wanted to live by himself. He did. Well, he lived at home for a while with my sister and her husband, my brother-in-law. But then he wanted to strike out on his own. So he got his own independent place to live.

Here is what happened to my nephew Kelly. Every morning he would have a nurse come in. He lived by himself. A nurse came into his house, got him out of bed, got him going in the morning, took care of certain functions, got him ready to go.

Kelly would make his own breakfast, roll his wheelchair out. He had a lift on his van. Lift it up, put him in the van. Drive to work. He became so independent he started his own small business.

Then, at night when he would come home, a lot of times he would stop, shop in a grocery store or something like that, get in his van, come home. Every evening he would have, again, a personal attendant who would come into his house and do his exercises. He was so determined to keep his muscle activity alive. So he would have a person come in, do all his exercises, put him through his routines every day, and then get him ready so he could go to bed. This happened every day.

But it enabled him to get up and get out the door and go to work, become a tax-paying, income-earning citizen. So how was he able to afford this? Were my sister and her husband wealthy? Not at all, had no money whatsoever. So how was Kelly able to afford someone to come in every day and take care of him like that and give him these personal attendant services?

He was able to afford it because he was injured in the military. He was injured while serving on an aircraft carrier. So the VA—thank God for the VA—the VA paid for this. They paid to have his home modified so he could live by himself. Now, for 30 years, the Veterans' Administration has paid for Kelly to have personal attendant services so he can go to work, earn a living, pay taxes.

But what about people who were not injured in the military? What about people who just got injured in an accident or were born with a disability who do not have the Veterans' Administration to pay for this? Well, they are out of luck. They are just out of luck.

So they may want to get a job. They can be very capable of doing a job. They can be well educated, know how to run Microsoft and Word and all that kind of stuff. They may be qualified for a job. But if they do not have some support during the day to get out the door, how are they going to get down to that bus stop to get on that accessible bus to go to a place of business that is accessible, that has an employer that has made the workplace accessible so they can have a job? Very shortsighted. Very shortsighted, to say: No, we will do all those other things, but if you cannot get out the door in the morning, tough luck, or if you need something during the day, maybe you need someone to come in during the middle of the day to help you with something you may need, whether it is eating or grooming or bathing or toilet activities or whatever it may be, maybe you need that once or twice during the day just so you can work, they do not have that.

That is our next big challenge. That is our next big challenge, to help with these everyday tasks that most people take for granted. It makes the crucial difference between whether a person can live an independent inclusive life in the community or they have to be sent to a nursing home to live in isolation.

So when people tell me this costs a lot of money, I say: Wait a second. Wait a second. Let's have this again. It costs a lot of money? What about all these people who are in nursing homes now that could be living by themselves? What about all those people who are living by themselves now, out there but are not getting any support, but they are not working. They want to work. They are capable of working. What if they go to work and become taxpayers, income earners?

That is not taken into account, you see. Only the outlay is taken into account. That is why I have always said the cost that we see of personal attendant services is skewed because we do not take into account the other side of the ledger. But we know, we know from personal experience, that people with disabilities, as I have said, can be the most productive, hardest workers in our society, if they are just given a chance.

Again, these services, these supports, allow them to fulfill the promise of the ADA, to have jobs, participate in the

community, to make their own choices, not having the State or the government or someone else tell them how they have to live.

Let people make their own choices. Let them govern their own lives. That is why the Community First Choice option that is in the health care bill is so important. So we are starting to move in that direction. We should have done it a long time ago, but we could not, but we got it in the health care bill. So beginning in October of next year, 2011, in the health care reform bill we passed, that we will have available to States, if a State selects and chooses to implement the Olmstead decision and to support people with disabilities to live in the community on their own, they will get a bump up in their Federal matching funds.

Specifically, the community first choice option in the health care bill will cover the provision of personal care services and will also help support people who live independently, personal care services so people can live independently. For the first time in the health care reform bill we passed, the community first choice option will require a State to provide all eligible individuals with personal care services rather than only serving a small proportion, maybe just certain people with certain disabilities or waiting lists or caps on costs. This bill will require a State to provide all eligible individuals with personal care services rather than serving a small slice, as now, or keeping long and slow moving waiting lists. Some people are on waiting lists for 10, 15 years before the State comes up with the money so they may live on their own and have personal care services.

The community first choice option is one that starts next year, but it will grow every year. A State that moves in that direction will get a bump up of 6 percent in their Federal matching funds. That is a big deal. A State that wants to do this says: If we do it, we will get more money for the FMAP. Without getting into details, what that means is the State will get more Federal money, if it provides for the independent living of people with disabilities in the State. We have made significant progress in increasing home and community-based options; the big step being in the health care bill as it unfolds. But we are still a long way from having a comprehensive and equitable system for providing personal care services to all Americans who are eligible for nursing home care.

Let's talk a little bit about the issue of employment, perhaps my biggest disappointment in the 20 years since ADA has been in employment. Data surveys show that right now 60 percent or more of people with disabilities who want to work and are able to work are unemployed.

We hear about all the unemployment figures all the time. We hear about 9 percent unemployment or 18 percent unemployment. Think about people in the disability community, 60 percent unemployment. This is shameful, this many years after the ADA was passed, 10 years after the Olmstead decision. There are a variety of reasons. Again, one of the biggest is lack of support services. Some employers don't provide enough reasonable accommodations. Some people are just reluctant to hire people with disabilities. That kind of subtle discrimination still goes on.

In the bill, we said employers must provide reasonable accommodations. I remember so many stories in the unfolding after we passed ADA. I remember the story of one woman who had a big skill set in terms of what was then computers, the early 1990s. She had a great skill set in that. She had answered an ad for employment, went down and interviewed. She clearly was qualified. Because the job required her to work at different stations, different desks, the employer said he couldn't do that because she used a wheelchair. She had been born with a disability. She couldn't get under the desks because of the height of the wheelchair.

The employer said: I would have to replace all these desks. That costs a lot of money. It is not a reasonable accommodation. So she went home, told her father this. Her father, who was somewhat of a reasonable carpenter, had a bright idea. He went down to the workshop and cut a bunch of wood blocks about 3 inches high. He took them to the employer and said: If you just put one of these under every leg of the desk, it would not cost very much. Then it will be accessible—simple things like that.

I remember the story of a school. The school board was very upset because they had to make the drinking fountains available. If we have kids in school with disabilities, we will have to lower all the drinking fountains or something like that. It will cost a lot of money. Someone pointed out, if they just put a wastebasket and a paper cup dispenser by the water fountain, they solve the problem—simple things like that that don't cost much money at all.

It took a while for people to start thinking about it. How do we do things in a simple, straightforward manner so that people can go to school or work and we can make reasonable accommodations?

Employers I talk to who have employees with disabilities say they are the most exemplary of workers. All they need is an opportunity and reasonable accommodations, maybe supportive services. Yet we just haven't made as much progress as I had hoped over the last 20 years. We need to do a better job of ensuring that people with disabilities have job opportunities, not just any job but one that is equal to their interests and their talents and pays accordingly. We need to ensure that persons with disabilities have access to the training and supports necessary to be successful.

So many times I have heard: I don't have a job in the disability area, for a person with a disability. A lot of people think people with disabilities have to work on disability issues. That is not it at all.

I always talk about my brother Frank. He didn't do a job that had anything to do with being disabled. But he had a talent, and he could do something else. It is time to quit looking at people and focusing on the disability. Look at people and focus on their abilities, what they are capable of doing, what their talents are, what they can do. Don't talk to me about disabilities. We can overcome that. What are their talents and abilities? That is why we need the training and support activities, so we can bring that shameful unemployment rate of 60 percent down.

The ADA is to people with disabilities what the Emancipation Proclamation was to African Americans. One of the great shames of American history is that it was more than a century after the Emancipation Proclamation that the Civil Rights Act actually made good on Lincoln's promise. That is too far and too long to wait. I can't think of a better way to celebrate the 20th anniversary of ADA than by rededicating ourselves to completing the promise of the Americans with Disabilities Act. This means giving people with disabilities not only the right to be independent or the right to have a job but the wherewithal to be independent and to hold a job.

I don't want to forget all the progress and accomplishments we have achieved over the last 20 years. It has been wonderful, monumental. To activists and advocates in the disability community who are out there in the States and here in the Nation's Capital, I salute them. I thank them for all the progress they have worked so hard to bring about through their dedication and tireless efforts. On this day, as on Monday, they can be proud of the great things they have accomplished. We all know there is much more work to be done.

When I spoke on the Senate floor 20 years ago, I did it all in sign language. I have neglected to do so today. I think since my brother passed on, I don't speak with sign language very often. I don't practice much anymore. I have forgotten many signs. But there is one final thought I have. In American sign language, there is a wonderful sign for America. I want to teach it to all these pages and everybody. It is a wonderful sign for America.

You put your fingers together like this, kind of make an A for America, and it goes around like this. That is the sign for America. Think about it. Not separated, everyone together, one family, no one is excluded. No one is here; no one is there. We are all together. We are in this circle, the circle of life. A beautiful sign for America.

That is what I think about when I think about the Americans with Disabilities Act. It brought people into the circle. It made everybody part of a family. It made our family much more complete.

That is the historic achievement we celebrate in the Senate resolution before us today. It is the historic achievement we must safeguard for generations to come. One America, one inclusive American family that respects the dignity, the value, and the civil rights of all, including Americans with disabilities.

When he signed the ADA into law, President Bush spoke with great eloquence. Just before taking up his pen, he said:

Let the shameful wall of exclusion finally come tumbling down.

Twenty years later, that wall is indeed falling. The ADA has broken down barriers, created opportunities, transformed lives. This great law is America at its very best. So it is fitting for the Senate to commemorate its great achievement 20 years ago in passing the ADA with an overwhelmingly bipartisan vote of 91 to 6. I urge all colleagues to join with the many bipartisan cosponsors in voting for this Senate resolution.

Mr. JOHNSON. Madam President, I rise today to recognize the 20th anniversary of the enactment of the Americans with Disabilities Act. This legislation, signed into law on July 26, 1990, marked a historic affirmation of the principles of equality and inclusion upon which our country was founded. I was proud to cosponsor this legislation as a Member of the House of Representatives, and I am proud of the strides made since that time in protecting and defending the civil rights of citizens with disabilities.

When the law was enacted, many Americans believed that it was an impossible dream that all street crosswalks should be wheelchair accessible. Employers feared the prospect of having to make ''reasonable accommodation'' for their employees and customers with disabilities. Frankly, some people found it unthinkable that disabled people would be able to fully participate in our society. I am pleased to report that the past 20 years have proven them wrong.

Thanks to the ADA, disabled people across the Nation are better able to engage in their community, contribute to their workplace, and achieve their educational goals. While the ADA increased accessibility to public places and addressed physical barriers, it also changed the landscape of opportunities available to Americans of all abilities. Attitudes have shifted to recognize people for their abilities and talents, rather than their differences.

These advances have contributed to the growth of productivity in our Nation and have brought an entirely new realm of perspectives and ideas into the workplace. As millions of Americans have received fair treatment because of these laws, so has our Nation benefitted through increased growth and productivity in our workforce.

Last Congress, I was pleased to cosponsor and support the passage of the ADA Amendments Act of 2008 to ensure the intent and protections of the ADA were realized. This law extends protections from workplace discrimination to cover a broader universe of persons living with disabilities. I have supported efforts to expand home and community-based services to ensure individuals can access the necessary health and assistive services while still living in their homes. I am pleased the health reform bill included these efforts, as well as other provisions to increase long-term care choices.

And yet with all this progress, there is still work left to be done. The disabled community still faces barriers in accessing quality health care, obtaining appropriate education, finding meaningful employment opportunities, and securing financial independence. The rising price of health care has placed financial pressure on all Americans. These increased costs put additional strain on disabled working Americans when their earnings become a liability rather than an asset. Individuals should have the opportunity to contribute their time and talents without jeopardizing their health insurance benefits and challenging their incentive to work. Our policies should encourage vocational promotion, self-sufficiency, and financial independence.

Many areas of our country lack reliable and accessible transportation for individuals with a disability. As we all know, without reliable transportation it is difficult to commute to work, the local grocery store, or even the doctor's office. Other obstacles in education, telecommunication, and accessible and affordable housing prevent individuals with a disability from contributing fully to their community. As our attitudes and environments continue evolving, we must work to ensure the advances made over the last 20 years continue to move us forward.

Mr. ENZI. Madam President, I rise today to join my colleagues in marking the 20th anniversary of the enactment of the Americans with Disabilities Act. As the ranking member of the Senate Committee on Health, Education, Labor and Pensions, I am particularly proud of this legislation and the impact it has had on addressing the rights and needs of people with disabilities all across the country for the past 20 years. As we mark this great anniversary, I also want to express my great appreciation for the hard work and determined effort those with a vision of equality and justice put into seeing this bill through the legislative process. It was a courageous and heroic cause and it has made a difference in more lives than we will ever know.

Just 20 years ago this month, on July 26, 1990, President George Bush signed the Americans with Disabilities Act into law. It is without question the most important civil rights legislation that has been passed by the Congress since the Civil Rights Act of 1964. It was such a great achievement because it reflected our fundamental and growing concern for human rights by extending civil rights protections to all Americans with disabilities.

Prior to the passage of the ADA, far too many of our fellow Americans with disabilities led isolated lives, artificially separated from the mainstream of society, denied the basic opportunity to pursue the American dream. Things had to change if we were to remain true to the ideals and principles upon which our Nation was founded that are enumerated so well in the Declaration of Independence and the Constitution. By any standard, those with disabilities did not have the chance to engage in all that life has to offer including their own pursuit of happiness.

Fortunately, things are different now. Although there is still more to do we have every reason to be proud of what the ADA has been able to achieve thus far. We can see the vision of the ADA being carried out before our eyes as it enables our family members, friends, and neighbors to go about their daily lives, praying, going to school, and pursuing their goals in every area of their lives—on every level—in large part because of what the Americans with Disabilities Act has made possible.

Twenty years ago, before the passage of this legislation, our country was a much different place for those with disabilities. It was difficult, if not impossible, for them to access the resources in their communities that we all take for granted. Minor barriers most of us could easily navigate had long been major obstacles for people with disabilities. We needed to do something to make it easier to access the places we all had long enjoyed with our friends. It wouldn't take a lot—just simple accommodations like curb cuts, ramps instead of stairs, more accessible stadium features, and better equipped telecommunications devices. Just these few simple changes would have made all the difference. Unfortunately, although easily done they were all too scarce and all too often impossible to find. Then the ADA came to pass and it raised our awareness of what needed to be done and our resolve to do it.

When the ADA changed everything it meant a lot to people like Ellington Herring, a young man from Germantown, MD, who has an intellectual disability and uses a wheelchair. Thanks to the ADA and the efforts of people to get it implemented across the Nation, he has full access to all the resources of his community. Without the ADA Ellington wouldn't be able to spend the day doing what he enjoys most—going to the mall, going places with his family and friends, getting his hair cut at the local barber shop, taking in a movie, and going to church.

Twenty years ago while students with disabilities had to be included in the same school those without disabilities attended, they did not have to be placed with the others in a general education classroom. It was the ADA along with the Individuals with Disabilities Education Act, and the Elementary and Secondary Education Act

that has subsequently guaranteed them access to the general education curriculum and we are all the beneficiaries of that.

Let me introduce you to someone else—Ted Dawson of Buffalo, WY. Thanks to the ADA, he was able to graduate with a high school diploma—not a certificate of achievement—but a high school diploma. There is a difference and it meant a lot to him and his parents, teachers, school administrators, and his friends. They all had high expectations for him—and he delivered! It wasn't easy. In Wyoming you have to be proficient in at least 5 of 9 common core areas in order to graduate. Ted, who has Down's syndrome, stepped up and met the challenge because that was what was expected of him. More importantly—it was what he expected from himself. He is an important example of what can happen if people are valued and included instead of being segregated into special classrooms and regarded as less capable. Thanks to the ADA, Ted is 24 now and living and working in his community.

Twenty years ago it was not well understood that people with disabilities wanted to work and pursue a career, go to school, be a part of the activities in their communities, and be treated just like everyone else. Let me introduce you to George Garcia of Cheyenne, WY. He is a 53-year-old gentleman who works part time at a meaningful job, sits on multiple boards, volunteers with several organizations and just so happens to have an intellectual disability. Mr. Garcia, as the Governor of Wyoming calls him, knows everything about the city he calls home and the State of Wyoming. In fact, he knows just about everyone who lives in Wyoming because he has spent years traveling the roads of our State sharing his story and his message about the importance of choice, freedom and independence. Without the ADA George, and thousands of people just like him, would not have had the opportunity to hold meaningful jobs, live where they choose, and go anywhere they want to in their communities.

That was so because 20 years ago people with disabilities were destined to live in an institution—community based services and support were not an option. Now families have choices and many of them have chosen community living. That brings me to Owen Johnson. Let me share Owen's story with you. He was born with spinal muscular atrophy in January of 2008 at Primary Children's Hospital in Utah. When he was born doctors told his dad, Lenn and his mom, Gayle, that Owen's life expectancy would be a mere 2 years. Lenn and Gayle wanted to bring Owen home to Wyoming to be with his family. Unfortunately they were informed that Cokeville, WY, was ''too rural'' and they would not be able to find the services and support they would need to do so. Some doctors were even suggesting they place Owen in a nursing home in Utah. With the support of multiple State agencies and local organizations, after 6 months Owen Johnson went home to live with his parents on their rural ranch. Today he is 2½ and he and his family are thriving in their community and Owen is going strong—defying the odds of his doctors who are amazed and thrilled by his progress.

While it is true that we all have our own struggles in life to deal with, it is also true that some face more difficult challenges that they have to work to overcome just to do the things that are part of our own daily routine. Such an individual is Cindy Bentley from Milwaukee, WI. Cindy is an articulate, engaging, upbeat, and charismatic individual. She is a world traveler, and a national speaker and spokesperson for millions of people with disabilities. People have no idea about her history. Cindy was born with fetal alcohol syndrome with cocaine, alcohol, and heroin in her bloodstream, resulting in lifelong intellectual disabilities, seizures, and some motor control problems. She then received severe burns when she was placed in foster care at the age of 2½ and her foster mother set her shirt on fire. Shortly thereafter she was placed in the Southern Wisconsin Center for people with developmental disabilities. Cindy now lives independently in her own apartment in Glendale, WI. She was chosen as 1 of 12 Special Olympics Global Messengers from 2000–2002, and she is an active member of two statewide Governor-appointed councils.

Twenty years ago people with disabilities could not access public transportation and those that lived in the community couldn't go anywhere because they lacked the means to easily travel on their own. The ADA changed all that by removing the barriers that faced those with disabilities when they tried to travel. Such was the case for Richard Leslie, the founder and executive director of the Wyoming Epilepsy Association that is located in Cheyenne, WY. Richard himself has epilepsy and he does not have the ability to drive because of his disability. He has used his disability to empower himself and others by becoming an advocate for people with disabilities. The ADA has assisted him and others like him by creating public transit systems that are usable and accessible, much like the Cheyenne Transit Program. The Cheyenne Transit Program offers accessible bus rides at reasonable fares as well as curb-to-curb services which not only allows for mobility within the city but makes the opportunity for employment better as well because the service is tailored to the individual's needs.

These are just a few of the remarkable stories that can be told because of the Americans with Disabilities Act which is still making a difference throughout the United States. While no one would ever say that the lives of these people has been easy, the Americans with Disabilities Act has helped to make things easier by making the things people with disabilities do every day a somewhat smaller mountain for them to climb.

The ADA opened the world to people with disabilities by guaranteeing their independence, freedom of choice, ability to control their lives, and the opportunity to completely, fully, and equally participate in the American mainstream.

No law is perfect and some problems still arise with this one. As recently as 2008 Congress had to revisit the ADA. After negotiating together through the committee process in the Senate, we acted with overwhelming bipartisan support to pass the ADA Amendments Act, which restored ADA protections that had been complicated by judicial decisions narrowing the scope of the law.

While Congress has continued to address the issue the Capitol complex is not fully accessible yet. When I served as the chairman of the Senate Committee on Health, Education, Labor and Pensions I routinely heard from people with disabilities about inaccessible hearing and conference rooms on Capitol Hill, the use of offensive terminology by Members and staff and a lack of understanding and awareness about disability issues.

That was when I took it upon myself to write a manual to help congressional offices prepare for visitors, interns, and staff who may have accessibility needs. As elected officials it is our role to ensure that everyone who comes to visit the Nation's Capitol or our home offices, including people with accessibility needs, are included in our daily dialogue. The manual contains all disability specific resources offered by the Office of Congressional Accessibility Services, the Sergeant at Arms, the Capitol Police, the Office of Security and Emergency Preparedness, the Architect of the Capitol, and other offices in the Capitol Hill complex in an easily available and easy to read format so that if a constituent who is deaf arrives at a meeting and a sign language interpreter was not reserved the office can easily determine who to call for assistance.

Just as the Architect of the Capitol is improving signage for people who are blind, and ensuring that all restrooms are accessible by wheelchair users I am currently updating the manual to account for such changes and the addition of the Capitol Visitor Center.

Today, we recognize and celebrate the anniversary of a law that brought freedom, choice, and independence to many Americans. It is a constant reminder of who we are as a people, and what we stand for as a nation. As President Bush noted when he signed the ADA into law: ''This Act is powerful in its simplicity. It will ensure that people with disabilities are given the basic guarantees for which they have worked so long and so hard: independence, freedom of choice, control of their lives, the opportunity to blend

fully and equally into the rich mosaic of the American mainstream.'' This law makes it clear that all Americans are entitled to the right to life, liberty, and the pursuit of happiness. As we continue to make this law more responsive to the needs of those with disabilities, we will continue to ensure that the chance to live the American dream is an avenue of opportunity that is available to everyone—without exception.

Mr. KERRY. Madam President, my friend Senator TOM HARKIN has been championing the rights of Americans with disabilities his whole life. He witnessed the challenges and discriminations of people with disabilities first hand. His brother Frank lost his hearing at a very young age and he has witnessed the many ways that people with disabilities are prevented from fully participating in activities that most Americans take for granted.

Senator HARKIN has said that the 1990 signing of his bill, Americans with Disabilities Act remains one of the proudest days of his life. The vote I cast for Americans with Disabilities Act was one of my proudest days as a U.S. Senator.

This month will mark two decades since the landmark passage of the Americans with Disabilities Act, known as the ADA. This important civil rights law seeks to ensure equality rights and opportunities for the more than 54 million Americans with physical and mental disabilities.

Prior to the passage of the ADA, people with disabilities faced significantly lower employment rates, lower graduation rates, and higher rates of poverty than people without disabilities, and were too often denied the opportunity to fully participate in society due to intolerance and unfair stereotypes.

The ADA sought to eliminate the indignities and prejudice faced by individuals with disabilities on a daily basis. Before passage of this law, individuals with disabilities were prevented from attending schools, subject to discriminatory hiring practices, and were unable to enter public buildings, safely cross a street, or ride a public bus.

On July 26, 1990, the ADA was signed into law signed into law by President George H.W. Bush with the promise of fostering full and equal access to civic, economic and social life for individuals with disabilities.

Upon its passage Senator Edward M. Kennedy, who played an important role in the enactment of this legislation, said:

> The act has the potential to become one of the great civil rights laws of our generation. This legislation is a bill of rights for the disabled, and America will be a better and fairer nation because of it.

Indeed, over the last 20 years, the ADA has become one of our country's most important and treasured civil rights laws.

The ADA prohibits discrimination on the basis of disability in employment, public accommodations, commercial facilities, transportation and telecommunications, as well as federal, state and local government programs.

It has been a critical part of our efforts to fulfill the Nation's goals of equality of opportunity, independent living, economic self-sufficiency, and full participation for Americans with disabilities.

It has played an historic role in allowing over 50 million Americans with disabilities to participate more fully in national life by removing barriers to employment, transportation, public services, telecommunications, and public accommodations.

Specifically, it prohibits employers from discriminating against qualified individuals with disabilities and it requires that State and local governmental entities accommodate qualified individuals with disabilities. Because of the ADA, places of public accommodation must take reasonable steps to make their goods and services accessible to individuals with disabilities. And new trains and buses must be accessible to individuals with disabilities.

All Americans, not just those with disabilities, benefit from the accommodations that have become commonplace since the passage of the Americans with Disabilities Act like curb cuts at street intersections, ramps for access to buildings, greater access to public transportation, stadiums, telecommunications, voting machines, and Web sites benefit all Americans.

The ADA has been one of the most significant and effective civil rights laws passed by Congress. We have come a long way in the 20 years since enactment with of the ADA, but children and adults with disabilities continue to experience barriers that interfere with their full participation in mainstream American life.

People with disabilities are still twice as likely to live in poverty as their fellow citizens and continue to experience high rates of unemployment and underemployment. And many people with disabilities still live in segregated institutional settings because of a lack of support services that would allow them to live in the community.

While technology and the Internet have broken down barriers, new technologies are still not accessible to all Americans. I have cosponsored the Equal Access to 21st Century Communications Act by Senator MARK PRYOR to improve internet technology access for the blind and deaf communities. If passed, this legislation would make it easier for deaf and hard of hearing Americans to access the same technologies that hearing people take for granted. In particular, it would require all devices to be capable of captioning video and it would require all Internet videos to be captioned. No one should be or has to be excluded from modern communications and the new economy because of a disability.

For all these reasons, I urge my colleagues to join me in supporting Senator HARKIN's Senate resolution that recognizes and honors the 20th anniversary of the enactment of the Americans with Disabilities Act of 1990. This resolution not only honors passage of the ADA, it also pledges to continue to work on a bipartisan basis to identify and address the remaining barriers that undermine the Nation's goals of equality of opportunity, independent living, economic self-sufficiency, and full participation for Americans with disabilities.

Mrs. FEINSTEIN. Madam President, I am proud to be an original cosponsor of Senate Resolution 591 recognizing and honoring the 20th anniversary of the Americans with Disabilities Act.

In 1990, congressional members from both sides of the aisle joined together to denounce disability-based discrimination and demand equal rights for the disabled through the Americans with Disabilities Act. In the 20 years since, this landmark law has stood as a proud marker of our Nation's collective belief that disabled Americans can and should be full participants in our Nation's civic, economic, and social life. That, as one national disability organization proclaims, ''It's ability, not disability that counts.''

The Americans with Disabilities Act has had profound effects on the lives of over 50 million disabled Americans from curb cuts to elevators, Braille displays to voice recognition technology, and voting assistance to expanded employment opportunities, to name just a few examples.

Because of the Americans with Disabilities Act, Americans who are deaf or hard of hearing are now guaranteed the same services that law enforcement provides to anyone else. Law enforcement agencies may not exclude hearing impaired Americans from their services and must make efforts to ensure that their personnel communicate effectively with people whose disability affects their hearing.

Thanks to this landmark law, buses are now equipped with reliable lifts for wheelchair access; drivers announce stops to inform the seeing-impaired of arrival; and paratransit services provide door-to-destination transportation. This increased mobility enables disabled Americans to hold jobs and pursue educational opportunities, to perform day-to-day errands independently, and to access medical and social services.

As one San Francisco resident said, ''We no longer have to rely on the kindness of strangers to shop for us or feel that we can only experience other cities through films, videos and books.''

The Americans with Disabilities Act has enabled disabled Americans to visit and enjoy the grounds of our Nation's cultural and historical treasures such as Mount Vernon, the home of George Washington.

This important law has also improved the quality of life for Americans with impaired sight, by requiring

stores and businesses across the country to accommodate the service animals that guide and assist them. And progress is being made to ensure that the Web sites and online stores that make up the world of e-commerce are accessible as well.

Let me offer yet another example: a veteran fireman like Dennis Bell does not have to quit his job when he loses his leg during a rescue attempt, because of the Americans with Disabilities Act. Instead, his employer must provide him with the opportunity to be reassigned. In Mr. Bell's case, he has been given an opportunity to work in a new division instructing children about fire safety.

And because of the Americans with Disabilities Act, a gifted man like Chris Lenart, who is unable to talk or walk, can pursue a successful career as a computer programmer and remain economically self-sufficient. Employers can no longer deny a job to a qualified applicant because of a disability.

At least 12 percent of Americans live with a disability, but each and every one of us benefits from the skills and talents of disabled Americans who can now contribute to our country's workforce and public life, and whose abilities are not lost for want of an opportunity to demonstrate them.

I believe that our country has become a stronger and fairer place over the past 20 years because of the Americans with Disabilities Act. As the 20th anniversary approaches, I am proud to reflect with my colleagues on the progress that has been made as a result of this law, as well as to acknowledge that there is more work still to be done.

Mr. DURBIN. Madam President, next Monday marks the 20th anniversary of the enactment of the Americans with Disabilities Act. The ADA is one of America's great civil rights achievements. In its scope and intentions, it ranks alongside major victories for equal justice, like the 15th and 19th amendments, the Civil Rights Act and the Voting Rights Act.

I would like to recognize and congratulate my friend and colleague TOM HARKIN for his instrumental role in authoring this legislation 20 years ago. He has been a steadfast advocate for people with disabilities, and with his leadership last Congress we passed the ADA Amendments Act of 2008 to restore the full promise of the ADA after it been distorted and diluted by a series of bad Federal court decisions.

I am deeply proud to have voted for the ADA in 1990 because this law produced changes in society—removing physical barriers, prohibiting discrimination, and changing attitudes—that we might take for granted today.

Before passage of this law, people with disabilities were too often denied the opportunity to fully participate in society. Back then, if you needed a haircut, if you had to see a doctor, if you just wanted to meet a friend for a cup of coffee, you probably had to rely on family, friends, or a social service agency. Very few transit systems in this country had buses or trains that were accessible to people using wheelchairs.

We passed the ADA to fulfill the Nation's goals of equality of opportunity, independent living, economic self sufficiency, and full participation for Americans with disabilities. Twenty years later, it is clear that this pioneering law is fulfilling its promise in many ways.

You can see it right outside on the sidewalk with curb cuts, ramps, Braille signs, and assistive listening devices. The physical changes the ADA has brought about benefit all Americans, not just those with disabilities. We have seen progress in public transportation and public accommodations. Because of the ADA and IDEA together, thousands of Americans with disabilities have gone to good schools, received good educations, and entered the workforce.

The Americans with Disabilities Act does not grant people with disabilities any special status or position. To the contrary, it simply removes certain barriers that for too long had made it difficult—if not impossible for people with disabilities to make the most of their God-given skills and abilities, and to participate fully in their communities and in the workplace.

Despite the important changes made by the ADA, we still have work to do to ensure that people with disabilities achieve the full promise of the law. Twenty years after enactment, people with disabilities still experience barriers that interfere with their full participation in mainstream American life.

The promise of equal employment opportunity for people with disabilities remains largely unfulfilled.

More than 60 percent of working-age Americans with disabilities are unemployed. Americans with disabilities who do work tend to be concentrated in lower paying jobs. As a result, individuals with disabilities are three times as likely to live in poverty as individuals without disabilities. That has to change. Most people with disabilities want to work, and have to work.

Many people with disabilities continue to live in segregated institutional settings because the support services they need to live in the community don't exist or aren't affordable. And many public and private buildings still aren't accessible to people with disabilities.

It is important to take the time today to recognize the barriers we have eliminated for people with disabilities, and recognize that we still have work to do. We need to continue tearing down the subtler barriers that prevent far too many people with disabilities from participating fully in our economy, not just because it is the right thing to do, but because it is the smart thing to do.

When President George H. W. Bush signed the ADA in 1990, people on both sides of the aisle cheered and the President proclaimed: ''With today's signing of the landmark ADA, every man, woman and child with a disability can now pass through once-closed doors into a bright new era of equality, independence and freedom.''

That remains our vision, and I look forward to working with my colleagues to widen that door even further so more Americans can pass through.

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

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

Mr. HARKIN. Madam President, we are rapidly approaching the time when we will yield the floor to a different resolution, and I guess the vote will be held at around noon on the resolution commemorating the 20th anniversary of the Americans with Disabilities Act. I didn't say this before, but there are a lot of activities going on all over this country this weekend. In every State, certain activities are taking place, although not the same thing. Different States do different things. Senator BROWN mentioned that in Iowa we are collecting stories from all of our 99 counties from people with disabilities, from families and friends who know of what has happened in the life of a person with a disability and has been affected by the Americans with Disabilities Act. I am participating this weekend in several events in Iowa commemorating the ADA. In every State we are doing this. It is happening all over the country. Of course, it is happening in Washington, DC, as well.

Next Monday there will be a series of events. At 10 a.m. there will be a panel discussion that will take place in the Kennedy Caucus Room in the Russell Building. That is from 10 to 12 noon. Everyone is invited. It will be a discussion, interestingly enough, among a lot of people who were there at the creation, including Steve Bartlett, whom I mentioned, Boyden Gray, Attorney General Dick Thornburgh, Bobby Silverstein, Pat Wright—a number of people who were there in the beginning—to talk about how this happened but then to also have the audience participate in a discussion about what needs to be done and where we go from here. So that is from 10 to 12 in the Kennedy Caucus Room in the Russell Building.

Then at 1 p.m. there is an ADA reception on the House side in Statuary Hall. That will start at 1 p.m. Then a very interesting thing is going to happen on the House side. At 2 p.m. the House will come into session. The Presiding Officer in the House at that time will be Representative JIM LANGEVIN from Rhode Island. Congressman LANGEVIN is a severe paraplegic. I have

known JIM for many years. He uses a wheelchair. Congressman LANGEVIN has never been able to preside over the House because, like our podium here, one has to go up a number of steps to get to it. There is no way he could get his wheelchair up there. I understand the House is in the process now of developing a system so that individuals who use wheelchairs can now get to the podium.

So for the first time, a Congressperson using a wheelchair will preside over the House of Representatives. I intend to be there. As a former House Member, I have privileges of the floor. I want to see that historic event. That will take place at 2 p.m. on the House side.

Then, at 4 p.m., from 4 to 6, President Obama is opening the White House lawn for a celebration. There will be several hundred people there—people with disabilities and their families and friends, people who have been involved in this. As I understand it, the White House will be making a proclamation at that time. That will be from 4 to 6.

At 7 p.m. there will be an ADA anniversary gala at the National Press Club from 7 p.m. to 11 p.m. thrown by a coalition of disability advocates. So a full day of celebration and remembrance and a day of commitment to moving further and making sure the promise of the ADA is fulfilled—not in 100 years but a much shorter time period than that.

As I mentioned earlier, it took 100 years, from Lincoln's Emancipation Proclamation to the Civil Rights Act of 1964, before the Emancipation Proclamation promise was actually put into law. I hope and trust and will work hard to make sure it doesn't take 100 years to make the promise of the ADA complete throughout our society. We have come a long way. We have some more things to do. We are at it and we are going to keep at it. We are going to keep doing whatever we can to make sure the four goals of the Americans with Disabilities Act are realized in as short of a timeframe as possible.

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

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

Mr. HARKIN. Madam President, first of all, I ask for the yeas and nays on the resolution.

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

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HARKIN. I thank the Presiding Officer.

I yield back whatever time remains on our side on this resolution.

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

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

RENEWING THE IMPORT RESTRICTIONS IN THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of H.J. Res. 83, which the clerk will state by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 83) approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, all time is yielded back, except for 20 minutes, with the time equally divided and controlled between the Senator from Montana, Mr. BAUCUS, and the Senator from Kentucky, Mr. MCCONNELL, or their designees.

The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, today the Senate considers extension of economic sanctions against the Burmese regime. The Senate should pass this resolution.

Aung San Suu Kyi, the Nobel Peace Prize winner and democracy leader in Burma, said ''the people in Burma are like prisoners in their own country.''

Dr. Suu Kyi, herself, remains, quite literally, a prisoner. The Burmese regime has kept her under house arrest on trumped up charges for 14 of the last 20 years.

She persists in her dream of freedom and democracy for Burma. By extending economic sanctions against the Burmese regime, we hope to make that dream a reality.

The Burmese regime seems intent on keeping its people in chains. According to the State Department, the regime continues to conscript children into the military and engage them in forced labor. It continues to violate freedoms of expression, assembly, association, movement, and religion. It continues to use murder, abduction, rape, and torture against its opponents.

I have often questioned whether unilateral trade sanctions are the best path. But several trading partners—including the European Union, Canada, and Australia—have joined us in imposing sanctions against Burma. The State Department has found that these sanctions have made it more difficult and costly for the Burmese regime to profit from imprisoning its people.

Let us stand with the Burmese people. Let us seek to free them from their captivity, and let us renew these sanctions.

I urge my colleagues to support this bipartisan resolution.

Mr. MCCONNELL. Madam President, today our colleagues will vote on H.J. Res. 83, which would extend sanctions on the Burma regime for another year. As in years past, I am joined in this effort by my good friend, Senator DIANNE FEINSTEIN. Alongside the 2 of us are 66 other cosponsors, including Senators MCCAIN, DURBIN, GREGG, and LIEBERMAN.

This overwhelming bipartisan support for sanctioning the junta reflects the clear view of more than two-thirds of the Senate that the generals currently ruling Burma should be denied the legitimacy they are pursuing through this year's sham elections.

Renewing sanctions against the military regime in Burma is as timely and as important as ever. The ruling State Peace and Development Council is continuing its efforts to try to stand up a farcical new Constitution by holding bogus elections. These elections—whenever they take place—will be dubious for a number of reasons. First, the junta continues to imprison Nobel Peace Prize laureate and prodemocracy leader Aung San Suu Kyi. The generals have made it clear they will prevent her from participating in any government under the new Constitution.

Second, the military leadership effectively forced Suu Kyi's party, which overwhelmingly won the last Democratic election way back in 1990, to shutter its operation.

Third, the Burmese electoral watchdog, which is essentially an arm of the SPDC, recently issued rules on campaigning that are ludicrous on their very face. For instance, they prohibit a variety of electioneering activities such as organizing marches, holding flags, and chanting slogans.

As if things in Burma on the election front were not alarming enough, the potential security threat posed by the regime has become increasingly worrisome. The last several months have continued to produce press reports of ties between Burma and North Korea, including particularly alarming indications of alleged weapons transfers from Pyongyang.

I am hopeful the time will soon come when sanctions against the Burmese Government will no longer be needed and that, as did South Africa in the early 1990s, the people of Burma will be able to free themselves from their own government. However, as recent events indicate, the Burmese junta maintains its iron grip on its people and continues to carry out a foreign policy that is inimical to U.S. objectives.

For these reasons, the United States must deny this regime the legitimacy it so craves and await the day when the Burmese people will be permitted to govern their own affairs.

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

Mrs. FEINSTEIN. Madam President, I will speak briefly on the resolution.

Mr. BAUCUS. I yield such time as the Senator from California may use.

Mrs. FEINSTEIN. Madam President, I wish to give just a little history to back up this resolution.

In 1997, former Senator William Cohen and I authored legislation, which required the President to ban new U.S. investment in Burma, if he determined that the Government of Burma had physically harmed, rearrested or exiled Aung San Suu Kyi or committed large-scale repression or violence against the democratic opposition. In fact, at that time, Secretary Albright met with the ASEAN nations and tried to encourage them to be of help. They were of no help, so the President, by Executive order, then instituted this investment ban.

In 2003, after the regime or some of its quislings attempted to assassinate Aung San Suu Kyi when she was on a march in the center of the country, Senator MCCONNELL and I introduced the Burmese Freedom and Democracy Act of 2003, which placed a complete ban on imports from Burma. It allowed that ban to be renewed 1 year at a time. That is essentially what we are doing today. It was signed into law and has been renewed 1 year at a time since then.

I became involved in this struggle for peace and democracy in no small part due to the courage and valor of this wonderful woman. I think I admire her as much as any woman in the world. Her message of democracy, human rights, and the rule of law continues to inspire not only her fellow citizens but people all over this great world, with her courage and her resolve in the face of constant oppression.

For the past two decades, Burma's despotic military rulers have engaged in a campaign of persecution against Aung San Suu Kyi, tarnishing her image wherever they could, unjustly convicting her of violating an illegitimate house arrest last year, and extending her unlawful detention.

She has spent the better part of 20 years under house arrest. She has not seen her two sons who live in the United Kingdom for years. She was not permitted to visit her husband when he was dying of cancer in the United Kingdom.

Yet Aung San Suu Kyi remains resolute in her dedication to the pursuit of peaceful national reconciliation, as do the members of her political party, the National League for Democracy.

Now, more than ever, the people of Burma need to know that we stand by them and support their vision of a free and democratic Burma.

On May 6, her party, the National League for Democracy, closed its doors. Let me be clear. They did not shut down of their own free will; it was forced to disband by an unjust and undemocratic constitution and election law, both drafted in secret and behind closed doors by the ruling military junta.

Under the terms of the new constitution, 25 percent of the seats must be set aside for the military. Think about that for a moment. Before any vote has been cast, the military is guaranteed one-quarter of the seats in the new 440-member house of representatives.

How will this new institution be any different from the current military regime?

If that isn't enough to raise doubts about the military's commitment to a truly representative government, it should also be pointed out that the regime's Prime Minister, Thein Sein, and 22 Cabinet Ministers resigned from the army to form a new civilian political party, the Union Solidarity and Development Party.

Any seats won by this new party in the upcoming election will be in addition to the 25 percent set aside for active military members.

Does anyone truly believe the regime has embraced democracy and the concept of civilian rule? Unfortunately, it will be business as usual for the people of Burma and the democratic opposition.

What about Suu Kyi and her National League of Democracy—winners of the last free parliamentary election in 1990? First, earlier this year, the regime, which has not allowed the party, the NLD, to assume power, officially annulled its victory in the 1990 parliamentary elections, which would have made Suu Kyi the head of the Burmese Government.

Second, under the new constitution, Suu Kyi is barred from running in any future election.

Why is this? What has she done to deserve this?

Well, in 2009, an American swam across the lake to her house, uninvited, and remained there for 2 days. She did not know this man. She had never communicated with this man. She had nothing to do with him, but he was obviously exhausted after swimming across the lake, and he remained in her house for 2 days. She was then arrested and convicted for allowing him to remain in her house, which, according to the regime, violated the terms of her house arrest.

Because of this conviction, she cannot participate in this or any future election under the new constitution. So here is the only democratically elected leader—elected 20 years ago—under house arrest for the better part of those 20 years. She survived an assassination attempt. She is ostracized and kept from any interaction with her political colleagues or her family and, finally, she can never run for any office again.

As a result, the NLD was faced with a clear choice: either kick Aung San Suu Kyi out of the party and participate in the election or face extinction.

It should come as no surprise that the party refused to turn its back on Suu Kyi and give its stamp of approval to the regime's sham constitution and electoral law.

I applaud their courage and their devotion to democracy, human rights, and the rule of law.

I am saddened to see the regime close its doors, but the spirit and principles of this party will live on in the hearts and minds of its people. I know that, one day, they will be able to elect a truly representative government.

As Tin Oo, NLD's deputy leader and former political prisoner, said:

> We do not feel sad. We have honor. One day, we will come back; we will be reincarnated by the will of the people.

This is a clear message to the regime that an illegitimate constitution and election law cannot suppress the unyielding democratic aspirations of the people of Burma.

We must send our own signal to the regime that its quest for legitimacy has failed. We must send a signal to the democratic opposition that we stand in solidarity with them, and we will not abandon them.

I also thank former First Lady Laura Bush, who joined with virtually all the women of the Senate to hold a press conference back in 2007. Mrs. Bush was willing to use her First Lady status to support this cause. I think it is a gesture that will not be forgotten by any of us.

Now is the time to renew the import ban on all products from Burma for another year. The regime has taken many steps in the wrong direction.

I live for the time when this military junta will recognize that keeping this brave woman under house arrest, absent any interconnection with any of the people of her party or of her country for 20 years, is an unjust penalty.

Simply put, we still have hope. Hopefully, the military junta, as they are called, will one day recognize that Burma should be a free and democratic nation and that an election should be open to all people and all runners. Then the opportunity for major change and recognition of the people of Burma in the Council of Nations will take place.

I regret very much that we have to do this for another year. I am grateful to Senator MCCONNELL for joining me over the years, as annually this has been recognized and a vote has been taken to continue the sanctions.

NLD

Mr. MCCONNELL. Madam President, I rise for a colloquy with my colleague, the senior Senator from California, to discuss interpretation of the Burmese Freedom and Democracy Act, as amended.

I ask my Democratic colleague, who is the lead cosponsor of this legislation, is it her understanding that the prodemocracy National League for Democracy party has officially decided to boycott the upcoming 2010 Burmese elections.

Mrs. FEINSTEIN. Yes, it is. The National League for Democracy in March

of this year indicated it could not participate in the elections due to the junta's repressive election law. It therefore declined to register as a political party and consequently under the new law was abolished as a political party in early May.

Mr. MCCONNELL. In light of the NLD's boycott of the elections and its consequent dissolution under Burmese law, is it my friend's understanding that the NLD may be driven underground as a result of its decision or be forced to reconstitute itself in some other capacity?

Mrs. FEINSTEIN. Yes, it is. The NLD has indicated it will try to continue to help the Burmese people in ways other than as a legally registered political party.

Mr. MCCONNELL. Is it the understanding of the senior Senator from California that the Burmese Freedom and Democracy Act, as amended by the Tom Lantos Block Burmese JADE Act, makes several references to the ''National League for Democracy''?

Mrs. FEINSTEIN. Yes, it is. There are several such references in the legislation as amended.

Mr. MCCONNELL. Is it also the Senator's understanding that references to the ''National League for Democracy'' should be interpreted to include any appropriate successor entity to the NLD, be it a nongovernmental organization or some other comparable group?

Mrs. FEINSTEIN. Yes. It is my view the proper statutory construction given the term ''National League for Democracy'' would be to include any appropriate successor entity, group or subgroups that the NLD may form in the future.

Mr. MCCONNELL. I thank my friend for clarifying this matter. It appears that both cosponsors are in full agreement on the proper means of interpreting this term.

I yield the floor.

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

Mr. BAUCUS. Madam President, we are going to vote momentarily. In the meantime, I thank the Senator from California for her steadfast support to the cause of justice and for supporting this resolution and taking up the cause of Aung San Suu Kyi. I don't know of anybody else in this body—and Senator MCCONNELL has been forthright in his support, but I want people to know how strongly the Senator from California has been an advocate for Aung San Suu Kyi, and I deeply appreciate it.

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. BAUCUS. 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.

Mr. BAUCUS. Madam President, I ask unanimous consent that all time be yielded back, both minority and majority.

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

Mr. BAUCUS. I ask for the yeas and nays on the joint resolution.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The joint resolution was ordered to a third reading and was read the third time.

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

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—99

Akaka	Ensign	McConnell
Alexander	Feingold	Menendez
Barrasso	Feinstein	Merkley
Baucus	Franken	Mikulski
Bayh	Gillibrand	Murkowski
Begich	Goodwin	Murray
Bennet	Graham	Nelson (NE)
Bennett	Grassley	Nelson (FL)
Bingaman	Gregg	Pryor
Bond	Hagan	Reed
Boxer	Harkin	Reid
Brown (MA)	Hatch	Risch
Brown (OH)	Hutchison	Roberts
Brownback	Inhofe	Rockefeller
Bunning	Inouye	Sanders
Burr	Isakson	Schumer
Burris	Johanns	Sessions
Cantwell	Johnson	Shaheen
Cardin	Kaufman	Shelby
Carper	Kerry	Snowe
Casey	Klobuchar	Specter
Chambliss	Kohl	Stabenow
Coburn	Kyl	Tester
Cochran	Landrieu	Thune
Collins	Lautenberg	Udall (CO)
Conrad	Leahy	Udall (NM)
Corker	LeMieux	Vitter
Cornyn	Levin	Voinovich
Crapo	Lieberman	Warner
DeMint	Lincoln	Webb
Dodd	Lugar	Whitehouse
Dorgan	McCain	Wicker
Durbin	McCaskill	Wyden

NAYS—1

Enzi

The joint resolution (H.J. Res. 83) was passed.

20TH ANNIVERSARY OF ENACTMENT OF THE AMERICANS WITH DISABILITIES ACT OF 1990

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. Res. 591. The question is on agreeing to the resolution. The yeas and nays have been ordered on the measure.

The clerk will call the roll.

The legislative clerk called the roll.

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

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—100

Akaka	Barrasso	Bayh
Alexander	Baucus	Begich
Bennet	Gillibrand	Mikulski
Bennett	Goodwin	Murkowski
Bingaman	Graham	Murray
Bond	Grassley	Nelson (NE)
Boxer	Gregg	Nelson (FL)
Brown (MA)	Hagan	Pryor
Brown (OH)	Harkin	Reed
Brownback	Hatch	Reid
Bunning	Hutchison	Risch
Burr	Inhofe	Roberts
Burris	Inouye	Rockefeller
Cantwell	Isakson	Sanders
Cardin	Johanns	Schumer
Carper	Johnson	Sessions
Casey	Kaufman	Shaheen
Chambliss	Kerry	Shelby
Coburn	Klobuchar	Snowe
Cochran	Kohl	Specter
Collins	Kyl	Stabenow
Conrad	Landrieu	Tester
Corker	Lautenberg	Thune
Cornyn	Leahy	Udall (CO)
Crapo	LeMieux	Udall (NM)
DeMint	Levin	Vitter
Dodd	Lieberman	Voinovich
Dorgan	Lincoln	Warner
Durbin	Lugar	Webb
Ensign	McCain	Whitehouse
Enzi	McCaskill	Wicker
Feingold	McConnell	Wyden
Feinstein	Menendez	
Franken	Merkley	

The resolution (S. Res. 591) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 591

Whereas July 26, 2010, marks the 20th anniversary of the enactment of the Americans with Disabilities Act of 1990;

Whereas the Americans with Disabilities Act has been one of the most significant and effective civil rights laws passed by Congress;

Whereas, prior to the passage of the Americans with Disabilities Act, people with disabilities faced significantly lower employment rates, lower graduation rates, and higher rates of poverty than people without disabilities, and were too often denied the opportunity to fully participate in society due to intolerance and unfair stereotypes;

Whereas the dedicated efforts of disability rights advocates, including Justin Dart, Jr., and many others, served to awaken Congress and the American people to the discrimination and prejudice faced by individuals with disabilities;

Whereas Congress worked in a bipartisan manner to craft legislation making such discrimination illegal;

Whereas Congress passed the Americans with Disabilities Act and President George Herbert Walker Bush signed the Act into law on July 26, 1990;

Whereas the purpose of the Americans with Disabilities Act is to fulfill the Nation's goals of equality of opportunity, independent living, economic self-sufficiency, and full participation for Americans with disabilities;

Whereas the Americans with Disabilities Act prohibits employers from discriminating against qualified individuals with disabilities, requires that State and local governmental entities accommodate qualified individuals with disabilities, requires places of public accommodation to take reasonable steps to make their goods and services accessible to individuals with disabilities, and requires that new trains and buses be accessible to individuals with disabilities;

Whereas the Americans with Disabilities Act has played an historic role in allowing over 50,000,000 Americans with disabilities to participate more fully in national life by removing barriers to employment, transportation, public services, telecommunications, and public accommodations;

Whereas the Americans with Disabilities Act has served as a model for disability rights in other countries;

Whereas all Americans, not just those with disabilities, benefit from the accommodations that have become commonplace since the passage of the Americans with Disabilities Act, including curb cuts at street intersections, ramps for access to buildings, and other accommodations that provide access to public transportation, stadiums, telecommunications, voting machines, and websites;

Whereas Congress acted with overwhelming bipartisan support in 2008 to restore protections for people with disabilities by passing the ADA Amendments Act of 2008, which overturned judicial decisions that had inappropriately narrowed the scope of the Americans with Disabilities Act;

Whereas, 20 years after the enactment of the Americans with Disabilities Act, children and adults with disabilities continue to experience barriers that interfere with their full participation in mainstream American life;

Whereas, 20 years after the enactment of the Americans with Disabilities Act, people with disabilities are twice as likely to live in poverty as their fellow citizens and continue to experience high rates of unemployment and underemployment;

Whereas, 20 years after the enactment of the Americans with Disabilities Act and 11 years after the Supreme Court's decision in Olmstead v. L.C., many people with disabilities still live in segregated institutional settings because of a lack of support services that would allow them to live in the community;

Whereas, 20 years after the enactment of the Americans with Disabilities Act, new telecommunication, electronic, and information technologies continue to be developed while not being accessible to all Americans;

Whereas, 20 years after the enactment of the Americans with Disabilities Act, many public and private covered entities are still not accessible to people with disabilities; and

Whereas the United States has a responsibility to welcome back and create opportunities for the tens of thousands of working-age veterans of the Armed Forces who have been wounded in action or have received service-connected injuries while serving in Operation Iraqi Freedom and Operation Enduring Freedom: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors the 20th anniversary of the enactment of the Americans with Disabilities Act of 1990;

(2) salutes all people whose efforts contributed to the enactment of the Americans with Disabilities Act;

(3) encourages all Americans to celebrate the advance of freedom and the opening of opportunity made possible by the enactment of the Americans with Disabilities Act; and

(4) pledges to continue to work on a bipartisan basis to identify and address the remaining barriers that undermine the Nation's goals of equality of opportunity, independent living, economic self-sufficiency, and full participation for Americans with disabilities.

The PRESIDING OFFICER. The Senator from Texas.

TAX RELIEF

Mr. CORNYN. Madam President, in 160 days, the American people will experience the single largest tax increase in American history unless Congress acts. Unless Congress acts, the highest individual tax bracket will rise from 35 percent to just under 40 percent. People in the lowest tax bracket will see a 50-percent increase from 10 percent to 15 percent. The marriage penalty will go up. The child tax credit will be cut in half. Taxes on capital gains and dividends will go up as well. Every single taxpayer in the country will see their taxes go up.

Last week in the Senate Finance Committee we heard testimony from several experts about what these huge tax increases would mean in terms of the economy and to small businesses. Douglas Holtz-Eakin, former head of the Congressional Budget Office, reminded us that about $1 trillion in business income will be reported on individual tax returns and about half of that will be subject to the two higher marginal individual tax rates. There has been a debate—and I guess it will go on—about the relationship between the bipartisan 2001 and 2003 tax relief bills and the deficit. Some on the other side of the aisle like to argue that our $1 trillion deficits today are the result of tax relief we offered 10 years ago. They also like to argue that they bear no responsibility for the deficits they ''inherited.'' We are hearing a lot about that these days, very little taking responsibility for what has happened today but, rather, preferring to point the finger of blame at others in the past.

I have a chart which, if Members will bear with me, tells an important story. This chart measures the deficit as a percentage of our gross domestic product which is the entire economy. The solid lines, the red solid line and the solid green line, represent the historical record from the OMB. The dotted line represents CBO projections of the President's 2011 budget. The red line and a portion of the light green line also represent the record before the Obama administration took office, and the solid, dark green line represents the record since President Obama became President.

What does this chart tell us? It tells a very interesting and important story. It is true that deficits went up under the last administration and topped out at 3.5 percent of GDP. Of course, we have to remember the dot.com bubble, the recession that occurred about the time the last administration took office and, of course, the horrific events of 9/11. But then, just as the 2001 and 2003 tax relief provisions started to kick in, a strange thing happened to the deficit. It went down to $318 billion in fiscal year 2005. It went down again to $248 billion in fiscal year 2006. And it went down to $161 billion in fiscal year 2007. That is when our deficit went all the way down to 1.2 percent of gross domestic product, from 3.5 percent to just 1.2 percent of GDP.

People may have different interpretations for why this happened. I believe—and I think most economists and objective observers conclude—the reason the deficit went down as a percentage of gross domestic product was because the tax relief we passed in 2001 and 2003, which will expire in 160 days unless we act, helped grow the economy and got about 8 million people on the payroll between 2003 and 2007.

Not an incidental; it generated a lot more revenue for the Federal Government. As a matter of fact, it hit historic levels. That is the real record on the deficit. For my colleagues who claim they inherited a bad fiscal situation, this is what they inherited: a deficit which had reached one of the historic lows of 1.2 percent.

The green line here actually shows what has happened since our colleagues on the other side took control of this Chamber and the House of Representatives. The deficit shot up from 1.2 percent to 3.2 percent of GDP in fiscal year 2008. That was the last year President Bush was in office. Then went to 8.3 percent in fiscal year 2009.

Am I blaming my colleagues for this? I am saying there is more than enough blame to go around. But it is also not fair to suggest that previous administrations or one political party contributed to this increasingly dire fiscal crisis.

The reason the deficit rose after 2007 is because of the financial crisis that occurred, the meltdown, particularly in September of 2008. We know the recession we have been going through and, of course, the emergency measures that Congress passed on a bipartisan basis to try to prevent a systemic economic collapse in America—and other countries around the world participated in as well—these emergency measures were supported by then-Senator Obama, then-Senator BIDEN, and by dozens of colleagues on the other side of the aisle, as well as colleagues on this side of the aisle. We thought we were acting in a major crisis, and we were. My point is, the deficits we have today were not inherited deficits but, rather, because of legislation they helped enact.

Beginning January 20, 2009 this Congress and the President delivered much higher spending. Colleagues will recall the much ballyhooed stimulus package, $862 billion of borrowed money, which was supposed to keep unemployment below 8 percent. Obviously, that failed in its stated goal since unemployment has been almost up to double digits, now 9.5 percent. In places such as Nevada, it is 14.2 percent. In Michigan and other States, it is much higher. Obviously, the stimulus did not succeed in its stated goal. One thing it did succeed in doing is piling on additional debt on future generations unless we deal with it in a responsible way.

What happened as a result of the unprecedented spending we have seen since the Obama administration came into office? We see now that the fiscal year 2009 deficit as a percentage of the gross domestic product rose from an initial 8.3 percent to 9.9 percent, from 1.2 percent in fiscal year 2007 all the way to 9.9 percent.

The second important thing to notice about this green line is that it will never get back to the level under a Republican Congress. The highest deficit level under a Republican Congress was 3.5 percent in 2004. Under President Obama's budget, we will never get back to that level, even though it includes several, what most people would conclude are optimistic assumptions about future employment and economic growth. Even under those rosy scenarios, it will never get below 4.1 percent of gross domestic product. Once it gets there, the deficit continues to rise indefinitely.

Some of my colleagues have said they want to make this election in November about a choice. That is fine with me. To me, the choice on fiscal discipline comes down to this: Do we want deficits that are getting lower such as the red line we see here, dropping from 3.5 percent down to 1.2 percent, or do we want deficits to get higher, such as the dark green line we see here, all the way up to 9.9 percent? The truth is the dark green line is not just an inferior choice, it is an unsustainable choice.

Last month our national debt topped $13 trillion, up $2.3 trillion since President Obama took office. The CBO reported that our public debt will reach 62 percent of gross domestic product by the end of this year and will be 90 percent of our economy in only 9 years. We are on a budget path that will add $9 trillion in additional debt over the next decade.

While some of my colleagues want to let the tax relief we passed starting 10 years ago expire on January 1, we simply cannot tax our way to fiscal solvency. Again, according to the Congressional Budget Office, if spending is off the table—in other words, if we wanted to eliminate the deficit just as a result of tax increases—we would need to raise taxes by 25 percent to create a sustainable fiscal path for the next 25 years. Can Members imagine what a 25-percent increase in taxes would mean to hard-working American families, small businesses, what that would do to job creation, what that would do to the 9.5 percent unemployment rate we see today? It would make it worse, not better.

Tax increases alone don't solve the problem of trillions of dollars in unfunded liabilities in our entitlement programs either. They don't deal with the fact that Medicare is $38 trillion short of its promised benefits and now is expected to go insolvent by 2016. Social Security will pay out more in benefits than it receives in payroll taxes this year.

Yet the CBO has also estimated that individual income tax rates would have to rise by 70 percent to balance the budget while financing the projected spending growth in Medicare and Medicaid. That is assuming no other tax increases or spending reductions in the budget. That is based on our budget outlook for 2007, which has obviously deteriorated since that time. That is based on a pretty optimistic estimate on how fast spending will grow in these two programs, just 1 percent higher than the gross domestic product growth, even though these programs have averaged growth of about 2.5 percent more than gross domestic product over the last 40 years.

I do have some good news about our fiscal situation. The American people get it. That is why they believe spending and debt are two of the most important issues they want the Federal Government to address. The American people also understand intuitively the importance of keeping taxes low and what this huge tax increase that would occur, the largest in American history unless Congress acts, would do to the fragile economy and to high unemployment and to slow job creation.

According to a CBS News poll last week, when asked whether government spending or tax cuts would be better in terms of getting the economy moving, Americans preferred tax cuts by 53 percent to 37 percent. That is a 16-point deferential. Independents actually favored tax relief by 20 points.

My conclusion is, we need to listen to the wisdom of the American people. We need to stop lecturing them. We need to make permanent the tax provisions we passed in 2001 and 2003, not to advantage individuals but to continue economic growth, to continue our ability to reduce the deficit, because people are working and paying taxes and our economy is growing.

The most important message we can send to the small businesses and the job creators in America, when unemployment is at 9.5 percent nationally, is we are not going to increase their financial burdens in addition to the health care bill that was passed and other onerous burdens which have actually constrained job creation and create more uncertainty. We are going to actually encourage job creation by keeping taxes within reasonable limits while at the same time exercising some financial restraint by cutting spending and dealing with this burgeoning debt and burden on the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Thank you, Madam President.

SMALL BUSINESS LENDING FUND ACT OF 2010—Resumed

The PRESIDING OFFICER. If the Senator will suspend, the clerk will report the pending business.

The legislative clerk read as follows:

A bill (H.R. 5297) to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

Pending:

Reid (for Baucus) amendment No. 4499, in the nature of a substitute.

Reid (for LeMieux) amendment No. 4500 (to amendment No. 4499), to establish the Small Business Lending Fund Program.

Reid amendment No. 4501 (to amendment No. 4500), to change the enactment date.

Reid amendment No. 4502 (to the language proposed to be stricken by amendment No. 4499), to change the enactment date.

Reid amendment No. 4503 (to amendment No. 4502), of a perfecting nature.

Reid motion to commit the bill to the Committee on Finance with instructions, Reid amendment No. 4504 (the instructions on the motion to commit), relative to a study.

Reid amendment No. 4505 (to the instructions (amendment No. 4504) of the motion to commit), of a perfecting nature.

Reid amendment No. 4506 (to amendment No. 4505), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Thank you, Madam President.

We are now on a very important bill, the small business jobs growth bill. It is a bill that actually many of us on both sides of the aisle—from the Small Business Committee to the Finance Committee, to Members who are not members of either one of those committees—have contributed immensely to the building of a bill that we think holds a great deal of promise for small businesses throughout our country that have been beaten and battered. But amazingly, in many places, these businesses, despite all the odds, are hanging on and they are looking for some help.

That is what this bill attempts to do—to build strong partnerships with the private sector, to use the resources that are already out there, most notably, our community banks, our small banks.

There are over 8,000 of them. We have not heard a lot about those banks. I see the Senator from Florida in the Chamber who is going to speak in just a minute. We have not heard a lot about community banks on this floor. All we have heard about are Goldman Sachs, Lehman Brothers, AIG. We have heard about Wall Street and big banks. We have not heard about small community banks and small businesses—the 27 million of them that are struggling in America today.

This bill finally—finally—has reached the floor of the Senate. The House has already passed a very strong bill. It has finally reached the floor of the Senate to give us an opportunity to debate what we can do to help small business and what we can do to strengthen and support our healthy community banks in all our States.

It is an exciting time. I say to the Presiding Officer, I thank her as a member of the Senate Small Business Committee for being a part of this effort. Again, the Small Business Committee, in a bipartisan way, and the Finance Committee, in a bipartisan way, have contributed to this legislation, and we are moving to the final hours of this debate now.

AMENDMENT NO. 4500

The Senator from Florida, Mr. LEMIEUX, and I are offering an amendment which is pending before the Senate now. It is a very important amendment to the underlying bill. The pending amendment is the LeMieux-Landrieu amendment. It has many other cosponsors whom I will submit for the record in a moment. But this amendment that is pending now is a small business lending fund amendment that actually makes $1.1 billion for the Treasury. It earns that much over 10 years. It does not cost the Treasury anything. It earns $1.1 billion. It uses the power of the private sector. It uses the power of our community banks that are on Main Streets—whether it is in Tallulah, LA, Lake Charles, LA, or right down Canal Street in New Orleans or some of the main streets in Florida and other States.

It uses the power of those banks—their knowledge of the small businesses in their communities—and it leverages that powerful relationship to help end this recession. But we have to be about job creation, and the people who are going to create the jobs are small businesses.

(Mr. BURRIS assumed the chair.)

Ms. LANDRIEU. As I turn the floor over to the Senator from Florida to speak about our small business lending amendment, let me say, again—I could not say it any more clearly—small firms—and this chart is from 1993 to 2009—small firms in America, those between 1 employee and 499 employees, created 65 percent of the jobs. Only 35 percent of the jobs were created by large firms. These numbers on this chart pertain to the last decade.

I say to the Presiding Officer, you used to be a banker in Illinois. You have a great deal of expertise here, and I think your own experience would tell you if we updated this chart—which we do not have the figures to do—I think this 65 percent would be increased substantially because the people out there creating jobs are small businesses.

We have seen news article after news article, just in the last couple weeks—the front page of the Washington Post, the front page of the New York Times—headlines: Big Firms Hoarding Cash; headlines: Big Banks Hoarding Cash. I guess so. They have gotten a lot of cash from this Congress. But it is the small businesses out there that are struggling to get capital to create jobs, and it is the small, healthy community banks that are out there battling with them to create jobs to revitalize their communities and increase demand.

So let's keep our eyes on this chart, and let's keep our minds focused on one clear fact: Small business in America is the most powerful job-creation engine, and right now we have to put a little fuel in that tank. That fuel is capital to healthy community banks that can then leverage the power of those healthy community banks to get money to small businesses at reasonable rates—not credit card rates at 24 percent, 16 percent, not payday lender rates that are at 30 percent, sometimes 50 percent but at reasonable rates—with reasonable terms so they can create jobs.

That is why the Senator from Florida and I are on the floor. I would like to yield the next 10 or 15 minutes to the Senator from Florida, Mr. LEMIEUX, the cosponsor of this amendment.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Mr. President, I wish to thank my colleague from Louisiana, Senator LANDRIEU, the chair of the Small Business Committee, who has been a great leader on this topic. It has been my pleasure to work with her on this measure to try to help our struggling small businesses.

I think Florida, maybe more than any other State, relies and depends upon its small businesses. We are the fourth largest State in the country, but we are a State that grew so fast, so quickly, that even though we have 18.5 million people, we do not have a lot of big businesses.

The businesses in Florida—nearly 2 million of them—are small. Not one Fortune 100 company is headquartered in Florida. Now we are trying to get there—we have a couple that are on the cusp—and we will. But Florida had this meteoric rise in population over the past 20 or 30 years. It was built on construction and growth and tourism and all the reasons why people want to come to our beautiful State.

But the jobs that have been created over the years are from small firms. They are the restaurant, the local diner, the beach shop, the tailor, the laundromat, the auto mechanic. These are the businesses that are creating the jobs in Florida. Many of them are centered around the service economy.

We are doing a lot to diversify our economy. But the truth of it is, they are the mainstream of Florida's economy, and they are struggling. This is the worst recession in anyone's memory in Florida, even worse than the recession we had in the 1970s.

Our unemployment rate peaked over 12 percent. It is still at 11.5 percent. While this sounds strange, 11.5 percent may not be better than 12 percent in this circumstance because what happens on unemployment rolls is that after a certain amount of time, people drop off and are no longer even looking for work. The truth of it is, if you are walking down the street in Florida and you see another adult walking down the street who is not retired, there is a one in five chance that person is unemployed or underemployed.

Times are tough. There are some signs of life. Some things are getting better. But for Floridians, this is the most difficult economy we have ever experienced. We have the second highest mortgage foreclosure rate. I read recently that our folks are No. 1 in the country in being behind in their mortgage payments.

So our small businesses, the creators of jobs, the folks who, as Senator LANDRIEU said, create 65 percent of the jobs nationwide—I bet you that number is much higher in Florida—need help. This bill is going to help those small businesses. It is not going to cure the problem overnight. Let's be realistic. But it is going to help.

The base bill does a lot of good things for small businesses. There are a lot of tax cuts in this bill. It is going to exclude small business capital gains by 100 percent. The bill will temporarily increase further the amount of the exclusion from the sale of qualifying small business stock. It is going to help something on carryback interest. It means a lot to small businesses. It will extend the 1-year carryback for general business credits to 5 years for certain small businesses. This alternative minimum tax hurts our small businesses. This bill will allow certain small businesses to use all types of general business credits to pay less taxes. When they purchase equipment, it is going to allow them to accelerate that depreciation. When small businesses get to keep more of their money, they get to keep more of their employees, and they get to hire new ones. That is just in the base bill.

This amendment Senator LANDRIEU and I and others are working on is going to put money into our local community banks that will be lent to small businesses. There has been a lot of confusion about the bill, and some of my friends and colleagues on my side of the aisle do not like it. I hope they are going to come around. There is a concern that this is going to be similar to what happened in the TARP bill. But these two bills are very different, and this amendment is very different. Let me explain why.

TARP went to the big banks that were failing at the end of 2008, a lot of which were selling mortgage-backed securities and other exotic investments they should not have been selling, and they put their assets at risk and, therefore, put the American economy at risk.

This has nothing to do with that. These are small banks. This is the banker you know down the street, the banker who is at your rotary or at your Kiwanis, whom you see at church or synagogue. This is not some Goldman Sachs banker. This is your local community banker who loans to the laundromat, the tailor, the construction business—the folks who employ people in your hometown.

This program is optional. No bank has to take it. If they are a small bank, though, if they have assets under $10 billion, they will get an ability to get some more money they can lend out to small businesses that create jobs.

That is not a partisan issue. We all should support that. The money that comes back in is going to be repaid, and not only are we not going to increase the deficit or the debt, as my colleague from Louisiana just said, the

Federal Government will actually make money. That is not something we hear a lot about in Washington.

So it is not going to increase the deficit. It is not going to increase the debt. It is not going to increase taxes. It is going to lend money to local banks, to loan that money to small businesses, to help them in this difficult time.

When I drive down the streets of Florida—whether it is in Orlando, Tampa, Pensacola, Jacksonville, Fort Lauderdale, Naples, all across the State—we have a lot of strip shopping centers. It is the way Florida was built. It is nice. You get to park in front, go in, buy your goods or services, and go home. But you can see them from the roads. When I drive down these main thoroughfares and I look over, what I see are empty buildings—empty buildings—because our small businesses have gone under because they no longer can pay their rent, because they no longer have the customers they used to have, and because they no longer can get lending from their bank.

What is particularly of interest to Floridians about this bill—I am sure this is true in other States, such as California and Arizona and Nevada, other States that had this big real estate-based economy that boomed in the past years—what happens to your local businesses is that a lot of times the loans they are getting now are tied to real estate they own. They may own a small parcel in a small building where they operate their business. They have a mortgage against that property. They are paying their payments, but the asset, the real estate, has fallen in value tremendously. So now, when the regulators come in and look at the bank's books to make sure the banks are operating OK, they say: Wait a minute. The mortgage that Joe's business has is technically in default because the asset their loan is against has fallen in value by 50 percent. I have business owners coming to me all the time telling me their banks are putting them in technical default because of the depreciation of the asset which is being held against the loan, which is their real estate.

So this is an extreme and an enormous problem in Florida. This bill will put more money in the small banks to help lend to businesses to help them bridge the gap until this economy recovers.

I also wish to speak a little bit about another amendment to this bill I have been working on with Senator KLOBUCHAR that talks about export promotion—another issue that is not partisan. We all want more exports. Exports in Florida are a big deal. They are a huge part of our economy, being the gateway to Latin America. We sell our goods overseas. But small businesses, and even medium-sized businesses, whether they are in Illinois or Louisiana or any other place in this country, often don't know the services the Federal Government—the Department of Commerce—can give them to open the doors of trade and allow them to sell their products overseas.

So what Senator KLOBUCHAR and I are doing with this amendment, with export promotion—and she has done a tremendous job on this issue—is putting more resources into the Department of Commerce to go back to 2004 levels—because we have had to make a lot of cuts there—in order to provide more folks who can then go out and show businesses how they can sell their wares, to create more sales, so they can grow their business and hire more people.

That is good for everybody's economy. I am not a big believer in government spending, but when we are spending to help businesses pursue their economic and entrepreneurial opportunities, that is good for America. In fact, when the Department of Commerce spends $1 million on export promotion, their estimated return is $57 million—a 57-to-1 economic return. So that is just another very good part of this bill.

I hope we have an opportunity to vote on this bill. We may even have an opportunity to vote on this bill and this amendment today. Our leadership is working on some other amendments. I hope those opportunities will be provided.

This is a bill we all should agree upon. It is a bill that should have 70, 80, or more votes in this Chamber, and we should get it done because it would be good for the small businesses, the job creators of our country, in their time of need.

I wish to thank my colleague from Louisiana who has been a great leader on this issue. I wish to thank her for working with me in order to lend my efforts to this bill to help to improve it in ways that I thought would be important for this country and for my home State of Florida. I also wish to recognize my colleague, Senator KLOBUCHAR, who is here. She has done such great work on the export portion of this bill.

With that, I will turn back my time to my colleague from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank my colleague from Florida for his excellent explanation using real stories and terrific visuals because he just painted a picture for us about what those empty shopping centers look like. We have seen those in our own States as well. He is absolutely correct. If we don't do anything, the problem is, they are going to stay empty. We just can't wish it to change. We have to act in a way that will help it change. That is what this bill is about.

Again, this is not a big government solution. This is a potential solution that holds a lot of promise based on strengthening relationships that already exist that are basically in the private sector. That is what this effort is. It is exactly as the Senator from Florida outlined.

He spoke about—and he is right—one of the arguments we have heard which we can't seem to understand. If there is somebody who can explain this, they should come to the floor and help us. We keep hearing: This is like TARP. So I wish to take just 1 minute to explain the differences in as simple a way as I can.

TARP stands for Troubled Asset Relief Program. It was $700 billion. It was a program that George Bush fashioned initially and was continued through this administration to give money to big banks that were getting ready to fail. I wish to say that again: $700 billion, fashioned first by the Bush administration, available to big banks that were failing and that many people were opposed to. This program is not $700 billion, it is $30 billion. It is not going to big banks on Wall Street; it is going to small banks on Main Street. The TARP money went to banks that were failing. This is going to healthy banks that are trying their best to lend; that want to help their communities to revitalize. So if anyone thinks this is like TARP, please come talk to me because I could explain how it is not anything like TARP.

I can show my colleagues many letters and many documents, starting with one, and then I will turn it over to the Senator from Minnesota. One of the main reasons it is not like TARP is because there were a lot of bankers who were opposed to TARP. They didn't like the government intrusion. They didn't like the rules and regulations. One could argue it was necessary, but many bankers weren't for it.

This letter I am holding—and I will have it blown up—is from the Independent Community Bankers of America. They represent 5,000 independent banks—5,000. I am just going to read the first paragraph of this letter that they sent to HARRY REID and MITCH MCCONNELL. This is a letter they sent to Leader REID and to MITCH MCCONNELL, minority leader of the Senate. It reads:

> On behalf of the nearly 5,000 members of the Independent Community Bankers, I write to urge you to retain the Small Business Lending Fund in the Small Business Jobs Act. The SBLF is the core component of this legislation and the provision that holds the most promise for small business creation in the near term. Failure to even consider the SBLF in the Senate would be a missed opportunity that our struggling economy cannot afford.

Let me go on because this is important:

> The Nation's nearly 8,000 community banks are prolific small business lenders with community contact, underwriting expertise. The SBLF is a bold, fresh approach that would provide another option for community banks to leverage capital and expand credit to small business.

I can't understand one reason to not support this. This is the core of this bill. The bill will be somewhat empty without it. This is the core of the bill.

So we are going to put this on this bill, and we are going to urge our colleagues to then understand that the bill will then be whole and we can all join together and vote for this very important bill and this very important amendment.

I am going to specifically answer the arguments raised by the minority leader on the floor in his very brief comments this morning. He made four arguments, and I will try to address each and every one in just a moment. Before I do, I will ask the Senator from Minnesota, who is a cosponsor of this lending provision and an actual designer and creator of one of the key components of it—because Minnesota, like Louisiana—we may be in different parts of the country, but our businesses depend on exports. Whether you are at the head of the Mississippi River or the foot of the Mississippi River, which we both represent in this Nation, and we often talk to each other about how narrow it is up in Minnesota and how wide and wonderful it is in both places, both north and south. But it really does connect us because it is all about exports and trade.

So I wish to recognize my friend, the Senator from Minnesota, who will talk about the export provision of this amendment and why it so crucial.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I wish to first commend Senator LANDRIEU for her great leadership. It is true we share this river, and when you see all the barges go down the river every day, you see the trade and the export firsthand that we are talking about. I am focused on the export end, but I wish to give my support to the lending part of this. It is so important, and Senator LANDRIEU, as head of the Small Business Committee, has worked on it incredibly hard.

When we discussed this idea last year of small business lending, I went around to a number of my small businesses and I heard time and time again how much this would be helpful for them. I think it is summed up by a letter I got from Bertha, MN. My colleagues may not have heard of it. It is not exactly a metropolis. This letter is from a guy named Harry Wahlquist of Star Bank in Bertha, MN. This is what he wrote just a few weeks ago. He said:

> I am a banker and need capital to continue serving my nine Minnesota towns. Please pass the small business lending bill now. You gave money to Wall Street. How about Main Street in Minnesota?

I think it has been said that Wall Street might have caught a cold, but Main Street got pneumonia. There are still many issues out there, and a lot of it could be helped to create private sector jobs by simply allowing credit out there and more loans.

The other piece of this which Senator LANDRIEU and my other great colleague from the Commerce Committee, Senator LEMIEUX, mentioned was exports. I became very interested in this because my State is now seventh in the country for Fortune 500 companies. We are 21st in population, but we have a strong and thriving business community that believes in exports and believes in innovation. We brought the world everything from the Post It note to the pacemaker. While all of these things did not start at the big companies, these big companies started in garages—companies such as Medtronic, in Two Harbors, MN, or little sandpaper companies such as 3M. They all started small. Sixty-five percent of the jobs in this country are due to small business. Yet these small businesses, which now see this world of opportunity out there for them—95 percent of the jobs in America—95 percent of the customers for America, for American businesses, are outside of our borders.

Unlike 3M or Medtronic, great Minnesota companies—or Best Buy—that can have people working internally on these issues to identify markets, a little company in Benson, MN, isn't going to be able to have a full-time person looking at where they can sell their products. They still have managed to do it, and a lot of them have been able to do it by working directly with the Commerce Department. These are not little companies that necessarily are big government guys. These are people who are conservative businessmen or businesswomen who went out there and said: Well, how am I going to figure out where I can sell my product around the world when I don't speak the languages. I don't have a trade person.

My favorite example is a company called Matt Trucks in northern Minnesota, population 900, the moose capital of our State.

A little second grader named Matt was in school and he came home to his dad and he drew a picture of a truck. The truck had wheels and he put a bunch of tracks on each of the wheels of the truck. His dad said: Matt, that is really cute. But as you have seen on TV, the tracks go between the wheels.

This little kid said: No, Dad. This would be a lot better because you can put the tracks on the wheels and take them out and use it as a regular truck.

His dad is a mechanic. He went into the shop and created this truck and these tracks. Then he started a company that he called MATTRACKS, after his second grader. They have about five employees. They are chugging along.

One day the dad went to Fargo, ND, which is the region of the Commerce Department that serves part of Minnesota, and he talked to a woman named Heather. She is with the Federal Government. He went to her for help. She looked on her computer and identified some markets and called the embassies where he could sell this truck. Now, due to exports, due to the fact that they are exporting to dozens of countries, from Kazakhstan to Carlton, MN, they have 55 employees, all because of exports.

We have seen this all over our State. That is why Senator LEMIEUX and I came together to introduce a bill to focus on exports for small- and medium-sized businesses.

Do my colleagues know that 30 percent of small- and medium-sized businesses would like to export more, but they simply don't know how to do it? Well, this amendment helps to fill the gap and assist U.S. businesses that are looking to export their products but do not have the resources or the know-how to find new international customers.

The program focuses on locating and targeting new markets, the mechanics of exporting, including shipping, documentation, and financing, and the creation of business plans. This amendment is projected to create 43,000 jobs. It would do this by making sure this U.S. and Foreign Commercial Service, which assists small- and medium-sized businesses, is able to carry out its mission to work with these businesses by having adequate staff.

Secondly, it expands the rural export initiative, which helps rural businesses develop international opportunities. As noted by my Republican colleague, Senator LEMIEUX, the numbers are clear. Every dollar invested in this program creates $213 in rural exports.

This part of the small business amendment that Senator LANDRIEU is putting together allows the Department of Commerce to identify known exporters that have a capacity to grow their international sales. A business that has already been exporting to Canada or Mexico something like 50 or 60 percent of its business only exports to those countries—it allows them to look for other countries. It provides matching grants to industry associations and nonprofit institutions to underwrite a portion of the startup costs for new export promotion projects.

This is real jobs. We all know that we helped our country from going off the financial cliff. We did that with the stimulus package and by building new roads and bridges. The way out of this economic slump will be with private business expanding and with jobs. The way you do it is look across the borders and see where you can sell your goods. They have been selling goods to us, right? I want the United States to be a country again that makes goods and sends our goods to other countries. That is what this piece of the bill is about.

I am grateful to Senator LANDRIEU and for the leadership she included in this package. I thank Senator LEMIEUX for his leadership on this amendment. I hope we pass this bill. It is incredibly important.

I now turn to my other colleague, who has chosen to wear bright pink today, the Senator from Louisiana.

I yield the floor.

Ms. LANDRIEU. Mr. President, I thank my colleague for the beautiful stories she shared from her State. It makes this all so real. It is. It seems as if sometimes it is not when we debate these bills on the floor. But it is so

real—the outcome of what we do on the ground in the States that we represent, and in these small towns. I will remember Matt's story. I am going to share the speeches that I give around my State, and how incredible it is that a young child would present an idea to a father and the father is smart enough to recognize what a good idea it was and took it and built a business, and through a great strategic partnership with the father, a private business owner, and a very willing Federal employee, found a program that works to build his business, now with up to 55 employees.

That happens all over the country. It happens in Louisiana. Speaking about Louisiana, I will read what our bankers at home—the bankers in my State—say about this program. I read the letter to MITCH MCCONNELL and to HARRY REID, delivered by the 5,000 community banks in the Nation that are strongly supportive of this small business lending fund—community banks that know these businesses. They are standing there watching them and, in many instances, suffering and not able to give them the support they need because of the credit constraints that were so beautifully expressed by Senator LEMIEUX, as falling real estate values have put the original capital that was their collateral in the bank in some jeopardy, or it has to be scored in a different way. This bill will help. That is why bankers all over the country are supporting it.

Let me say what my bankers, who are normally a more conservative group—they don't agree on everything this Congress has done, either when Republicans or Democrats are in charge; they tend to be more conservative. They don't like big government and a lot of regulation and intrusion. This is what they have said on behalf of their small businesses:

> On behalf of the members of Louisiana bankers, I am writing to express our support for the small business lending fund. Treasury would invest in community banks from this program that would be separate and apart from the Troubled Asset Relief Program. This legislation would serve as another voluntary tool for community banks to meet the needs of small business. Meeting the needs of these borrowers has been more difficult as regulators pressure many banks to increase their capital-to-asset ratios.
>
> Given the severity of the downturn, it is difficult, if not impossible, for community banks to find new sources of capital. Thus, the only option for many banks is to shrink, which can mean making fewer loans. This lending provision would allow banks to avoid that result, continue to meet the needs of their communities. With an improving economy and public investment, such as those proposed, lending can increase faster in some of the hardest-hit areas of our country.

The Louisiana bankers would know about this, because we are in one of the hardest hit areas. Not only is the recession affecting us like everybody else, but if we haven't noticed lately, there is a lot of oil out in the gulf because of a tragic, unprecedented accident. The Gulf Coast community is struggling almost more than any other region of the country because of it. Now because we have constrictions on drilling—which I don't agree with but which are in place—we are finding employment harder to come by and businesses struggling even more. So our Louisiana bankers know this. They have sent letters to myself and to the junior Senator from Louisiana, Senator VITTER, asking us to please be supportive of community banks, saying you have done a lot to help the big banks and Wall Street, so please help us. That is what this amendment is about.

I am going to yield the floor for a few moments. I will come back within the next 30 minutes or so and continue this debate this afternoon. We are on the small business bill. The pending amendment is the LeMieux-Landrieu-Nelson from Florida-Merkley-Boxer-Cantwell-Murray-Whitehouse, and other Members are joining us as cosponsors of this amendment. Senator BURRIS from Illinois is also joining us on this amendment.

We are picking up support as organizations express themselves today to Senators, saying how important this small business lending fund is. It could leverage $30 billion. It will earn a billion dollars for the taxpayers, which is an attractive characteristic. It doesn't cost anything and it actually makes money, as any smart banker and business wants to do. It doesn't cost money—well, it costs a little on the front end but makes it back on the back end. It is supported by a growing number of Senators, we hope, on both sides of the aisle.

As we continue this debate today, I look forward to answering some of the concerns raised and will try to put those to rest so we can have a very strong vote on this amendment on the underlying bill.

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.

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

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

ISRAEL

Mr. ENSIGN. Mr. President, I rise today to address a relationship between the United States and our ally Israel. I was glad to see that President Obama took some time over the July Fourth recess to sit down with Israeli Prime Minister Netanyahu and discuss the rocky path which U.S. and Israeli relations have taken over the past 2 years.

Israel is, by far, our strongest ally in the region. This close relationship and friendship is built on a bedrock of common democratic values, religious affinity, and perhaps most importantly national security interests. We are both nations that face threats posed by radical Islam.

While we have been able to take the fight to the enemy, as we fight al-Qaida and Taliban refinements in Afghanistan and Iraq, Israel has not been so fortunate. They face an existential threat. This threat to their existence is not just Hamas and Hezbollah, who attack Israel with suicide bombs and rocket attacks, but also from radical nations such as Iran and their allies.

When one nation says to another, ''We are going to wipe you off the map,'' we need to take that threat seriously. This is especially true when that nation says it over and over again, as Iran has. As an ally, Israel should be able to count on us for support. This support is not limited to financial and military support but also diplomatic and moral support. So when Iran says they are going to wipe Israel off the map, the United States needs to stand up and say, ''No, you will not.'' We cannot send mixed messages. That is why what happened at the 2010 Nonproliferation Treaty Review Conference worries me so much. For when we fail to stand up for our allies on the smaller issues, they begin to question our resolve when it comes to the large issues, such as their existence.

Under the Nonproliferation Treaty, there is a conference every five years to seek ways to strengthen the treaty and advance the goals of nuclear nonproliferation. At this conference, Secretary Clinton opened by stating that:

> Iran will do whatever it can to divert attention away from its own record and attempt to evade accountability. . . . But Iran will not succeed in its efforts to divert and divide.

Additionally, a White House official was quoted in the Washington Post at the beginning of the conference summarizing: ''This meeting is all about Iran.''

Based on these comments, one would expect to see some reference to the fact that Iran and Syria are both flagrantly violating their treaty obligations. One would expect to hear that Iran has threatened the existence of another sovereign nation. One would expect to hear how Israel was forced to destroy a North Korean nuclear facility located in its backyard. We did not see anything of this sort in the final document. What we did see instead was the name ''Israel'' appearing. I am a little bit confused. Why would we agree to a document that does not mention Iran or Syria but does single out our strongest ally in the region? This is even more puzzling considering this is a consensus document. That means that we, as a nation, had to sign off on it. Essentially, we threw one of our closest allies under the bus, in exchange for what? I do not believe there is a good answer to this question. What type of message does this send not only to Israel but to our other allies? It says:

We will not hesitate to throw you overboard in exchange for a political tic mark that gets us nothing.

In closing, I believe that based on what Secretary Clinton was hoping to achieve and what we actually did achieve—the alienation of an ally—this conference has to be considered an utter failure.

Some over at Foggy Bottom, at the White House, and in Congress need to realize how important our relationship with Israel is and start taking steps to strengthen that relationship instead of taking steps to weaken it, as we did at the recent Nonproliferation Conference.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak for the next 10 minutes.

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

Ms. LANDRIEU. Mr. President, I know Members are busy around the Senate today on various committees and special caucus lunches, talking about many aspects of not just this bill but other things that are pending. I thought I would come to the floor while we had this time to make a few general remarks about the small business bill and also specifically about the Small Business Lending Fund which is the amendment that is pending.

The Small Business Lending Fund amendment is a bipartisan amendment by Senator LEMIEUX of Florida and myself. It is also sponsored by the senior Senator from Florida, Mr. NELSON, Senator MERKLEY from Oregon, Senator BOXER from California, Senator CANTWELL, Senator MURRAY, Senator WHITEHOUSE, Senator BURRIS from Illinois. We added Senator HAGAN just a few minutes ago as a cosponsor, and we are getting calls regularly, throughout the day, from Senators who want to be a sponsor of this amendment. We believe we have great support on the floor of the Senate, and that support is growing as this debate goes forward and as more people begin to understand that this Small Business Lending Fund is really the core of the small business bill.

There are three pieces of the small business bill. One piece that came out of the Finance Committee on a very strong bipartisan vote, I understand, was a $12 billion targeted tax cut for small businesses in America. There should be listed, I hope on my Web site and other Web sites of the Finance Committee, a list of all those tax cuts. One or two I am very familiar with would be a real advantage to anyone in America who wants to invest in a small business over the course of the next 6 months to a year. You will pay no capital gains if you hold that investment for 5 years; you will pay zero capital gains because that is one of the strategic targeted tax cuts in this bill. In addition, there is accelerated depreciation for small businesses—not for big businesses but for small businesses—so small businesses in America, defined as those businesses with under 500 employees, can write off some of the investments they are making to try to grow their businesses in these difficult times. We want to help them do that. So one important part of this bill is $12 billion in tax cuts to small businesses. This is a very important component.

The other important component came out of the Small Business Committee with a bipartisan vote. It strengthens the core programs within the Small Business Administration. It strengthens the 7(a) Program. It strengthens the 504 Program. These are programs that allow lending to small businesses for commercial real estate. They allow lending for the capital needs of those businesses—for businesses to purchase inventory, to purchase other goods and services necessary to operate their business.

These are longstanding programs that are very well supported on both sides of the aisle and that we find have worked so well we want to double the limits, we want to eliminate the fees, and we want to increase the guarantee from 75 percent to 90 percent. When we did this under the stimulus program a year ago on an emergency basis, we saw the number of loans go up dramatically. That time came to an end, and so in this bill we are reinstating that very successful program that works. Senator SNOWE, the ranking member, and I are very supportive of that provision, and that is in the bill.

There are three main pieces. I have talked about two. The third piece is what this amendment represents. The third piece, according to the National Bankers Association, is really the core of the bill. That is according to the community banks, not the big banks on Wall Street but the community banks on Main Street. They have written letters to all of us—to the majority leader, to the minority leader—saying: Please support the Small Business Lending Fund. It is not like TARP, it is completely different, they say, and they are right.

As I said earlier this morning, a little bit of opposition we are hearing even from the minority leader, MITCH MCCONNELL, indicated that one of the reasons that maybe some of the Republicans might not be for this is because this is like TARP. The TARP was a $700 billion bailout to big banks. This is a $30 billion partnership with healthy community banks. TARP was a $700 billion bailout for failing, unhealthy big banks on Wall Street. The small business lending program is $30 billion—much smaller, strategic private sector partnership with small community banks that are on Main Street to keep all of our small businesses open and operating and growing so we can get out of this recession.

I hope the arguments that this is TARP-lite or TARP, Jr., will go away because the facts are so completely different from one program to the other. This is a strong strategic partnership that could have been defined as a bailout. It was a bailout. Some of us think it was necessary, some think it was unnecessary, but it was a bailout. This is not a bailout. This is only going to healthy banks that, because of the falling value of collateral they are holding behind some of those loans because the regulators are looking at it a bit more, giving more scrutiny to banks everywhere—some of that is good and some is a little bit heavyhanded, but nonetheless it is happening—banks are having a hard time generating the capital to have those ratios correct when the regulators come in, and so they are cutting back on lending.

If we want banks to lend to small businesses, we need to help them, and they want us to help them. They are for this. The independent bankers have sent us letters. The community bankers have sent us letters, as well as the American Bankers Association. That is unlike TARP, where there were many banks, even some that received money, that didn't like the program. They didn't like it because there were lots of strings attached. They didn't like it because they thought it would ''ruin their reputations.'' They didn't like it because they didn't want to have to go through stress tests. I understand that. I think the program has worked pretty well, but that was that program. That was 2 years ago. This is now. It is a different initiative. It is not even really a government program; it is a private sector partnership between the Federal Government and taxpayers and their community banks that they know and they trust. They see these bankers at the Rotary Clubs and Kiwanis clubs. They see them in church, they see them in the synagogues, they see them on Main Street. These are the bankers who know their businesses and want to lend to their businesses. They know the businesses that have the potential to grow and those that potentially might not be able to grow. They know the businesses that have readjusted for this economy, this tough economy. We can trust our community bankers.

I am the chair of the Small Business Committee. I have had the most extraordinary opportunity as chair of this committee—on which you serve, I say to the Presiding Officer—to listen to small business owner after small business owner pleading, saying to me things like: Senator, I never missed a payment. Senator, I always sent in my money, and they cut my line of credit. Senator, we are desperate out here. We do not have access to credit. Please help us.

One argument I have heard some others make is based on a study that came

out from the National Federation of Independent Business, the NFIB. I am going to try to get that study in just a minute because I want to respond to that. The NFIB study is quoted sometimes in this debate. Here it is here, the ''Small Business Credit in Deep Recession'' study. It is waved around on the floor by some people who are not sure how they might vote on this amendment because they have heard things. They are not sure, but they say: According to the NFIB, the National Federation of Independent Business, 40 percent of the banks say credit is not a problem. And there is some data here that is going to show that 40 percent of the banks say they were able to get all the loans they needed; 10 percent said they could get almost all the loans they needed. But the rest of the study is what is important. It is about 60 percent who say they could not get it, from the National Federation of Independent Business. Their own study showed that 60 percent of their businesses said they could not get the collateral from the banks that they so desperately need.

I know there is this little argument out there that there are no good businesses to lend to.

We all know that is not true. There are businesses in all of our districts. We are hearing from them. They cannot get credit because of new regulations, because of tightening capital ratios. This is a partnership with banks that has absolutely nothing to do with TARP, big banks, Wall Street, unhealthy banks. It has everything to do with community banks that are less than $10 billion. Those are the only banks that can even apply to be a part of this. It is completely voluntary.

If a community bank in Illinois or Louisiana—and I have talked to some—said, Senator, we are healthy; we have a lot of capital to lend, I have said to them, that is wonderful. Then you do not need to apply for this. But if you want to grow your bank in these times, then it is completely up to you. This will be available to you. You know what, they brighten up. They say, well, we did not realize that. We thought it was going to be something forced. Absolutely not. It is completely voluntary.

So for the NFIB and the 40 percent of their businesses that said they could not get collateral, this is a solution. I am very proud to offer this solution in this way. I also want to say we have letters from, I believe, almost 20 Governors who have said, please help us. We are trying to do everything we can in our State to stimulate growth and development. We are trying to do what we can. So they have sent letters, both Republican and Democratic Governors. A letter I have that I will submit to the RECORD is from February, from Christine Gregoire, the Governor from Washington State. She writes a very strong letter to Dr. Romer, our economic adviser for President Obama, to Tim Geithner, to Chairman Sheila Bair, saying, this small business lending program is what the State of Washington needs. We are full, she says, of small businesses that are knocking on our doors at the State capital that cannot get credit. We must open the opportunities for them.

If we want our States' economies to grow, which we do, whether it is Washington or California, I say to my good friend from Arizona, or from Tennessee, or from Massachusetts, the way they are going to grow is through small business.

Look at this. From 1993 to 2009, in the last 16 years—I think these numbers would be updated and it would even show more—65 percent of all new jobs in America are created by small business. When we have letters such as this from Governors who say their small businesses cannot get credit, what are we going to do? Sit here and do nothing? I do not think so. I think we should act.

One of the best ideas that has come forward from Republicans and Democrats that has been scrutinized and looked at and torn apart and put back together is a $30 billion small business lending fund that will not create a new government program. This is not lending by the government, this is lending by the private sector.

This is not lending by big banks, who do not lend—by the way, we have seen the bank lending, big bank lending to small business has declined in the last four quarters by 8.1 percent. Think about that. The banks that got all of the money in the last year of the Bush administration and the first year of the Obama administration, the banks that got all of the money, the reports show, cut lending to small business by 8.1 percent.

The banks that did not get any help, the healthy community banks in our States, even in these times have increased the lending to small business because, A, it is smart for them to do so, because when they do it right they make money, which is the whole point of them being in business, and because many of them also believe strongly in the communities in which they have built their business.

They helped build these towns. They do not want to see them take bankruptcy. They helped build the businesses on Main Street. Do you think they are happy to sit there and watch these businesses close up?

But we spent the last 2 years, the last year under Bush and the first year under Obama, bailing out Wall Street. When it comes to helping Main Street, it gets very quiet around here. I wonder why.

That is what this amendment does. We know small business creates jobs. We know there are credible small businesses in all of our States. Even according to the NFIB, even according to their own survey, 40 percent of the businesses said, we did not get all of the credit we need. If we could get it, if we could get credit from our banks, if we could borrow money from our banks, we could grow, even according to this study.

We are very proud of this lending provision in this bill. I think the whole bill is very good. Maybe there are some other amendments that need to be included, that could come from Finance or that might come from someone else. But the core of the bill, the $12 billion in tax cuts for small business, the strengthening of the small business lending programs and contracting programs and surety bond programs, which many of our Members have worked on, and this lending piece is absolutely crucial. It is one of the best things that we could do as a Congress to help small businesses find their footing, to help them get more certainty about the future.

They are the ones that are going to take the risk. We have seen the headlines in the last couple of days. If you are reading the Washington Post, if you are reading the New York Times, if you are reading your hometown newspaper, what do those headlines say? I will tell you what they say: Big business hoarding cash. Big banks sitting on $1.6 trillion in profits. They are sitting on it. They are holding it. They are not lending it.

Do you know who is lending? Do you know who is still lending, or they are trying to lend? The community banks of America. They are desperately trying to lend. And what are we doing? Sitting here not listening to them or not helping them. We must listen to them. I have letters here I have submitted to the RECORD, independent bankers, community bankers, American bankers: Please help the healthy small banks in America to do the job we want to do for you and end the recession.

When we vote on this amendment, I hope we get a strong vote. I hope people in this Chamber will not turn their backs on the small businesses in their districts and the healthy community banks that have been there for a long time. If we act responsibly, and if we join in partnership with them, and we rely on the private sector savvy that is out there, I think we can make some real headway. That is what I am hoping.

There is no silver bullet. I am not 100 percent positive this is going to work in the way that we think. But I am very confident that it has a great chance of working. Shouldn't we give the benefit of the doubt to our own small businesses and community bankers? A lot of people did not know if TARP worked. A lot of people do not think it worked today. But nobody was saying, oh, well, we are not sure; we should not do it. We rushed on out there and gave billions of dollars to Wall Street, billions of dollars to big banks.

Now when it comes to giving our community banks the benefit of the doubt, when it comes to giving small business people who have risked everything the benefit of the doubt, we are

having some trouble. I do not understand that.

As the chairman of the Small Business Committee, I promised them I would follow in the good footsteps of the former chairs of this committee: Senator SNOWE has been an outstanding chair; Senator KERRY has been an outstanding chair; Senator BOND has been an outstanding chair. They have been very strong advocates for small business in America.

When this program came across my desk, I wish I could say I designed it. I would love to take credit for it. But I did not. It was designed by other Senators. But when I saw it, I thought to myself, now this could work. When I heard the President speak about it, I thought, this makes a lot of sense. I thought, my goodness, this sounds like a good idea. The more I looked into it, I became convinced, it is not a good idea, it is an excellent idea. I am not going to leave it on the cutting room floor because of some political argument that makes no sense to me, and it should not make sense to anybody in this Chamber.

I see other colleagues are on the floor to speak. I have exhausted my 10 or 15 minutes. I am happy to yield the floor. And then, of course, I will come back to the floor, to come back to speak about this amendment. I want to say I am very proud of the support of Senator LEMIEUX, as well as a growing list of other Senators who have come forward to support this amendment and to speak on the bill.

I see the Senator from Arizona and I will yield the floor at this time.

The PRESIDING OFFICER. The Senator from Arizona.

HEALTH CARE

Mr. KYL. Mr. President, I rise simply to insert into the CONGRESSIONAL RECORD two very interesting pieces from the Arizona Republic. The first is an op-ed, a column, by Bob Robb, who is one of the most erudite columnists I have ever read. He comments on the financial regulatory reform bill saying, among other things, that this new financial stability oversight council that is created under the legislation will have total control over what a lot of banks and businesses do.

He describes this as being able to tell a company not only what capital it needs to maintain, but what products or services it can offer. It can even order a company to divest some of its holdings or lines of business, and even take over the company with the intent of completely liquidating it, and in many cases even without the ability to contest these decisions in court.

He laments the fact that there will be no rules-based regulation of capital markets anymore; predicts it will be doomed to failure, and also talks about the beginning of the end for an independent Fed, which has significant responsibilities under this law, which he believes, and I agree, are inconsistent with its primary task, the entity in our country that is supposed to take care of the monetary policy of the country.

The other piece is an article in the Arizona Republic of July 21. I will quote from the first three paragraphs:

State and university employees with families can expect to see their monthly health insurance costs rise as much as 37 percent next year, depending on the type of plan they choose.

It goes on to say:

The Department of Administration—

That is to say, of the State of Arizona—

cites Federal health reform as the reason the State's health plans will carry greater expenses and higher premiums for its members.

This is the latest example of the effect of the health care reform legislation on insurance premiums which are going to be rising around the country. But I did not expect them to rise 37 percent on our State employees next year.

I ask unanimous consent that the column by Robert Robb and the newspaper article dated July 21 in the Arizona Republic be printed in the RECORD.

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

[From the Arizona Republic, July 21, 2010]

AN END TO RULES-BASED CAPITAL MARKETS

(By Robert Robb)

The financial market reform legislation enacted by Congress last week ushers in a new era in the relationship between capital markets and the government.

If the country decides it was a mistake, unwinding it will be very difficult.

Until now, regulation of capital markets has been primarily disclosure-based. Investment firms were largely free to offer whatever products they wanted. The role of government was principally to ensure that there was adequate disclosure so that potential investors could make informed decisions and not be hoodwinked. Who made or lost money wasn't the government's concern, except at tax time.

The primary exception was banks whose deposits were insured by the federal government. Since the government was ultimately on the hook, it oversaw the prudence with which these banks did their business.

The conventional wisdom is that this system failed in the financial market turmoil of 2008. Financial institutions subject to lighter prudential regulation took on too much bad risk with too much leverage. These firms had become big and interconnected enough that their failure threatened the collapse of the entire U.S. financial system.

Now, I happen to believe that this narrative overstates the threat that existed in 2008. But I am part of a very small and uninfluential minority on the matter. So, for purposes of discussion, let's assume that the narrative is correct and the goal of reform should be to prevent a reoccurrence.

There are several things that Congress could have done to address the perceived threat directly. If financial institutions of over a certain size represent a systemic threat, Congress could have prohibited companies from becoming that large. In the past, the U.S. got by with smaller banks and it could again.

If excessive leverage is a systemic threat, Congress could have limited it directly.

Instead, Congress decided to vastly expand the federal government's discretionary, prudential regulation of capital markets.

A new Financial Stability Oversight Council and the Fed are authorized to prescribe individualized requirements for any company they deem to pose a potential systemic risk. The new council of wise men can tell a company not only what capital it needs to maintain, but what products or services it can offer. It can order a company to divest some of its holdings or lines of business. The federal government can even take over a company with the intent of completely liquidating it.

In many cases, the company has no ability to contest these decisions in court. Where there is judicial review, it is limited to whether the regulatory decision was arbitrary and capricious.

So, there is no real rules-based regulation of capital markets anymore. The council of wise men will make it up as they go along. Companies of the same size in the same lines of business may have entirely different rules they must follow.

There will no longer be a capital market regulated by an arms-length federal regulator, setting the same rules of the game for all competitors. Instead, there will be symbiosis between government and financial institutions, interacting continuously with one another to determine what any particular financial institution can and cannot do at any particular point in time.

This approach is doomed to failure. No group of regulators has the wisdom required to do what this new legislation requires.

Once the symbiosis is established, however, unwinding it will be very difficult. The politicization of the allocation of capital tends to be addictive.

This bill is also probably the beginning of the end of an independent Fed. The Fed cannot play this large of a role in the conduct of every major financial institution in the country without politicians seeking to get into its knickers. The role of primary systemic risk regulator is simply incompatible with that of an independent monetary policy maker.

President Obama and Democrats regard this legislation as monumental. I don't think they even partially understand how right they are.

[From the Arizona Republic, July 21, 2010]

STATE TELLS EMPLOYEES HEALTH INSURANCE WILL ROCKET

(By Ken Alltucker)

State and university employees with families can expect to see their monthly health-insurance costs rise as much as 37 percent next year, depending on the type of plan they choose.

Figures provided by the Arizona Department of Administration show that health plans for families and single adults with children will shoulder the most-expensive monthly premium increases beginning Jan. 1, while individuals will pay modest increases.

The Department of Administration cited federal health reform as the reason the state's health plans will carry ''greater expenses and higher premiums for members,'' according to a June 30 letter sent to about 135,000 state and university employees and their dependents.

The letter named two provisions that the state expects will drive health-insurance costs higher. One is a requirement that insurance plans provide coverage for dependent children up to age 26. The other is the federal legislation's ban on lifetime limits, an insurance-industry practice that cuts coverage once an individual's medical expenses exceed a set amount over their lifetime.

Because the state is one of Arizona's largest providers of health insurance, its estimates could provide an early glimpse of how large employers will pass along health-reform costs to their employees.

Industry analysts say it is too early to tell how much health reform will impact the cost of insurance. Some estimates expect the initial impact on overall cost will be less than 2 percent. Many analysts agree that the true impact won't be known until 2014, when health-insurance exchanges are established to extend coverage to the estimated 32 million Americans who now lack health insurance.

''I don't know if anybody really knows what the (impact) on costs will be,'' said Don Mollihan, a broker and consultant with Arizona Benefit Consultants. ''The entire (health-insurance) industry is trying to react to the reform as regulations are implemented. That is where the rubber meets the road.''

One example is the Obama administration's requirement, unveiled this month, that all health-insurance plans cover preventive care free of charge. Such no-charge preventive care ranges from autism screening to colorectal-cancer screening for adults over age 50 to folic-acid supplements for pregnant women.

''The preventive-care requirements could add some costs, but a lot of (insurers) are already providing those services as part of their core'' plans, said Patricia ''Corki'' Larsen, a principal with human-resources consultant Mercer in Phoenix.

Alan Ecker, Department of Administration spokesman, said health reform is ''responsible for all increases for employee premiums'' next year.

He noted that federal health reform passed after the Legislature approved funding for next year's state's health plan, so with no money left in the state coffers to cover the mandated changes to health insurance plans, the state opted to shift costs to employees.

VARYING IMPACT

The state pays for most of the premium costs, with the employee picking up a portion of the premium costs. Also, changes in premiums do not reflect other cost-shifting measures, such as increases in co-payments that people must pay when visiting a doctor or filling a drug prescription.

University and state employees who get state-sponsored coverage just for themselves won't see much of an increase in their premiums: about $1 each month under three plans offered by the state.

Increases in employee premiums for plans that cover couples and families will range from $22 to $43 a month. Single adults with children will see those premiums increase 37 percent for an Aetna insurance plan that includes a health-savings account. The Aetna family plan and the Aetna plan for two adults will also each rise more than 20 percent. Employees who choose the state's EPO and other plans similar to an HMO for families and adults with children also will see their monthly payments rise more than 22 percent.

DISPUTE OVER LETTER

Yet, even as Gov. Jan Brewer's administration cited health reform as the chief reason for cost increases, the state's health-insurance premiums for employees have increased at even faster clips in the past.

In fact, employee premiums for five of eight plans next year will increase at a lower rate than they did this year.

Some lawmakers questioned the Brewer administration's decision to send out a letter that blames health reform for the premium increases.

Rep. Kyrsten Sinema, D-Phoenix, who sat on President Barack Obama's health-reform task force, blasted the Department of Administration's letter as politically motivated.

''The Department of Administration is implying that entire increase is a result of the new health-care law,'' Sinema said. ''It is clearly a politically motivated letter that is just not factually accurate.''

Ecker, of the Department of Administration, denied any political motivation. He saw no political undertone in the letter, which was drafted by the Department of Administration's benefits-services staff and approved by the agency's director.

''It is simply designed to let members know that rate increases are coming and the reason for those increases,'' Ecker said in an e-mail.

The PRESIDING OFFICER. The Senator from Rhode Island.

NATIONAL ENDOWMENT FOR THE OCEANS

Mr. WHITEHOUSE. Mr. President, I know my friend and colleague, Senator SNOWE, is about to deliver some remarks. I ask unanimous consent that I be recognized at the conclusion of her statement. I wish to take a moment to thank her for her work with me on the bill I am going to be talking about. She will be talking about something else, but I will be discussing the National Endowment for the Oceans. While we are in the Chamber together, I express my gratitude for the collegial, thoughtful, helpful way we worked together on this bipartisan piece of legislation.

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

The Senator from Maine.

Ms. SNOWE. Mr. President, I express my profound gratitude to the Senator from Rhode Island for his leadership on this initiative. It will have far-reaching implications and importance to our most vital resource, the oceans, and all they represent. I look forward to working with him to transform this legislation into a reality that will protect the oceans in perpetuity and understanding and amassing all the resources that are essential to the preservation of the oceans and what they represent to our environment and to the ecosystem and, of course, to the fisheries that are so important to our respective States and to the country. I thank him for his visionary initiative. I am pleased to join him in that effort. Hopefully, we can bring it to fruition in this Congress.

There are a number of issues with respect to the small business legislation pending before the Senate, although pending in a way I would prefer otherwise, given the fact that it addresses the foremost issue facing the country today; that is, jobs and the status of the economy. The economy is not creating the jobs the American people deserve. That is why I joined across the aisle in extending unemployment benefits, because we have a very high unemployment rate of 9.5 percent, with 8 million people having lost their jobs and more than 15 million either unemployed or underemployed. We have not seen the kind of economic growth that will produce the jobs the American people deserve and create the kind of security they deserve as well.

From that standpoint, I thought it was important to extend unemployment benefits. I ultimately think it is important to do what we can for small businesses, as the chairman of the Small Business Committee indicated, the job generators in America. Frankly, I would have hoped we could have considered this legislation long before now. It is certainly long overdue. We are in July. I have been urging from the outset of the year, in January, that we should address this most profound issue when it comes to creating jobs. We clearly have to be concerned about the well-being of small businesses.

The legislation before the Senate has a number of good provisions that will go a long way in creating incentives and helping and buttressing this key component of America's economy. I regret that we are in a position where we have not been able to reach agreement allowing the minority to offer amendments, which is confounding and perplexing as well as disappointing. After all, I know the majority rules. But certainly the traditions of the Senate accommodate minority rights as well. That should mean, on the foremost issue facing the country today, the economy and jobs, that the minority would be allowed to offer a few amendments. That is all we are asking. After all, this issue has been languishing for the last 6 months. It should have taken the highest priority back in January, as I indicated; It is that important to the American people, as reflected in the historic low approval ratings of Congress. We are not addressing the key issues facing America today, and that is how we will turn this economy around and create jobs for the American people.

Here we are today in a deadlock because we are not allowed, on the minority side, to offer a few amendments. As I look back on the calendar, we had 78 days we were not either in session or voting. We could have spent all that time considering amendments for the key issue confronting America. In fact, over the last 2 weeks, since this bill has been pending, not one amendment has been offered or allowed to be offered to the small business bill. We have wasted all this time when, in fact, we could have been considering amendments. Last night on the unemployment benefit extension bill, we were able to vote on six different amendments. We had six votes last night on issues. The process worked well. That is the way it should work in the Senate, where we are supposed to accommodate a variety of positions and build consensus on the key issues facing America.

I know today we are lacking patience, when it comes to governing and legislating and reviewing issues and working with people with whom we disagree. That is regrettable. The American people understand what is happening here in Washington these days, where it is an all-or-nothing proposition. I hope we can turn the corner on this issue above all else because it does matter to the American people. It matters to people what is happening on Main Street. That is as true in my

State of Maine as it is true across the country. It is no wonder more than 70 percent of the American people think the country is going in the wrong direction when it comes to the economy—understandably so. Because they go down on Main Street and see what is happening. They see businesses closing, the anxiety that permeates not only the main streets but communities and households all across America because of the lack of job security, financial security, personal security, all of which has created a picture of anxiety and desperation on the part of so many, wondering where the next job will come from, if they lose their jobs, or whether they will get a job having lost a job. That is what it is all about.

I can't understand why we couldn't come together in the Senate, consistent with the tradition of this body, which is to consider a variety of ideas across the political aisle, build consensus, and support. The more ideas, the better. It will make the legislation certainly much improved because we will have a variety of ideas that are important when it comes to improving our economic status in America. It is disconcerting when we know that the Federal Reserve has adjusted their growth rates for the economy, lowering them because of what they anticipate in the future in terms of economic growth, unemployment, the lack of investments being made by companies today either in hiring or capital equipment. The combination has created a much more pessimistic picture for the future in terms of our economy.

Then, of course, we have the uncertainty emanating from Washington, from Congress, in terms of a variety of policies, whether it is health care, whether we are talking about increased taxes or increased regulation, as we saw with the tax extender bill, having subchapter S and increasing Medicare payroll taxes and, in fact, applying them for the first time on retained earnings which is the greatest source of capital for a small business investment. Yet we want to tax that as well. We are seeing all that uncertainty.

People say: Businesses are not sitting on their cash. Businesses won't sit on their cash, if they think they are going to make money. That is the point. They would invest. They would make the investments, if they thought the economy was going in the right direction. But they have to be more conservative, if they don't know exactly what is going to come out of Washington in terms of policies and more regulation.

I have talked to numerous business people in my State, including bankers. They all say the same thing. We don't know what is going to come out of Washington in terms of the types of policies that are going to add to the cost of business. I was talking to one individual who is in charge of a big corporation in America, making an adjustment of one facet on the close to 1,000 regulations in the health care bill. He said one adjustment already has cost him $5 million. Multiply that, and it grows exponentially. The point is, it is a challenging picture for the private sector in terms of taking steps or taking the risky steps in investing in the future for their company. They want to make sure they are making the right decisions, the prudent decisions to make money and not to lose it. That is where we come in, in terms of creating certainty with respect to our policies, not adding more in terms of taxes and spending that adds another overlay to the cost of doing business. Because they are going to be far more reluctant to take those steps that we think are necessary to turn this economy around.

That gets to the point of the pending legislation and, in particular, an amendment I know has been offered by the chairman of the committee, Senator LANDRIEU, with respect to the lending facility. It is a provision I have had a great deal of concern with respect to, this lending capacity that would be created that would extend from the Treasury to banks across the country. I know the majority leader has taken this provision out of the underlying bill, and I certainly appreciate that because I do think it is important that this facility is not included in the overall legislation. First, it has not had a single hearing with respect to the issue. In my view, it certainly does resurrect the controversial TARP that we just terminated in the bill that passed last week in the Senate and was signed by the President which is, of course, the financial regulatory reform bill. It is definitely a facsimile of that approach and that program that has created a great deal of concern.

The lending fund was debated in the House, certainly on the House floor in the House Financial Services Committee, where significant concerns were raised about the program's similarities to TARP. In stark contrast to the Small Business Committee provisions in the substitute amendment we are now considering, many of these measures certainly are going to add a great deal of concern in terms of whether we should be extending more than $30 billion to banks across the country. I hope we will rely on the key provisions in the underlying legislation; for example, raising the 7(a) guarantee rate from 80 to 90 percent and increasing and also reducing certain lenders' and borrowers' fees in the 7(a) and 504 loan program.

I am pleased those measures that were included in the stimulus plan that we passed last year resulted, as this chart indicates, in a 90-percent national increase in SBA lending since Recovery Act's passage and a 236-percent increase in Maine. It is a strong indication of the value of increasing the guarantee rate, which we have now done in the underlying legislation because those provisions expired in May. That is certainly one way of extending the lending capacity of the Federal Government through existing models that have been proven to be effective and workable, and that is a 7(a) guarantee program. As a result, in June the SBA approved $647 billion in 7(a) guarantee loans, a 56-percent decrease from May's $1.9 billion, because we allowed those provisions to terminate that were included in the stimulus bill. Had we allowed them to extend, we would have seen continuity of lending to small businesses in this country.

That is why I think those measures are extremely effective. They have already demonstrated their efficiency and their workability across the country. That is what will work for small businesses, if we were to increase those guarantee rates and reduce the lenders' and borrowers' fees. That is why I am pleased the majority leader included in his substitute a modified version of my amendment that provides $505 million in funding to reinstate the fee waivers and increase guarantees through the remainder of this year. The SBA has estimated that the reinstatement of these provisions could leverage $13.2 billion in SBA lending. This is precisely the type of effect we could have for the taxpayers that maximizes the efficiency and the return on the dollar rather than reincarnating the speculative nature of TARP. These appropriations, coupled with the SBA lending provisions in the substitute amendment, will raise the maximum 7(a) and 504 loan limits from $2 million to $5 million and the maximum microloan limit from $35,000 to $50,000, which play an invaluable role in providing affordable credit to small businesses.

Obviously, when it comes to expanding access to capital, Congress must work in tandem with the administration and the Treasury Department. Let me begin by noting that I appreciate the hard work of individuals in the Department of the Treasury in trying to develop methods to spur small business lending. I understand how complicated it can be to devise workable, strong initiatives. The department has certainly attempted to do so. Unfortunately, I continue to have significant reservations with the lending fund for several reasons.

First, regardless of what the proponents will say about this lending fund, it is essentially an extension of TARP, known as the Troubled Asset Relief Program, which, as I said earlier, has been terminated in the financial regulatory reform legislation the President signed into law just yesterday.

But let's look at what some of the experts have to say on this particular issue. In a May 17, 2010, letter that Mr. Barofsky—who is the special inspector general of TARP—wrote to Members of the House of Representatives, he states:

> . . . in terms of its basic designs, its participants, its application process, and, perhaps its funding source from an oversight perspective, the [small business Lending Fund] would essentially be an extension of TARP's CPP program. . . .

Moreover, in its May Oversight Report, the bipartisan Congressional Oversight Panel for TARP states that the Treasury lending fund ''substantially resembles'' the TARP program. They say:

. . . it is a bank-focused capital infusion program that is being contemplated despite little, if any, evidence that such programs increase lending.

''An extension of TARP'' and ''substantially resembles'' TARP—that is how the experts of all things TARP—TARP's IG, the inspector general, and the bipartisan Congressional Oversight Panel—characterize this program. So obviously we are talking about the experts who are the watchdogs of the TARP, and they say that regardless of how you want to describe this program, it is what it is. It is an exact duplicate of TARP. That is what it is.

In addition to characterizing the Treasury lending fund as TARP, we had three Democrats and two Republicans on the Congressional Oversight Panel who also laid out a series of substantive concerns with the program. I would like to outline these for my colleagues as well.

First, the panel explained that the Treasury lending fund will be ''less relevant if declining business sales play a larger role in lending contraction than banks' rejections of loan applications.'' What does that mean? Well, it means that although lending contraction remains a significant concern, the root cause of that contraction may primarily be a lack of demand because borrowers are not as interested in taking on debt until their sales increase as opposed to banks' mere unwillingness to make loans they otherwise should be making. As the NFIB has long maintained, ''What small businesses need most are increased sales, giving them a reason to hire and make capital expenditures and borrow to support those activities.''

Secondly, according to the bipartisan Congressional Oversight Panel, the program will likely be branded with a TARP stigma, which will diminish banks' willingness to participate.

Third, additionally, the Congressional Oversight Panel has also concluded that the Small Business Lending Fund may reward banks that would have increased their lending even in the absence of government support, as the fund's incentive structure is calculated in reference to 2009 lending levels, which were low by historical standards.

I know the proponents of the lending fund may try to disagree with Mr. Barofsky and the bipartisan Congressional Oversight Panel's comments, but in doing so they will be arguing against the experts established to oversee TARP in the first place.

Moreover, it is not as if we are talking about partisan entities here. Again, the Congressional Oversight Panel is comprised of three Democrats and two Republicans, who have collectively agreed to include these statements in their report.

There are other unintended consequences that may result from Treasury's Small Business Lending Fund, which certainly raises a red flag for me. It is possible that instead of promoting quality loans, the proposal could encourage unnecessarily risky behavior by banks. The Treasury Department proposes to lend funds to banks at a 5-percent interest rate, which then can be reduced to as low as 1 percent if the institutions in turn increase their small business lending. However, if the banks fail to increase their small business lending, the interest rate they would pay could rise to a more punitive rate of 7 percent. Well, this could lead to an untenable situation where banks would make risky loans to avoid paying higher interest rates—a behavior known as ''moral hazard.''

Some have argued that the banks will not engage in risky behavior because they will remain liable for the underlying debt. We know that certainly was not the case with the mortgage crisis that got us into this economic mess in the first place. So in the final analysis, the possibility that this program could lead to poor lending decisions is something that, in the long run, will not help borrowers, lenders, or our overall financial system.

Incidentally, proponents of the lending fund highlight that several major banking associations support this initiative. Well, that would not be surprising. Who would not support receiving millions upon millions of dollars from the Federal Government at a 5-percent interest rate that could be reduced all the way to 1 percent? While I am in no way questioning the bankers' motives, I do point out that they are not viewing this from a perspective of objective third parties.

Moreover, it does not alleviate my concerns, and that is, obviously, the public's interests when it comes to issuing more than $30 billion of taxpayer funds.

Another key concern of mine is about the cost of the administration's lending fund. I am very apprehensive about whether Congress has taken into full consideration the program's true cost to the taxpayers. The previous scores for the Small Business Lending Fund are convoluted, to say the least. I say this because there are three different methodologies that the Congressional Budget Office has discussed when scoring various versions of the lending fund—specifically, the Federal Credit Reform Act of 1990 estimates, cash-based estimates, and fair value basis estimates. So those are the three different methodologies.

In the House version that was reported by the House Committee on Financial Services, the lending fund was scored by the Congressional Budget Office as costing taxpayers $1.4 billion. That level was determined by using the Federal Credit Reform Act of 1990 scoring. That Federal Credit Reform Act methodology is used when there is a disbursement of funds by the government to a non-Federal borrower under a contract that requires the repayment of such funds. In other words, the Federal Credit Reform Act methodology is used when scoring loans.

After this score was released, the House modified the lending fund to eliminate a requirement that the funds be repaid. Of course, there is every intent that the funds will be repaid, and in an effort to make this certain, the dividend rate that banks pay rises to a punitive 9 percent after 4½ years. But there is no absolute requirement to repay the loan.

Well, this change had two effects: First, it allowed the banks to treat the money it receives as an investment as opposed to a loan and therefore to count the funds as tier 1 capital, the core measure of the bank's financial strength. Second, it allowed Congress to claim that these are not loans, although for all intents and purposes they are, so that the bill can be scored under a more favorable cash-based estimate.

Once these adjustments were made, CBO issued another score that examined the lending fund as revised. The lending fund provision we are discussing today remains virtually identical, for scoring purposes, to how it was in that revised version that passed the House. That score is based on a cash-based estimate rather than the Federal Credit Reform Act because the funds were no longer considered as loans. Under a cash-based estimate, CBO listed the official score for the lending fund as raising $1.1 billion over 10 years. So this is the official score that has been touted by proponents of the lending fund. However, what they fail to mention is that very same CBO score stated that ''Alternately, the potential costs of the [Small Business Lending Fund] under [the House legislation] can be measured using procedures similar to those specified by [the Federal Credit Reform Act] but adjusted for market risk—as is specified by law for estimating the cost of the Troubled Asset Relief Program.'' This was referring to a fair value basis estimation. CBO goes on to note that when measured in this manner, the score would be a $6.2 billion loss.

Incidentally, to ensure accurate accounting, the legislation that created TARP required that it be scored using a fair value estimate. So in that case, it would cost—if you were to use the same estimate—it would be a $6.2 billion loss as opposed to a $1.1 billion gain in revenues, as the pending amendment suggests.

So putting this all together, we have the Federal Credit Reform Act score which highlights that if these were treated as loans—which for all intents and purposes they are—this program would cost taxpayers around $1.4 billion. But because of a change to not technically or officially require that the funds be repaid, it is now scored under different methodology, on a cash

basis, as a $1.1 billion revenue raiser, which is what the underlying pending amendment does. Moreover, CBO expressed that if it were scored on a fair value basis, the program would score as costing taxpayers $6.2 billion.

What does CBO state about which of the three scoring methods is more comprehensive? In the score, it states:

> Estimates prepared on a ''fair-value'' basis include the cost of the risk that the government has assumed; as a result, they provide a more comprehensive measure of the cost of the financial commitments than estimates done on a [Federal Credit Reform Act] basis or on a cash basis.

So I ask the question, when I hear colleagues claim this is a $1.1 billion revenue raiser, is that accurate? Shouldn't we be concerned that this may not truly be the investment they are claiming? And critically, has all of this been taken into consideration when weighing the effects of this program on the Federal budget and when evaluating the efficacy of this program and utilizing it as an offset in the underlying legislation?

So I am concerned with various aspects of this pending amendment that creates this lending facility for more than $3 billion. In my conversations with Treasury officials, I stressed how critical it was to reach out to colleagues on both sides of the political aisle prior to having introduced this piece of legislation and before advancing and championing it here on the floor of this Senate to obtain input on how to devise lending funds in a way that would address the concerns I have raised and to structure it in a way that could achieve broad bipartisan support. Unfortunately, that did not happen, and this, of course, produces the amendment that is pending here today.

Also in my conversations with Treasury officials, I was under the impression this was going to be addressed through the Senate Banking Committee. That was the other issue I raised. I think, after all, given the fact that this is a banking initiative—it is the lending of more than $30 billion to commercial banks across this country—clearly the Senate Banking Committee should have been involved in examining this issue, that it should have been thoroughly reviewed and vetted and whatever objections existed on both sides of the aisle could have been examined and hopefully resolved. I would have been happy to have had an opportunity to discuss this issue in a way that could have alleviated and addressed these concerns.

Let's not forget this is a brand new program, the nature and magnitude of which is more than $30 billion, which justifies a thorough evaluation and certainly those that have been raised by the Congressional Budget Office in the variety of methodologies that can produce either a $6.2 billion loss or a $1.1 billion revenue increase.

The point is we are not using a true, accurate estimate of what this lending facility will ultimately cost the American taxpayers. If you would use a similar methodology as they did in TARP—which this is a TARP facsimile in terms of duplication and a reflection of TARP—then clearly you have to use the same method of addressing how this legislation either is costing the taxpayers money or is raising revenues for the taxpayer.

It is clear, if you use the fair cash basis estimate, the fact is, it would lose the taxpayers money because you have to take into account all the risks that will be involved during the life of the loan, and that is totally excluded on the estimate and the analysis of the method that was used in the pending amendment.

I outline all of these concerns because I do think it is important for my colleagues to consider very carefully the implications and the ramifications of this lending facility. It is a new program. It is similar to TARP. And it is not just my saying so; as I said, it is the inspector general who oversees TARP, the Congressional Oversight Panel that oversees TARP, which have all expressed that it has similar and equivalent features to the Troubled Asset Relief Program that we have just terminated in the financial regulatory reform program. It is a concern, and again, it is what the TARP experts call an extension of TARP. They call this lending fund an extension of TARP because it has all of the components of TARP.

So I think we should be very circumspect and hesitant about utilizing a similar program at a time in which we have to minimize the expansive nature of government programs in the spending that occurs here in the Senate, in the overall Congress, and on the part of government. I think it is important.

I have heard that when it comes to the TARP program, that money was distributed to small and medium-sized institutions. But according to the Congressional Oversight Panel, by December 31, 2009—which was the deadline for Treasury's capital purchases—20 percent of all TARP funds did go to small and medium-sized institutions and 98 percent of all recipient institutions were small and medium-sized institutions.

It is not whether a bank is good and that is why we should lend this money. Obviously, there are excellent community banks that do a great job; they did not contribute to the problem all across America. It is really a question as to whether this is good policy. That is the bottom line. Is this good policy? It raises a number of questions. It raises the specter that we are really recreating TARP in another manner; it is just directed to different institutions. I think we have to be very careful and cautious and prudent at this time.

Is there another way to extend the lending capacity of the Federal Government? Yes, there is. It is through the small business lending programs which I talked about earlier, and the majority leader has included some of the provisions that I and the chair recommended, which is to increase the guarantee rates that have demonstrated their effectiveness, that have demonstrated their workability. They work. They have increased lending across this country by more than 90 percent and, in my State, 236 percent. It has demonstrated its capacity for working. So why not use those models we have adopted in the past and that have proven their effectiveness?

I think that is what it is all about. How much can we do? Well, we know we are limited in terms of what we have as far as deficits and the national debt is concerned. So I think we have to be very prudent about how we extend taxpayer dollars.

I have a great deal of concern in terms of, No. 1, not only spending the $30 billion but the cost to the taxpayers if we use an accurate, realistic measurement similar to what CBO had indicated and similar to what was used in TARP; and, No. 2, how that legislation works because it creates a perverse incentive. It increases the interest rates to those banks that don't increase their small business lending but decreases it for those that do. So we do encourage the prospects of moral hazard and the likelihood that poor, risky loans might be made because of the fact that their interest rates will be reduced as a result. So I think we have to be circumspect about that.

I hope we do not accept this lending facility because I do believe it does raise serious and significant concerns and that it is duplicative of TARP. I think we need to be moving in a different direction in this country. Also, there are a number of issues that have been raised that cannot be addressed. I hope we could, rather, build upon the underlying amendment, the substitute amendment to be offered by the majority leader; allow for some amendments from both sides of the political aisle so we can strengthen the legislation that is before us with respect to providing incentives, tax breaks, and tax relief to small businesses that rightfully deserve those initiatives so we can incent them to create jobs and to feel certain about their futures as well as this country.

So with that, I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, I have the floor by virtue of a previous unanimous consent, but I understand the Senator from Louisiana wishes to say something briefly while Senator SNOWE is still on the floor. So I would be happy to yield. I would be happy if I could have the floor returned to me at the conclusion of their exchange.

Ms. LANDRIEU. Thank you, Mr. President. I will just be 30 seconds.

I will respond to the comments made by my ranking member. She and I have worked so closely together, and we just have a difference of opinion about this

one particular piece of this bill, which is an important piece, so I will respond to her comments in a minute.

I do agree with one thing she said, which is there could be other amendments offered to maybe make this bill better. But I wish to ask my ranking member through the Chair: This amendment is pending. We are going to vote on this amendment. This amendment could potentially get 60 votes plus. If this amendment is voted in by the will of this Senate, even though she has reservations about it which she has beautifully outlined—as she always does—but if this amendment is on the line and let's say other amendments are offered and some pass and some fail, is she inclined to vote for the bill? This is the only question I am going to ask her.

I will restate it. I said to the Senator from Maine, with whom I have worked very well—we have worked together, but we have a different view about this particular program.

This is an amendment. I agree with her that amendments should be offered on this bill. I am hoping our leadership can work that out. If this amendment is agreed to by 60 plus—we may get 70 votes for this amendment; we don't know. We are picking up support for it. Although some people are opposed, we are getting a good amount of support for it. Does the Senator from Maine believe she could then vote for the bill?

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, first of all, I hope that we could offer other amendments as well in addition to this. I think that is critically important, first and foremost. Just as you have had an opportunity to offer an amendment, our hope is that on our side of the aisle, we would have the ability and the prerogative to offer amendments as well, and then we would look at it at the end of the day. Obviously, I know the Senator from Louisiana feels very strongly about this amendment. Obviously, I have some deep concerns. I certainly hope to support this legislation without this amendment, but if it is the will of the Senate, then obviously I will continue to support it and hopefully we can move forward.

But I just think it is critically important with respect to this particular initiative that a number of these issues have to be addressed. In the final analysis, when we are talking about $30 billion, we can't do that lightly. Certainly, there are a number of issues that have been raised, ones that I have raised today, that clearly would have to be resolved in my estimation.

So I think from that standpoint I would have considerable concerns if it were left in that manner because I think it raises the costs to the taxpayers indisputably.

Secondly, as to whether it is going to create risky behavior on the part of banks that are assuming this legislation, and if it does add costs to the taxpayers, we have to think about that very carefully because, as my colleague knows, it does raise $1.1 billion, at least according to your projections. But if we use a true realistic analysis, as we did with TARP, it would cost the taxpayers $6.2 billion.

Ms. LANDRIEU. Mr. President, I thank the Senator for those comments. She has left a window of opportunity open for, hopefully, some compromises as we move through the amendments on this bill.

I yield back the floor to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, into this arena of discord and division, I rise to bring happy news. But first I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. WHITEHOUSE pertaining to the introduction of S. 3641 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I appreciate the opportunity to get back to the issue at hand, which is the small business bill, a job creation bill for America. It is something that many of us have worked on now for over a year.

This bill has been developed by the work of many committees, both in the House and the Senate, over a long period of time—primarily the Small Business Committee and the Finance Committee, but also members from the Banking Committee and other committees that have been very much giving their input into this final product, which is in its final stage of passage.

This bill passed the House recently with these major components—a very strong, targeted tax cut for small business. The Chair knows how important that is to small businesses in Minnesota that are watching additional regulations come upon them—some for good reasons and some not for good reasons. They are looking at an increased cost of capital. They need tax relief. This bill provides that because of the good work that has come out of the Finance Committee. Out of our Small Business Committee, as the ranking member so eloquently expressed and outlined, came some key measures in the bill that will improve the core programs of the SBA—an agency that is well supported here, particularly on the Democratic side, and even with some Republicans who are supportive of that agency. We believe that by strengthening their programs, we can be of some help to small business in America.

The debate right now is on the small business lending fund. I have the greatest respect for my ranking member. We have a disagreement on this particular provision. I want to respond specifically to some of the criticisms of the program.

First of all, in her arguments against the program—but before I go into that, I want to say how pleased I was to hear—and I believe that the transcript will show this—that she said should this amendment get on with 60-plus votes, and other amendments are potentially offered, she is supportive of the bill. She has some specific suggestions as to how this program could be made better, in her opinion. Maybe we can come to some terms on that. I believe that, in good faith, on major bills such as this we should consider amendments, if we can. This is one of them. This is the first amendment, a bipartisan amendment. Senator LEMIEUX and I are sponsoring this amendment along with over a dozen other colleagues. Senator CANTWELL has been a tremendous advocate of this program, as have Senator MERKLEY from Oregon, Senator MURRAY from Washington, Senator KLOBUCHAR from Minnesota, Senator NELSON from Florida, and Senator SCHUMER. They will come to the floor later this afternoon.

We have a growing list—bipartisan list—with Senator LEMIEUX and myself and others supporting this small business lending program.

Let me try to answer specifically some of the concerns the Senator from Maine expressed. She said there have not been any hearings on this program. There were two House hearings on this initiative. I am going to get the date for the record. But there were two hearings on this specific small business lending program. In one of those hearings, which I will submit—the House markup—there were more than 16 amendments discussed and debated and offered. So I don't want to leave anyone with the impression that this small business lending program did not receive congressional hearings. It has.

This has also received the attention of the Nation, because the President himself spoke about it in probably one of the most highly publicized speeches a President can give, which is the State of the Union. He spoke to the small businesses of America and to the small healthy banks, and said we are going to try to craft a program to be your partner, to work with you, to get jobs created in America. So this has been discussed in hundreds of press conferences, two congressional hearings, and any number of Senators—particularly I want to say, Senator MERKLEY, Senator BOXER, and Senator CANTWELL have spent hours and hours and hours of their time—days, weeks and months—on this provision, trying to work through any particular arguments that others might have.

I want to put that argument to rest. There have been hearings. I have conducted in my committee probably a dozen hearings on related subjects. I could fill this desk with paper, which I will not do and burden the clerk, with letters and comments and e-mails and testimony from hundreds of business owners who say they can't get capital. Our small businesses need help. We

want to work with our community banks. They ask: Why are you sending all of this money to Wall Street? We need some help right here on Main Street.

Also, the second argument the Senator from Maine made—and again, I have the greatest respect for my ranking member, and she is a good friend—is that she is concerned because the ''watchdog'' does not like this program and thinks that it might be like TARP—the congressional watchdogs. I don't know those watchdogs. I haven't met those watchdogs. I have seen their report, which is here, the May oversight report. I could give you a few summaries from this—that they are not sure this program would work, but maybe we should give the benefit of the doubt to our community bankers, whom we know and trust, and our small businesses.

Ms. SNOWE, the Senator from Maine, for whom I have a great deal of respect, was speaking earlier about this provision that is pending before the Senate. It is a small business lending fund. Those of us offering this amendment believe it is time for us to get a focus on Main Street, to take our eyes off Wall Street for a minute and start focusing on Main Street, our small community banks that are trying to do their best to not only stay in business and make money, but they helped in many ways to build the towns and communities, and they are watching the businesses they lent money to close their doors. We would like to be a better partner with these community banks, in a strategic partnership, to help get money to Main Street businesses.

Senator SNOWE is saying she has some reservations about this provision, and she outlined about five or six reasons she is not enthusiastic to support it. She said, one, that there were not enough congressional hearings or were not any congressional hearings. For the record, there were two hearings on this issue in the House. They were on May 18 and May 19. There were amendments offered. There was full testimony and full debate. There have been congressional hearings on this proposal. It is a relatively new proposal. It has been changed since it was first talked about over a year and a half ago. In my view, it has been greatly improved, greatly strengthened. There have been congressional hearings.

As I said, there has been a tremendous amount of attention on this issue. The President himself spoke about it in his State of the Union Address. It has been debated in many different ways over the last year.

No. 2, the Senator said her analysis is that this bill will not save $1.1 billion; it will cost $6 billion. I do not know the analysis she conducted. I have great respect for her ability to analyze numbers and understand details. She is one of the best around here. All I can tell my colleagues is, the group we go to, the agency, the authority on scoring that both Republicans and Democrats acknowledge as the authority on scoring has said this bill will save $1.1 billion over 10 years. That is the official CBO score that I am going to submit for the RECORD. Other people can do a different analysis. That happens around here sometimes. But when it comes down to the bottom line, the Congressional Budget Office is the only score that matters—Mr. President, you know that—and it says this bill earns, saves over 10 years $1.1 billion.

The third argument the Senator made is that the congressional watchdogs are not sure this program will work. This is their report. It is the May oversight report, ''Small Business Credit Crunch and the Impact of TARP.'' She put up a chart that said TARP-like. This is where that came from.

The congressional oversight report said this program, in their view, might be like TARP, and they are not sure there are any creditworthy businesses in America. That is what this watchdog said. They are not sure there are any businesses in America that are creditworthy to lend. That might be their opinion, but I am a Senator from Louisiana. I am listening to my small businesses. I see my small businesses. Many of them are creditworthy, and they most certainly, with a little bit of help from local community banks infusing capital into their business, could grow and expand.

Don't take my word for it. Let's see what Chairman Bernanke says. Chairman Bernanke said—and this was on July 12, 2 weeks ago:

> It seems clear that some creditworthy businesses, including some whose collateral has lost value but whose cash flow remains strong, have had difficulty obtaining credit that they need to expand.

This is what the Chairman of the Fed says. He is obviously in a position to see what banks are lending, what banks are not, what he is hearing, he is listening, he is traveling. Maybe there are a few watchdogs and appointees in Washington who are having a little difficulty figuring this out. But if you go to the real streets, if you go to the Main Streets, if you get out of Washington and out of the beltway, you are going to hear many hundreds, thousands of small businesses—and the Chairman himself said there are many creditworthy businesses out there that are having a hard time getting capital. That is what the small business lending program does.

Mr. President, you have heard it yourself. In all our States we are hearing that. Those were some of the arguments the Senator made. I was pleased to hear her say that should the Senate vote on this amendment and get 60-plus votes—which, as we all know now is the way the Senate operates, not by a majority but by a supermajority—if 60 Senators say this is something they want to do to help Main Street, to help small businesses—this is not about Wall Street, it is not about bailouts, it is not about troubled assets, it is not TARP, it is a small business lending fund, a strategic partnership with community banks—if 60 of us say that, then she could be persuaded, if that is the will of the Senate, to pass the bill because there are other portions of this bill that are extremely important as well.

I reiterate the important support we are picking up and to state for the record again the testimony by many business owners. This one comes from Steve Gordon, president of INSTANT-OFF, Inc, in Clearwater, FL, not from Louisiana but from Florida. He writes:

> I am the owner of INSTANT-OFF. We make water-saving devices for faucets. INSTANT-OFF replaces the aerator on any faucet, and each unit can save up to 10,000 gallons a year. Our market potential in the U.S. is estimated at 50 million units and globally between 100 million and 200 million. We can create 25 green jobs now. Twenty-five percent of those jobs will be people with disabilities. None of these jobs will be created without capital if I can't get the loan.

This is a common refrain, whether it is businesses in Florida, Minnesota or Louisiana. All they have are their credit cards which are maxed out. All they have are their credit cards that charge them 12, 16, 18, 24 percent. All these small businesses have is equity in their houses or they did have some equity in their homes to borrow against to start or maintain their businesses. They have seen their home equity diminish considerably. The bank calls them and says: Joe, your house was worth $400,000. We had it as collateral backing up your $200,000 line of credit or $300,000 line of credit. Now your home is half the value. I need to call your line of credit.

Are we not listening?

This small business lending fund, $30 billion, is going to help healthy small banks of $10 billion or less. Goldman Sachs cannot even apply for this money. AIG cannot apply for this money. National banks cannot apply for this money. These are community banks that we know, as the Senator from Florida said, are at our Rotary Clubs, they are at our Kiwanis Clubs, they are at our business owners banquets and luncheons. These are the community bankers we know and trust and they know the businesses in their areas and we know them in our districts and in our States.

The question is: Will the Republicans stand with a majority of Democrats and vote for small businesses? This is the New York Times. This is terrible. I see my friend from South Dakota in the Chamber. This is a terrible headline for his party: ''Senate Democrats' Plan to Aid Small Businesses Hits GOP Resistance.''

This is CQ Today: ''Democrats Plan to Make Republicans Vote on Small-Business Lending Fund.'' We did not have to have this vote. We have been forced to have this vote. Why would we even want to have a vote? After everything we have done to bail out Wall Street, we now come to a plan to lend

money to Main Street and I have to hear from Republican leaders who say no.

''Senate Set to Pass Small-Business Bill.'' The reason we are in this deadlock is because Republican leaders, such as my good friend, have decided that we cannot, after all this, after TARP that was designed by President Bush, extended by President Obama to bail out Wall Street and large banks, now we have to hear: I don't know. We have either run out of energy or run out of will to help Main Street and small businesses.

Mr. BEGICH. Will the Senator from Louisiana yield? I ask the Senator to yield for a minute.

Ms. LANDRIEU. Yes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. BEGICH. Mr. President, I wanted to come to the Chamber. I was watching on the floor last night, and I watched the Senator a little bit ago as I came out of a meeting. I am not scheduled to be here. But as a small businessperson all my life—my first business license was at age 14. My next big venture was at age 18. I have been in the vending business, the real estate business, the developing business. I have been a restaurant owner. I can go through a shopping list. My wife owns four retail stores, a small business woman. She started her business selling smoked salmon on a street corner in downtown Anchorage. She now employs 30-plus people, multiple stores, and works to engage other young, small business people to move forward.

There is no question that the legislation the Senator from Louisiana has been working on—the broader issue on small businesses but specifically the loan fund—is critical. She is right.

The Senator's point about how the big banks got theirs and left the small business community literally, not on Main Street, not even close to Main Street—they were kicked off Main Street. I thank Senator LANDRIEU for making this a big issue, pushing forward on it, and also working with Republicans to try to bring them over. It sounds as if she got one so far. I think he has made the right decision. He has seen the impact on small businesses in his communities.

The Senator from Louisiana was on fire last night, I have to say. She was making the point that this is the time to stand for small businesses because they are the ones that are going to rebuild this economy, they are the ones that are going to hire people not next year, not 3 years from now because they want to hoard their profits. They are going to, as the economy recovers, hire immediately.

The small businessperson who has two or three people working for them and their business increases 10, 20 percent, the odds are they are going to hire someone the next day.

That is the power of this lending act, this amendment that is critical. I want to emphasize that point and thank my colleague because, as one of the few small business people in this body, one who has had to knock on those bankers' doors to try to get a few dollars out of them to take a dream and make it reality, or one who has seen small business and helped them expand, I again thank you. This is going to have the biggest bang. As to the $30 billion, no one is forcing it onto these community banks either; it is an option. If they want to help small businesses—I know many come to your office, come to my colleagues on the Democratic side—$30 billion leverages to $300 billion. This is a real economic boon and a real opportunity, and is going to build small businesses.

I thank my colleague for giving me these couple of minutes. I thank the Senators from Florida for teaming up and also recognizing the value of this.

Mrs. LANDRIEU. I thank the Senator from Alaska. I am extremely grateful to both Senators from Florida, Senator LEMIEUX and Senator NELSON, for their support. We all come here as members of political parties. Some of us come as Independents. But at the end of the day we are here to represent our States. We are here to represent the people who sent us. These Florida Senators are moving around Florida, as my friend is moving around Alaska, as I am moving around Louisiana. We know you cannot go anywhere in this country, from Alaska to Florida—and that is about as far as we can get, from Alaska to Florida—and not hear of the pain and the fear. It is not just pain, it is downright fear on the part of a small businessperson who does not know when their next paycheck will come.

Every Monday morning they go to their small business with three or four employees, they turn the lights on, they crank up the computer, and they look in the eyes of people with whom they have worked shoulder to shoulder and they are thinking, Can I pay them this week?

Is anybody not hearing this? I am hearing it. The Senator from Alaska is hearing it. The Senators in Florida are hearing it.

What are we going to do, close our ears and walk away, go home for the August recess and say I am sorry, we can't do anything, after we have spent a year and a half since President Obama has been elected, sending billions of dollars to Wall Street, billions of dollars to the automakers, and now it comes time to spend $30 billion—not $700 billion, like TARP, not the billions that went to the automobile dealers—$30 billion? It is a lot of money, but not relative to that—to our community bankers whom we know by name. Clyde White was in my office yesterday. Bob Tailor was in my office yesterday. I know these men and women. I trust them. These are healthy banks. They did not have derivatives in their portfolios. They did not lend to people they did not know. They did not do the subprime lending.

Now it comes time to help them and I have to hear from Republicans that we cannot go there because it might look and smell like TARP. Are they afraid of their own shadows? I don't care what it feels like. It is what it is. This is not TARP.

The newspapers are starting to say, ''GOP Resistance.'' I am not even sure why the Republican Party would be against this. Someone said to me: Mary, maybe it is because they don't want anything to succeed so things will be so bad.

I said I can't imagine that.

We have to do what we can. I understand other people say the other parts of the bill are very good, they are very important. Let me tell you about the big picture. There are two other parts of this bill. One is a $12 billion tax cut part. The other is at the most, if the programs that Olympia and I put together, and we did it as a team—if they work, the experts, say that it will leverage $30 billion in lending—$30 billion. So we have $12 billion in tax cuts, $30 billion—that is $42 billion. That is a lot of money, two parts.

This part, if this part works—which is why I am fighting for it—it is $30 billion but it will leverage $300 billion. This is a big part of this bill and I am not going to leave it on the cutting room floor without a real hard fight.

Yes, there are three parts. There are two important but small parts and then there is one core big part. For some reason the Republican Party leadership is saying we don't like this big core part. We want you to go with these two parts.

I am saying, you know what, I am not going to do that without a fight, so this is the fight. This is the debate.

I want to say I am very thrilled to hear we are winning because we just got a statement from GEORGE VOINOVICH, who was not on the amendment, that says:

> There is real need out there to provide some money to some of these businesses and get the banks back involved. We've got to start doing something. Voinovich dismissed claims by fellow Republicans, including Snowe and Republican Leader MCCONNELL, that the lending program resembles TARP because it involves Treasury Department loans to banks. Republicans have named it TARP, Jr. ''I don't buy that,'' Voinovich says. ''It's just messaging.''

Thank goodness we have some Senators who can cut through, who are not afraid, who are very direct. VOINOVICH is one of them.

I think we are going to win this fight. I don't know when the vote is going to be but I believe we are going to win because the facts are on our side.

Having said that, I want to go back to some things that Senator SNOWE said because she is one of the most studious and reliable people. People do follow her. She gave a very good presentation—even though I am opposed to her position.

I want to say there were three arguments. There were six she made. There were three I want to counter right now. She said there were no congressional hearings. There were two in the House.

She said her estimate was it would cost $6 billion. That might be fine, I don't know. But the only estimate that counts is from CBO and it is $1.1.

She said the report of the watchdog—whoever they are, and I am going to find out, May oversight watchdog, said they are not sure the program is going to work. But the Chairman of the Fed, who should know—he is following this pretty closely—said—and I will provide that to the RECORD—said that it is clear, on July 12, ''it seems clear to me that some creditworthy businesses, including some whose collateral has lost value but whose cash flow remains strong, have difficulty obtaining the credit they need to expand and in some cases even continuing to operate.''

Those are three rebuttals to specific criticism.

I also want to say I am happy to hear that if this amendment does get on the bill—there will be other Senators coming down to talk about this later this afternoon—that there might be a willingness, if potentially other amendments could, potentially, be offered, to keep this in this important bill. This is an important piece of this bill. It is not something that we should leave on the cutting room floor. The House has already voted on this. The President spoke about it in the State of the Union. Every small community banking organization, as well as the ABA, the American Bankers Association, supports it.

They didn't support TARP. They didn't even like TARP. They lobbied against TARP.

The big banks liked TARP because they got all the money, but the community banks—my community bank hated TARP. They didn't want anything to do with it. Do you think they would write me letters of support? They were furious with me when I voted for it. Do you think they would write me letters of support, which I have, saying they are for this program if it was like TARP? I don't think so.

I trust my community bankers. I trust my small business people. I don't know what to say about a congressional oversight group that says they are not sure it will work. Heavens, maybe we should give them the benefit of the doubt.

That is what we are talking about. Again, I hope this will be a bipartisan bill. ''Community Bankers Support Small-Business Jobs Bill.''

''Senate Set to Pass Small-Business Jobs Bill.''

These are headlines this morning. This headline, ''Democrats plan to make Republicans vote.''

I didn't want anybody to have to vote on this. I didn't believe we should vote on it because it makes so much sense, but, because the Republicans want us to vote on it, we are going to vote on it. I wouldn't want to vote against small business if I were them, but maybe they do.

''Senate Democrats Plan Aid to Small Businesses Hits GOP Resistance.''

These are not good headlines for the other side. But we will see how debate goes. And let me put up the independent bankers. These are 5,000 community banks. We have them in all of our States: Independent Community Bankers of America.

Senator MCCONNELL came to the floor today and said he doesn't like this program. He thinks it might be like TARP. I think I have explained that today, why it is not like TARP. But let's see what the letters to Senator MCCONNELL's office are saying. This is a letter to Majority Leader REID and Minority Leader MCCONNELL from the Independent Community Bankers of America:

> On behalf of the nearly 5,000 Members of the Independent Community Bankers of America, I write to urge you to retain the Small Business Lending Fund in the Small Business Jobs Act. The SBLF is the core component of this legislation and the provision that holds the most promise for small business job creation in the near term. Failure to even consider the SBLF in the Senate would be a missed opportunity that our struggling economy cannot afford.
>
> The nation's nearly 8,000 community banks are prolific small business lenders with the community contacts and underwriting expertise to get credit flowing to the small business sector. The SBLF is a bold, fresh proposal that would provide another option for community banks to leverage capital and expand small businesses credit. The $30 billion fund could be leveraged to provide as much as a $300 billion line of credit.

We have letter after letter. Let me say one thing because I anticipate my good friend from South Dakota is going to be here to speak against it so I want to say this so he can hear me. If the Democrats had taken the same $30 billion—which we had some support on our side to do direct lending. You know the difference. We could have given $30 billion to the Treasury through SBA. We could have done direct lending. There is a lot of support for that. I have letters in my office that say don't give it to the banks because we are not even sure we trust the small banks. We know we don't trust the large banks. Nobody is giving us money. We think the government could give us money.

I said, as a Democrat I might be open to that but I don't think I could get one Republican vote if we did a direct lending program because they will stand up and say: There you go again, giving money to the government to lend.

So I say to my people who are dying for this direct lending: No, we can't do direct lending because I don't think we could get one Republican vote.

I said: You know what might work is if we let the private sector do the lending because they worship at the altar of the private sector on every bill, every day. So I say to the people over here: I know that you think direct lending would be better. It might be better. I have letters from business owners who are actually mad at their community banks because their community banks are pulling, so they are saying, ''Senator, don't give the money to the community banks,'' but I am trying to find a compromise. So I think, OK, we will structure the program so we go to the private sector to lend.

They still come to the floor opposed to it. So the only conclusion I can come up with is they don't want to lend money to small business because they either don't think small business needs it, they don't trust their community bankers to do it, they don't trust the private sector to do it, or they don't think there is any demand out there. I am going to point again to the NFIB study, which is the most conservative organization in America, that says in their own study that 45 percent of the businesses—their own members report—are not able to get all their capital.

I don't know what else to say. Maybe that headline is correct: ''GOP, Temporarily Lost Their Way.'' I don't know.

I see my colleague from New Hampshire on the floor. Since I have the floor, I want to engage her in a colloquy on this in a moment, because this is a very important issue. She has been extremely helpful as a member of the committee.

While she is getting ready, I want to go back to this argument again before others come to the floor. Maybe they want to speak against it. Again, let me ask people listening: What would you do? How would you fashion a bill if you have one group of people who hate the government so bad they won't let the government do anything and you have some people over here who want the government to do everything? So we crafted—Senator CANTWELL, Senator KLOBUCHAR, myself—something in the middle, that says OK, we will use the SBA. We will go through the private sector. We have to help our small businesses, and we can't build the kind of coalition we need.

So I guess the opponents just say we should not do anything, that we should just sort of go home and everybody go get ready for the election and pat ourselves on the back for sending money to Wall Street, sending money to big banks. But when it came to helping our Main Street banks and our small businesses, we just walked away.

Now, again, this bill has three components. It has a small business tax cut, $12 billion of tax cuts. It is not the estate tax cut. It is not the top rate tax cuts. But it is zero percent—you pay zero percent on capital gains earned if you invest in a small business. It accelerates depreciation for small businesses. It is $12 billion directly in the pocket, not of General Motors, not of General Electric, not of IBM, not big companies all over the world and countries, but small companies, $12 billion dollars of tax cuts.

So I do not want to hear anybody from the other side saying Democrats are not for tax cuts. We have $12 billion in this bill. We have strengthened some government programs. I know the people on the other side do not think government can do anything well. But

government can do some things well. The Small Business Administration is well run and well resourced and supported. It can do very good work for our people.

But there is a private sector component. There is a private sector component; that is, depending on our community bankers, that we know. We know their names. We know where they go to church. We know where they live. They know the people in our communities. We can do a private sector approach, giving $30 billion that will leverage $300 billion to get out to America to create jobs.

So I hope we will take this opportunity. The Senator from South Dakota has been patient, and he deserves his time to speak, even though he will be on the opposite side. So I am going to relinquish the floor for a few minutes and reserve the right to come back.

Let me inquire of the Senator, how long might you need?

Mr. THUNE. Well, let me, if I might through the Chair, inquire from the Senator from Louisiana, is there any sort of a time agreement for this discussion?

Ms. LANDRIEU. There is not. But we could enter into one, if you would like. I would be happy to yield up to 10 or 15 minutes.

Mr. THUNE. Well, I do not think—if there is no time agreement, then our side, I presume, would have an opportunity to speak. I do not think there would be any limitation on that.

Ms. LANDRIEU. Then I will continue to speak since I have the floor.

I am going to just continue to talk about the bill. I see other colleagues who are coming down to speak about it. I would just like to read some of the letters that have come to my office supporting the provision.

This is from the National Bankers Association:

Dear Senator Landrieu: I write this letter to you and the Members of the United States Senate in support of the LeMieux-Landrieu amendment. In no segment of the U.S. economy is the need for lending to small business more urgent than in the distressed communities that our banks struggle to serve every day. This recession has hit these communities the hardest. The number of home foreclosures has wreaked havoc on these communities. The small businesses that are the engines for economic activity desperately need access to capital. The U.S. economy will begin to see real growth when small businesses get access to the capital that creates the opportunities for prudent lending. This bill, with your amendment, is a vitally important piece of legislation.

I would like to say that again, underlined. They do not have to write letters like this to me. But it says: This bill, with your amendment—it could have just said: This bill without your amendment, or, this bill with no reference to the amendment. But they go to the effort to say:

This bill, with your amendment, is a vitally important piece of legislation. Its swift passage will send a powerful message through the U.S. electorate that Congress is aggressively working with small business to create real economic opportunities and to spur job growth where it is needed the most.

Why would they write letters like this? Do you think I sit in my office and draft them and then ask them to send them to me? I do not write these words. My staff does not write these words. They are writing them themselves because what they are saying is, people in America are not hearing anything from Congress about small business and small banks.

All we hear about every single day is big business and big banks. This bill gives them hope that we are hearing them, that we are listening, that we are not isolated, and we are trying. This program may not be perfect. But, heavens, it has gotten two congressional hearings. It has gotten a positive score. It has gotten endorsements from every bankers association and almost every small business association we have.

I see my colleague is here. Let me just read one more letter. I know she may have a question or two for me.

This is the National Association for the Self-Employed. We talk a lot about small business. Let me be very clear with people listening. There are 27 million small businesses in America. If anybody wanted to know, there are 27 million small businesses; 20 million of that 27 million are self-employed. That means there is just one person—it could be a self-employed lawyer, doctor, accountant, et cetera, et cetera, self-employed fisherman, self-employed social worker, or psychiatrist.

The small business self-employed, they really struggle because it is just them. So these small businesses we are talking about literally are just from one person, the self-employed; 5 people, 10 people, 20 people. We lose sight of them. They are the ones creating the jobs. They are the ones taking the most risk. They are the ones that have hocked their house, their boat, their car to start the business. They are the ones that depend on this business to work because if it does not, none of their kids go to college. Do you understand that risk? These are the businesses I am fighting for.

In these difficult economic climates in which traditional lending institutions have clamped down, the self-employed and microbusiness communities have been hit particularly hard, left without essential sources of operating capital.

Now more than ever, America's self-employed community, representing 78 percent of all small business in the United States, needs access to additional credit to weather this economic storm and to grow their business.

The National Small Business Association, America's oldest small business advocacy, urges us to support the small jobs bill of 2010 and the LeMieux-Landrieu small business lending fund.

After bailing out our big banks and Wall Street, Congress finally has the opportunity to help Main Street. We are going to have opposition from some people on the other side? The small business lending fund is not a bailout for sinking banks. It is a lifeline to small business owners struggling to stay afloat in turbulent economic seas.

It is not TARP 202. The small business lending fund is not aimed at helping small banks. It helps the small businesses themselves. The fund is designed to help strong community banks. There is a strength test to participate. The program is not designed to prop up failing firms; it makes loans to solid small businesses struggling to get credit. If we cannot do that in this Congress, I do not know what to do.

I ask the Senator, my good friend, perhaps she has some stories or she can think of some things that she could add to this debate to help me try to explain and to get through because, obviously, we are not——

Mr. THUNE. Mr. President, I object to the yielding of time to another Senator. This Senator has been waiting for 45 minutes to speak.

The PRESIDING OFFICER (Mr. SCHUMER.) The Senator from Louisiana can only yield for a question. So if the Senator from New Hampshire has a question, she may ask the Chair.

Ms. LANDRIEU. Through the Chair, I would like to ask the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for a question to the Senator from Louisiana.

Mrs. SHAHEEN. I would like to begin by thanking the Senator who is chair of the Small Business and Entrepreneurship Committee for her leadership and her work to put together, with Senator LEMIEUX, this $30 billion small business lending fund. I know the Senator made some reference to this, but I just wanted to point out and ask her because there has been a lot of criticism about this fund as being so-called, the son of TARP.

I voted against TARP because I did not think we ought to be doing that. I think this is not another Wall Street bailout, that this is an effort to help small businesses. I would just like to ask Senator LANDRIEU whether she agrees with me that this is not a bailout; that, in fact, this is an effort to help Main Street not Wall Street; and that we need to do this so we can make sure our small businesses get the credit and the capital they need to operate?

Ms. LANDRIEU. I thank the Senator for that question. I would like to respond. I do want to be courteous to the other Members who are on the Senate floor, and if we could get some kind of timeframe, then I would be very open to that.

But let me respond to this question. It is an important one because the Senator did not vote for TARP. The Senator from New Hampshire did not vote for TARP. Yet she is here as a cosponsor of this amendment. So it gives us some idea that Members who did not

vote for the Troubled Asset Relief Program understand this is completely different. It is for healthy banks, not failing banks. It is for small banks, not large banks. It is for Main Street, not Wall Street.

So the Senator is absolutely correct. I know she wants some additional time to speak on the bill. So I would like to ask my good friend from South Dakota, what is his intention? If we can get—I would like to ask unanimous consent that we just go back and forth, 10 minutes each, if that would be OK?

Mr. THUNE. I would say, through the Chair, to the Senator from Louisiana, I do not have an objection to some sort of a time agreement. But the Senator from Louisiana has been speaking now since I have been here, for close to an hour. It would seem to me that if we are going to do this in an equitable way, some speakers on our side would have a comparable amount of time to make our points with regard to the amendment of the Senator from Louisiana.

Ms. LANDRIEU. That would be fine. No one was down here except you have been waiting for a while. So I am perfectly happy, through the Chair, to say, if we can come to some agreement, maybe the next 20 minutes on their side, then 10 minutes here, and another 20 there, until we catch up, would be fine with me for the next hour. So 20 minutes, 10 minutes, 20 minutes, 10 minutes, and then we will continue.

The PRESIDING OFFICER. Is there objection to the proposal? The Senator from South Dakota.

Mr. THUNE. If I can say through the Chair, to the Senator from Louisiana, I was just conferring to see what speakers we have on our side. I think Senator SHELBY is coming down. I do not know long he intends to speak, but I would like to speak for up to 15 minutes or thereabouts. My assumption is that he would want to speak for a good amount of time.

So we might want to expand the amount of time the Senator has suggested in terms of the agreement.

Ms. LANDRIEU. Fifteen minutes each? Through the Chair, may I suggest that we just go back and forth 15 minutes each, until the leadership decides how they want to proceed. I think that would be fair. I know I have been speaking.

The PRESIDING OFFICER. Is there objection to the proposal made by the Senator from Louisiana? The Senator from South Dakota.

Mr. THUNE. Let me just say, if I could, to the Senator from Louisiana, I do not have any objection, I think, if we got back on a 15-minute—the ping-ponging back and forth one side to the other. I do think, however, the Senator from Louisiana has spent a good amount of time talking for nearly, since I got over here, an hour. If we might have an opportunity to catch up a little bit.

So perhaps we could have a half hour for our side, and then if there are speakers who want to come down after that, they could go 15 and 15.

Ms. LANDRIEU. I would agree to that. If the Senator wants to have 30 minutes now, then we will alternate, through the Chair, 15 and 15. That is fine. But I would say that this Senator has been on the floor of the Senate all morning. I have given up a lot of other meetings that I could have been at because this issue is very important.

There was no one else on the floor most of the time when I was speaking. So I appreciate that. But I think this issue is important enough. I ask unanimous consent, the Senator has said 30 minutes on their side right now, and then we will go 15, 15 for the next couple of hours.

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

The Senator from South Dakota is recognized for 30 minutes.

Mr. THUNE. I do appreciate the effort that is being made by the Senator from Louisiana to assist small businesses around this country. Frankly, there are many provisions in this bill I think people on both sides agree with.

I have, as a member of the Small Business Committee, a number of these provisions that I have supported in the past. I think many of my colleagues probably have as well. So to suggest for a minute that the Republicans are somehow standing in the way of passing this small business bill is just wrong. There is clearly a lot of Republican support for many of the provisions that are included in this bill.

In fact, I will mention the increased loan size and guarantees for SBA (7)(A) and 504 loans; temporary fee reductions for (7)(A) and 504 loans, updates to SBA's outdated size standards, and much needed tax relief through measures such as bonus depreciation, section 179 expensing, and allowing business credits against the alternative minimum tax, those are all things that there will probably be large bipartisan support for in the Senate. The issue we are having a debate about now is whether the Senator from Louisiana should be able to amend the underlying bill with a provision that would create a small business lending fund.

The point has been made by the Senator from Louisiana that somehow it is just Republicans who are opposed. The fact is, there were objections to that provision on both sides. That is the reason it is not in the base bill. It was originally in the base bill. It was dropped from the base bill at the request of the majority leader and the chairman of the Finance Committee, it is my understanding. This particular provision is not only objected to by Republicans; there is Democratic opposition as well, which is why it was once in the base bill and is now no longer in the base bill and is being offered as an amendment to the bill by the Senator from Louisiana.

I rise in opposition to the amendment. I, in all likelihood, depending on how it plays out, may very well end up supporting the bill. There are many provisions in here with which I agree. This particular provision, however, is going to make a lot of Members uncomfortable. We can say this isn't TARP, but if it walks like a duck, talks like a duck, and acts like a duck, it is a duck. This is TARP. Anybody who thinks for a minute they are voting for something that isn't TARP when they vote for this is, again, flat wrong. This is structured precisely the way TARP was structured. It is designed to avoid that label to encourage participation by banks, which I understand. I don't think there are many banks that would want to participate if they knew they were getting into TARP. But this is essentially TARP. It has been relabeled and renamed, but we can't get away from the basic fact that it continues to be an extension of TARP simply to small businesses or to smaller lending institutions, the assumption for which the TARP was made available.

As to the capital purchase program under TARP, reading from the quarterly report of the special inspector general for TARP, it says that of the 707 lending institutions that participated in the original TARP, 625 had assets of less than $100 million. I realize $100 million is still a lot of money. There are a lot of banks in my State that have nowhere close to that amount of assets. But if we take the total number of lending institutions that participated in TARP, which is 707, 625 of those or more than 80 percent were banks with less than $100 million in assets. There was participation by smaller banks. It wasn't only the big multibanks that were participating in the program. It was a lot of these $100 million and smaller banks that were participating originally in TARP.

The other point that has been made is that somehow this is different in the sense that this is going to actually raise revenue for the Federal Government. The TARP, projections are, will cost Federal taxpayers $127 billion when it is all said and done. We hope that is not the case. We hope that number is smaller, but that is what the estimates are with regard to how much TARP will cost Federal taxpayers. This particular $30 billion reincarnation of TARP, created specifically for smaller lending institutions, it has been estimated by the CBO, will actually generate a budget savings of $1 billion. How do they come at that? CBO, at the request in the House of Representatives, where this originally passed, used a different accounting method in determining the cost or the budgetary impact of this version of TARP versus the original version.

The CBO also noted that if the accounting conventions that were used to consider the budgetary impact of the original TARP were applied to this $30 billion TARP carve-out, it would cost Federal taxpayers or would score $6 billion. Again, it is because this scored

differently. If this fund were scored as they scored TARP, which was on a fair market basis adjusted for a market-risk basis, then it would cost $6 billion. This is being scored on a cash basis as raising over $1 billion. That is what the CBO is saying. If they used the same accounting conventions applied to the original TARP, this program would have a budgetary impact of $6 billion, rather than the $1 billion savings being reported by the proponents of the legislation.

I make that observation to point out that when people who are voting for this think there may not be any consequence with regard to the fiscal impact this could have, they are not taking into consideration the full picture. There was a change made in the way CBO scored the original TARP and the way they have scored this particular program. If we use the same convention or the same accounting conventions applied to the original TARP to this TARP, we would be talking about a $6 billion cost to taxpayers as opposed to $1 billion in savings.

It strikes me that there is great effort being made to convince people this is not a TARP program. I wish to point to the White House's talking points that admit that the ''program would be separate and distinct from TARP to encourage participation'' and that ''the Administration's proposal would encourage broader participation by banks, as they would not face TARP restrictions.''

These restrictions include executive compensation rules, warrant requirements, and a variety of other things. But my point is, this is the same flawed structure. This is the same basic mechanism used to create the TARP. Most people here, Members on both sides, have great apprehension about how TARP was used. Again, to Members who will be voting for this particular reincarnation of TARP, if they didn't like voting for TARP the first time, they probably should not be voting for this. We are essentially doing the same thing, but we are purposely removing some of the very safeguards created under the TARP.

There are better ways of helping small businesses. We have 9.5 percent unemployment. We are trying to encourage small businesses to create jobs. Yet here we are talking about going back to the old playbook and trying to somehow make this look better and sound better and put different lipstick on it and say this is a new program, when it is essentially something we are all familiar with. If we want to help small businesses, we should get our foot off their throats. Let's get Washington's foot off the throats of small businesses.

Everything being done here in terms of public policy in the last year or year and a half is going to make it more difficult for small businesses to create jobs. We have passed a $1 trillion expansion of health care which imposes new mandates and taxes on small businesses. We have passed a $1 trillion stimulus bill which has done very little to help small businesses. If we had been having this debate when the stimulus debate occurred, there might have been more support. But at the time, a very small fraction of the total amount, about one-third of 1 percent of the amount that was spent under the stimulus bill to try and grow the economy and create jobs, was actually directed at small businesses. It was a nonfactor in the debate during the stimulus. We spent $1 trillion, most of which has been used to create jobs in Washington, DC, in the Federal bureaucracy. We haven't done anything to provide the incentive for small businesses to create jobs.

It is going to get worse because, as we all know, next year, the 2001 and 2003 income tax cuts expire, at which time, if no steps are taken, the rates are going to go up on small businesses. The other side will argue that we will insulate and protect people under $250,000 from these tax increases, $250,000 for a married couple and $200,000 if one is single. The point Members of this body need to remember is, 50 percent of small business income is taxed at those top two marginal income tax rates. When we raise those top marginal income tax rates—the 35 percent rate up to 39.6 percent and the 33 percent rate up to 36 percent—we are imposing tax increases on small businesses. That is what small businesses have to look forward to next year. It is no wonder small businesses are not creating jobs. We continue to pile these new mandates, new taxes, new compliance and regulatory burdens on them. We expect them to go out and create jobs.

Look at the proposal for energy, the cap-and-trade proposal. It would put a punishing new energy tax on small businesses. At every turn what we see is Washington, DC, and the Congress taking steps detrimental to job creation and making it more difficult for the very small businesses that are the economic engine of our society to create jobs.

There are some things in this legislation that are good. There are some tax incentives for small businesses. We are talking about a provision now, an amendment that would be added to this bill, a $30 billion mini TARP which we have all seen work in the past. I don't think anybody here would want to go down that path again, if they knew that is what they were voting for. That is why this incredible effort is being made to relabel what this is. That is why they are changing the language in describing this. But the fact is, we are talking about the same thing.

I wish to read some quotes from the TARP congressional oversight panel, which is headed by the administration's rumored choice to head the new Consumer Financial Protection Agency, and that is Elizabeth Warren. She has expressed skepticism that it will be effective in increasing small business lending, the fund we are currently debating. She says:

> The small business lending fund looks uncomfortably similar to TARP. Like the capital purchase program under TARP, the small business lending fund injects capital into banks assuming that an improved capital position will increase lending, despite the lack of evidence that the capital purchase program did.

That is a direct quote from this report by the congressional oversight panel. She goes on to say that ''such a fund runs the risk of creating moral hazard by encouraging banks to make loans to borrowers who are not creditworthy.''

We have a lot of folks who have followed very closely what happened with TARP who are expressing reservations about this particular lending program and how it might impact the Federal budget. If we use the same scoring conventions applied to the original TARP, it comes in at a cost of $6 billion as opposed to a savings of $1 billion. When we completely throw away the accounting manual and use a different accounting convention, we get a different result. But the risk still exists. The CBO has made that clear in their analysis. When we look at what the congressional oversight panel says with regard to how this will resemble TARP, the risk they recognize inherent in that, as well as the limited effectiveness of the original program in encouraging banks to participate, this is a path down which we should not go.

There are things in this bill that are good. There are things that will attract bipartisan support in the Senate that Members on both sides are in favor of. But the reason this provision was stripped out wasn't because Republicans alone objected. There were Democratic objections as well. It was taken out of the base bill. It is now being offered as an amendment for that reason. It is not Republicans who are trying to stop us from doing things that will help small business. The best thing the Senate can do to help small business is to quit putting new mandates, new taxes, and new regulations on them. Then they will see the kind of certainty they need to create jobs and get the economy growing again.

I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Alabama.

Mr. SHELBY. Madam President, who controls the time?

The PRESIDING OFFICER. The Republicans control another 14 minutes 50 seconds at this point.

Mr. SHELBY. Madam President, I rise to oppose the Landrieu amendment. Only 1 day after the President signed the Dodd-Frank financial regulation bill into law, at that time proclaiming an end to taxpayer-funded bailouts, we find ourselves debating another bailout bill on the floor of the Senate. Just last week, we were told by the majority that the mere passage of Dodd-Frank would help revive our damaged financial system.

The bill was heralded as a thoroughly considered and comprehensive piece of legislation that would restore confidence in our financial system and revive our economy. What a difference a day makes.

If Dodd-Frank is really going to revive our economy, why do we need this bill? I think the answer is clear: The majority knows the Dodd-Frank legislation is going to reduce lending and undermine economic growth by imposing more regulations and taxes on banks. They know, I believe, that Dodd-Frank will do nothing to increase the availability or reduce the cost of loans to small businesses. But, rather than create a new regulatory system to strengthen our private sector, the majority decided to expand significantly the old system, thereby increasing the regulatory burden on American businesses—small, medium, and large.

I believe this is the same old song and dance: expand the reach of the heavy hand of government, increase taxes and the cost of doing business, and then complain that the private sector is not working. We have heard this before. Once the American business owner is sufficiently encumbered, the only alternative must be a brandnew big government program, such as envisioned here. How do we pay for this new ''necessary'' government program? We borrow money from future generations. Does that sound familiar to people here in the Senate?

This amendment is intended to help small businesses—a goal we can all support. Yet, in practice, the legislation would create a second TARP. Remember TARP? A lot of people wish they had not voted for it. Like TARP, this program does not lend money directly to small businesses. It would have the government take ownership interest in hundreds of banks and then require that they make loans. This is TARP II. In fact, banks could replace original TARP money with funds received from this program.

As I said, just 1 day after the enactment of Dodd-Frank, which contained a provision to speed up termination of TARP, we are voting on an amendment to extend TARP for at least another 10 years.

To force banks to participate in this program, this legislation would subsidize bank financing. Banks would generally pay dividends on the government equity investments at rates ranging from 1 to 5 percent. The current market yield on such investments, however, is between 7 and 8 percent. Hence, any bank that chooses not to participate could find itself at a competitive disadvantage. Moreover, this legislation forces taxpayers to what? Subsidize banks once again. In effect, we are taxing small business owners to pay banks to lend to small businesses. Even worse, the government's equity investments would be subordinated to all of a bank's existing debt. As a result, if a bank fails, existing creditors would get paid before the government, and taxpayers again would take the hit. I believe American taxpayers have lost their appetite for bank bailouts.

Finally, I also want to note that the legislation appears to exempt loans made under this program from existing underwriting regulations. The bank regulator would then have the authority to decide what types of underwriting standards apply to these loans. I believe this raises at least two issues. First, if the multitude of regulations required by Dodd-Frank are really necessary, why does this bill provide a carve-out for loans made under this program? Second, what statutory protections are there to ensure these loans are underwritten in a safe and sound manner so we do not create hundreds of new Freddies and Fannies? The answer, sadly, is none.

This legislation would continue the majority's assault on American business by having the government dictate how and to whom loans are made. Each participating bank would have to provide the government with a business plan for review. Rather than having loans approved based on the creditworthiness of a borrower, politics will now play a role. We should let the market, not bureaucrats, decide which businesses get loans. Unfortunately, the majority party is once again sacrificing our core economic values for a short-term economic gain.

The lack of credit for small business is a problem that needs to be addressed. I fully support the Banking Committee examining the issue and hope Chairman DODD would consider holding a hearing on this issue. I think it is very important. It is relevant, and it should come out of the committee. I do not, however, believe we should try to solve this problem with another expensive and bureaucratic government program. TARP II is something we do not need and I hope will not be supported in the Senate.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Madam President, how much time is left of our allotment?

The PRESIDING OFFICER. Eight minutes 8 seconds.

Mr. THUNE. Thank you, Madam President.

I thank the Senator from Alabama for his eloquent remarks as a key member and the ranking Republican member of the Banking Committee, as someone who is very knowledgeable of the impacts these decisions we make here in Washington have on our financial institutions across this country. I think he is someone who has gone through, as many of us have, this experience with TARP, and his comments are particularly on point. So I thank him for being here and for speaking to this issue.

As my colleague from Maine also noted earlier today, I think there is pretty broad opposition to this particular amendment, notwithstanding the support many of us have for the underlying bill. As I said before, there are tax incentives in the underlying bill, along with some other changes that are being made in some of the Small Business Administration lending programs, that I think will get widespread support in the Senate. But I believe this particular provision, for many of the reasons I have mentioned and others have mentioned on the floor, is going to find a considerable amount of opposition, and I would expect that to be bipartisan opposition.

In the few minutes I have remaining, what I would like to do, if I could, is wrap up with a couple of basic observations.

I know the Senator from Louisiana and others have talked about the discussion they have had with lenders in their States and some of the various associations that represent their States. I also had the opportunity a couple days ago to visit with a number of my bankers in South Dakota, most of whom believe this legislation is unnecessary because they think it is not an issue of having funds to lend, that there are funds to lend out there, and the question really is trying to find the types of deals, the types of borrowers who could make payment in a timely way. Hopefully, there will be more borrowers who are qualified.

One of the reasons I think they do not qualify is because there is so much uncertainty about what the rules of the game are going to be going forward. If you are a small business in America today, you do not know what is going to happen on the estate tax, the death tax. I hear that all the time from farmers and ranchers and small businesses. You do not know what is going to happen with regard to taxes on income, on capital gains, on dividends. All those things are set to go up next year if steps are not taken by Congress to prevent that from happening. You have the new health care mandates which many of the small businesses are still trying to react to and figure out—when this gets implemented, what impact is this going to have on my small business and my cost structure? You have the prospect looming out there of a new energy tax under some sort of cap-and-trade or climate change proposal that continues to be discussed here in Washington, DC. So there is this cloud of uncertainty surrounding businesses in this country and I think also lenders who are looking at businesses in this country and wondering whether these businesses are going to be viable in the future if they are hit with all these new taxes, new regulations, and new mandates.

So I think the better course for us to take is to look at ways we can liberate small businesses from regulations and taxes and mandates and enable them to go out and do what they do best; that is, create jobs. But, frankly, I do not believe, notwithstanding the arguments that are being made by the other side, that going down the path toward another TARP—again, $30 billion is a significant amount of money. It is tax dollars we put at risk.

Again, the reason the CBO scored this at a $1 billion savings is because they did not take into consideration, with the methodology they used in scoring it this time, market risk. They did when they scored the original TARP. If they used the same accounting conventions in making their analysis of the budgetary impact of this particular provision as they did with the original TARP, it would not result in a $1 billion savings; rather, it would result in a $6 billion cost to the Federal taxpayers. I think that is important to point out in this debate going forward.

Let me, I guess just to close, at least temporarily, while other speakers perhaps come down to talk about this, say that the White House's talking points, as I mentioned earlier, make it abundantly clear that this really is a TARP. They are trying to disguise it and call it something else because they want bankers to participate and they know bankers will not participate if they think they are getting into a TARP.

These are the talking points from the White House which admit, again, that the ''program would be separate and distinct from TARP to encourage participation.'' It goes on to say that ''the Administration's proposal would encourage broader participation by banks, as they would not face TARP restrictions.'' Again, as I said, these restrictions the White House is referring to include restrictions on executive compensation and warrant requirements, to name a couple.

So this really is—if you look at the way this breaks down and you compare it side by side with how TARP was structured, it very much is the same thing.

We can call it something different. We can label it something different. We can disguise it. We can try to make people feel better about voting for it. But what you see is what you get, and what you get and what you see here is TARP by another name.

So I do not think it is necessary for us to be going down this path again. We have tried that once. When we did try it the last time, of the total number of banks—707—that participated in the capital purchase program under TARP, 625 had assets of less than $100 million. So this is something that has been tried, and it certainly does not seem, in my view, something we ought to be trying again. There are a lot of other ways to provide incentives for small businesses to create jobs. Some of them are in this bill, and for that I congratulate the Senator from Louisiana. I worked with her as a member of the Small Business Committee on some of those provisions. But this one really is a bridge too far. It is not something we need to be doing. It is not something the taxpayers of America need us to be doing. I would argue, as well—and this is based, again, on conversations I have had with lenders in my State of South Dakota—this is not something they think is necessary when it comes to making more credit available to small businesses in this country.

So I would, with that, reserve whatever time we have. I guess I yield back the remainder of my time—I assume it is about gone—and will wait for some other speakers to come down.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, before my colleague leaves the floor, I want to say I did not realize he was such a fan of Elizabeth Warren. I was really under the impression that he and some of the leaders on that side had some objections to her style of leadership. But they surely have quoted her today because she was the author of this oversight report to which they keep referring. So I am so happy to know that the Senator from South Dakota and the other Senators who have spoken think so much of Elizabeth Warren because she is the one who wrote this report that said this might look like TARP II.

Now, that is what Elizabeth Warren says, and evidently my good friend from South Dakota really appreciates the leadership she is giving on this subject. Because the community bankers—not Elizabeth Warren, not bureaucrats in Washington, whom the Senator from South Dakota is defending—his own community bankers—yes, in South Dakota, his community bankers—wrote to HARRY REID and MITCH MCCONNELL, his leader, on behalf of the nearly 5,000 members of the Independent Community Bankers. A Communist group, a very liberal group this group of independent community bankers is. A big government group independent community bankers are. They have written a letter to the Senator from South Dakota. Evidently, he did not open his mail today.

Madam President, they write:

> I urge you to retain the Small Business Lending Fund in the Small Business Jobs Act. It is the core component of this legislation.

Mr. THUNE. Would the Senator yield?

Ms. LANDRIEU. No, I will not yield.

I will say one thing to the Senator from South Dakota. If I took out the words ''big government,'' ''taxes,'' or ''regulations,'' neither the Senator from South Dakota nor most of the Members on the other side could finish a sentence, because they can't debate a specific. He gets up and starts talking about higher taxes and more regulations. This bill has tax cuts in it. This bill doesn't have any regulations in it. This is a small business lending program. My good friend, the Senator from Alabama, read the statement written by the political operatives beautifully. I am sure I will hear it on the Rush Limbaugh radio program today.

I don't need a speech to read. I have hardly read one thing except the thousands of letters that are pouring in, asking us to help small business. I will say with as much respect as I can to the ranking member of the Banking Committee, because I know I heard him say this bill didn't go through the Banking Committee: I wish to agree, and thank God it didn't. Because you know the last two bills that did? One was TARP I, which nobody likes. Then TARP II came through that committee, and then the big bank regulatory bill came through that committee. So I hope the ranking member isn't trying to convince me or the Republicans that that committee has produced great legislation. I say that with respect to the chairman of the committee. I know he is going to hear this and be aggravated. But to stand up and say because the small business lending bill didn't go through the Banking Committee, which has been roundly criticized by their side for too much regulation, is more than I can stand.

Thank goodness, this didn't go through the Banking Committee. It came straight from the hearts of bankers in our communities and small businesses who don't need any committee in Washington to tell them what is going on at home. They don't need any lobbyists to tell us what is going on. They can't get money. We have given out money to Wall Street. We have given out money to the big auto companies. When it comes to giving out a small $30 billion to our own community banks, the Republicans say no.

Then I have to hear the Senator from Alabama and the Senator from South Dakota—and I want whoever is listening to hear this: They say this is a big government program. The money doesn't even go to the government; it goes to the community banks. It is a voluntary program to community banks, and it then goes to business.

I will say again that there were Democrats who came to me and said—I am the chair of the committee—Senator, we don't trust the private sector. We don't think that if we give them this money, they will lend to our small businesses. Can't you do a direct lending program? There is a lot of support for a direct lending program. But knowing the GOP the way I do, I said to my friends, my colleagues: You know, if I thought I could get one or two or three Republicans for a government direct program, I might do that because it would be more efficient, but they are so mad at the government right now and they have everybody all riled up, so let's do it through our community bankers whom we know, whom they know and support. So we craft the program to be a voluntary private sector lending program to healthy banks, and they want to say no, because, they say, it is like TARP.

Well, let me tell my colleagues one Senator who is a Republican who doesn't think it is TARP, and that is Senator LEMIEUX from Florida. Another Senator who doesn't think it is TARP is the good Senator from Ohio, GEORGE VOINOVICH, who says it is not TARP.

But the Senator from South Dakota, who came to talk about how we can't

help small business, actually voted for TARP. The Senator who just spoke against this provision voted for TARP, to give money to banks and big banks with no strings attached. Yet he comes to the floor and now he can't help our community banks in their efforts to help small businesses. Every community bank, independent bankers, ABA, they are all supporting this. They didn't support TARP; many of them did not. They were afraid of it. They didn't like it. They still complain about it. This isn't TARP.

I know my colleague is here from the State of Washington. How much more time is remaining?

The PRESIDING OFFICER. There is 8 minutes remaining.

Ms. LANDRIEU. Madam President, I wish to yield the 8 minutes to the Senator from Washington, who was extremely instrumental in designing this program. Perhaps the Senator knows I am evidently having some difficulty explaining to some of the Senators from the other side how this is not like TARP. Maybe the Senator from Washington can do a better job than I have been able to do. I wish to thank her for coming to the floor. I yield 8 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I thank the chair of the Small Business Committee. I see my colleague from Washington is already here on the floor. Did she wish to say a few words?

Mrs. MURRAY. Madam President, I am happy to yield to the Senator from Washington to go first and then I will follow her.

Ms. CANTWELL. I thank my colleague from Washington. I know she too has been very active in this issue and has spoken on it and has urged our leadership, in signing a letter, I believe probably 6 months ago, that we pass this legislation. I wish to thank again the chair of the Small Business Committee for her advocacy.

This literally is an issue about Main Street versus Wall Street. This is about whether we are going to help Main Street in tough economics times, or whether we are going to continue to say that Wall Street gets the ear of Congress.

I am someone who didn't vote for either of the TARP pieces of legislation. I know my colleague, Senator SHELBY, the ranking member of the Banking Committee, was here speaking about this. I can assure my colleagues that this legislation is focused at the problem that was caused by Wall Street. Many people across America are asking when we are going to stand up for small businesses in America and help Main Street recover from this economic disaster.

How did we get into this situation? We got into this situation when large banks failed because of their active participation in things such as credit default swaps and other derivatives that weren't truly backed by financial commitments and basically became a house of cards, and they brought down our entire economic system.

So what was our response to that? Our response to that was to bail out the big banks and give them assistance.

What happened to the community banks? As deposit insurance basically was paid out in various forms, that said to those community banks: You now have to have higher capital standards. Can my colleagues imagine that? Can my colleagues imagine that? We had big banks such as Goldman Sachs and others that basically had imploded and we gave them taxpayer money and, basically, then said to the community banks: You need to have more capital within your banks. That is what we said.

So what did those community banks do when regulators told them they had to have higher capital requirements? They did what many of them only had one choice to do, which was come up with situations to either get more capital or stop their lending. The consequence is that there was a lot of lending that was done to small businesses that suffered as a consequence of those actions. Imagine that. The practices of the larger banks of investing in credit default swaps and derivatives that had no basis ended up costing small businesses their access to capital because capital requirements were put on small businesses through their banks at the same time large banks were given a bailout.

So no, no, this is not a bailout. This is about a lending program for small business to save Main Street and save our economy, because this Senator believes that job creation happens from small business. That is a proven fact. Seventy-five percent of the increase in jobs comes from small business, but right now they can't get access to capital.

Here is a letter from one of my constituents:

> In unprecedented times I am writing to you to express and urge relief for small business owners who are struggling to survive and who can be one of the key factors to improving the U.S. economy. We have been a small business for over 9 years and have 5 restaurants in Washington State and we currently employ 150 people between five operations. Until September of 2008, our business was stable and we were expanding and adding jobs and tax dollars to the State and Federal coffers. But then in September of 2008, after signing a 20-year lease for our first Arby's project—

that is a restaurant—

> our lender pulled our financing due to economic conditions. This was the same lender that just 3 months earlier had refinanced over $3 million of our business debt. And even though we had excellent personal and business credit, two business properties as collateral, good cash flow, we were forced to take high-interest equipment leases, advances from credit cards, as well as cash advances with an almost, yes, 50 percent interest rate from finance companies with an 18-month term.
>
> We tried going directly to the bank to finance the company, but we were told we had no options. Instead, the same bank charged an almost 50 percent interest rate through the finance company.
>
> There is nothing worse to an entrepreneur than to have the foundation and determination of their survival caused by this economic calamity and then to feel that State and Federal agencies would rather see your doors shut than work with you. We are honest, hard-working Americans who want to pay all our debt, but these agencies are uncompromising and missing the human factor.

Missing the human factor. Why is it that the other side of the aisle thought it was such a priority to bail out Wall Street, but now a well-crafted piece of legislation that is a lending program that is voluntary—banks don't even have to participate in it if they don't want to; it is not like TARP which was mandated on the banks to participate—why is it the other side doesn't want to see the success of these small businesses?

As my colleagues have said, this program is a well thought out program to help recapitalize the community banks as more requirements were put on to them as it related to the economic crisis of 2008. Imagine that. No questions asked to the big banks; they were given a bailout. Small banks got new capital requirements. They cut thousands and thousands—probably millions—of lines of credit; that is, performing loans to businesses across America were cut out from under them.

The voices are loud and clear across America. They want us to help restore this kind of stability through access to capital for small businesses. This is a program that can generate $1.1 billion to our economy and reduce our Federal deficit. It will help stabilize in a way that these other programs have not been able to do, and it will create the job growth we need to see in America.

I hope my colleagues will support this important legislation. I know some on the other side of the aisle want to name this some other legislation. But the truth is that this is about Main Street, whether one's perspective is that Main Street is going to help us. I believe Main Street will be that job creator. I hope my colleagues on the other side of the aisle will think about this and the consequence of the votes they have already taken. It is so important for us to say that we understand their plight, just like the gentleman's letter that I read. It is important for us to say we understand the frustration they have been through; that we are on their side in making sure small business gets access to capital; and that we believe our economy isn't about the big banks. It is about those millions and millions and millions of entrepreneurs every day who go out there and are hard working and who have been told no, no, no—told even on their lines of credit, no, you can't have access anymore. We need to right that wrong that happened over the last year and a half and get capital flowing again to small businesses.

I thank the Chair, and I thank the chairwoman of the Small Business

Committee. I see my colleague from Washington, who has been outspoken about this since January, the importance of getting this done, and has written many letters to try to emphasize how critical it is to our Washington State economy.

The PRESIDING OFFICER. The Senator from Washington should know that the 15 minutes for the majority has expired.

Mrs. MURRAY. Madam President, I ask unanimous consent to speak for 10 minutes.

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

Mrs. MURRAY. Madam President, I ask unanimous consent that the next Democratic Senator to speak be the Senator from New Hampshire, the Presiding Officer.

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

Mrs. MURRAY. I wish to thank Senator CANTWELL, Senator LANDRIEU, and all of those on our side who have been working so hard on this issue for so long.

As all of us know, small businesses are not only at the heart of our communities, they are at the heart of our economic recovery. They provide secure, stable jobs. They drive the innovation that provides economic growth and expands opportunity for all. They are the foundation on which we build our economy.

But we also know that this economic downturn has hit our Nation's small businesses particularly hard. Lines of credit have been cut off, businesses that were expanding and hiring suddenly slammed on the brakes, employees have been let go, and inventive and original ideas have been put on hold.

In communities throughout our country, our small businesses have been left to fend for themselves.

A large part of why this has happened can be explained by looking at the health of our community banks, which provide the capital that drives business growth and job creation.

The fact is, help has come much too slow for our community banks. Because of that, we have seen these banks fail one after another, lending has dried up small businesses, and job growth has suffered.

While Wall Street institutions such as AIG and Goldman Sachs were deemed too big to fail, the collapse of our community banks has apparently been too small to notice. In communities across my State and across the country, the loss of their hometown banks has certainly been noticed. In my State of Washington, just in the past year, there have been 10 community banks that have failed. Believe me, their communities have felt the loss of these banks.

Earlier this year, the FDIC closed American Marine Bank, a small bank that serves small communities in my State, including Bainbridge Island. It was a bank that had served small businesses and families in the community since 1948. It was the first bank that allowed the people who lived there to do their banking without having to take a ferry ride all the way to Seattle.

Over the years, American Marine provided the capital that allowed Bainbridge Island and other areas of our Olympic Peninsula to grow into self-sustaining economies, to grow from very sparse farm areas into suburbs that included thriving small businesses and family-wage jobs.

An article that ran in the hometown Kitsap Sun newspaper after the collapse captured what the bank's failure meant for local businesses and families.

In the article, Larry Nakata, president of a local grocery chain, said American Marine had been his bank since the day his store opened and noted that over the past 52 years he has gotten repeated loans from American Marine over time to build new stores, expand, and hire new workers. In that same article, Mary Hall, a local business owner, talked about how a former CEO of American Marine believed in her enough to give her a loan to start up her paint company back in 1984, which still serves the community today.

Jeff Brian, a movie theater owner there, talked about how American Marine provided the loans he needed to buy new land and open new theaters. He said:

> They were there for us from the very, very beginning.

Madam President, it is not just that community banks are failing, it is that they simply don't have the capital to lend to even very successful small businesses in their communities.

This is something I have heard repeatedly talking to small business owners in every community of my State.

In Vancouver, WA, I heard from Tiffany Turner, who, with her husband, owns a growing inn. She told me they have grown close to 10 percent, despite the economic recession. But they have now been told by their bank that ''we are not lending in your sector.''

In Seattle, I heard from Dani Cone, the owner of a local coffee company, whose credit ran dry and has been forced to borrow money from family members to keep her business afloat.

I heard from a bookstore owner who had taken out $60,000 on her own personal credit card to keep her business afloat.

I heard from a husband and wife who opened a local restaurant about how they finally had to close up shop for good.

I heard from people who were driven by their passions, who wanted to grow their business and wanted to hire but have been stymied by the lack of credit flowing from their banks.

Obviously, at a time when we are now relying on our small businesses to drive job growth, this is unacceptable. Right now we ought to be doing everything we can to make sure small business owners have the credit they need to grow and hire.

That is, in fact, why last year I introduced the Main Street Lending Restoration Act, which would direct $30 billion in unused TARP funding which was supposed to go to Wall Street, back to our community banks that are under $10 billion, so they can unlock the vaults and start to lend to small businesses in their communities again.

It is exactly why I spoke to Secretary Geithner and President Obama about this directly—and why I have been pushing so hard to make small business lending a priority.

I have felt strongly that we have to be more focused on community banks if we are going to make progress and bring true recovery to Main Street businesses again. It is why I am so proud to stand here today and support this amendment that will create the small business lending fund and State small business credit initiative.

The small business lending fund takes a most powerful idea from my Main Street Lending Restoration Act and sets aside $30 billion to help our community banks—those with under $10 billion in assets—to help them get the capital they need to begin lending money to our small businesses again.

It would reward the banks that are helping our small businesses grow by reducing interest rates on capital they receive under this program.

It would help support small business initiatives run by States across the country that are struggling now due to local budget cutbacks.

My State of Washington is one of the most trade-dependent States in the Nation. So I am very glad this amendment also includes the Export Promotion Act, which would provide support and resources to small businesses that are trying to ramp up their exports.

Small businesses are the lifeblood of our economy, and this amendment will help them get back on their feet, expand, and, importantly, add jobs to our communities.

I grew up working in a small business. My dad was the manager of a five-and-dime store in Bothell, WA. As a kid, I did everything from sweeping the floor, to working the till, to taking out the trash. I remember how our little businesses and those around us on Main Street were the cornerstones of our community and how, in fact, they were actually the cornerstone of our local economy.

My experience is certainly not unique. For many decades, the defining strength of our financial system has been our small businesses and their ability to access credit at affordable rates, grow beyond their walls, and provide good-paying jobs.

It is time for us to get back to ensuring that our small businesses are the backbone of our economy. This amendment is a very important step in that direction.

I thank Senator LANDRIEU for her outstanding leadership on this issue. I

am here today to urge all of our colleagues to support this amendment, and let's get Main Street back to work again.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

SUPPLEMENTAL APPROPRIATIONS

Mr. MCCAIN. Madam President, very soon, we will be voting to move to consider the House-passed version of the 2010 supplemental appropriations bill.

I will vote against proceeding to the bill for one simple reason: It is not fully offset and now has a pricetag of $80 billion. When will the spending stop?

When the Senate considered the supplemental in May of this year, the bill totaled nearly $60 billion. Again, I opposed it because our version was not paid for, and it added to the ever-growing deficit for future generations. Those who say we oppose small business and all the motherhood and apple pie provisions of this bill, all we want to do is have it paid for.

Dr. COBURN and I had two reasonable amendments to fully offset the cost of the bill when it was $60 billion. I am sure we could find offsets for this $80 billion bill—if amendments were in order.

Our amendment would have saved taxpayers a combined total of nearly $120 billion by freezing raises, bonuses, and salary increases for Federal employees for a year; collecting unpaid taxes from Federal employees, which is $3 billion; reducing printing and publishing costs of government documents; eliminating nonessential government travel; eliminating bonuses for poor performance by government contractors, which is $8 billion. The list goes on and on. It also includes cutting budgets of Members of Congress, which would save $100 million; disposing of unneeded and unused government property, which would save $15 billion.

In other words, the size of government has doubled since 1990. Surely, it is time we started paying for these spending bills.

Our efforts failed. The majority, once again, succeeded in preventing the elimination of a single dime of wasteful and unnecessary and duplicative spending.

I remind my colleagues that in April of 2009, well over a year ago, the President wrote to Speaker PELOSI and said this:

> As I noted when I first introduced my budget in February, this is the last planned war supplemental.

That was in April of 2009 when the President said last year, April, was the last planned war supplemental.

He went on to say:

> 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.

I could not agree more. That is why I am disappointed to see yet another supplemental spending bill—designated as an emergency—and without offsets.

Now the majority leader wants us to take up the House-passed bill, which exceeds the cost of the Senate version by $22 billion—nearly $23 billion. The House added $10 billion for an education jobs program and $4.9 billion for Pell grants. Other items added by the House include $80 million for energy loans, $142 million for the gulf oil-spill—the list goes on and on. Many of these are very worthy causes, very worthy items. But it should not be added to a must-pass bill to fund our troops, and it should be fully offset. That is what this debate has been all about for a long time—not whether these are worthy items, not whether we should have $10 billion for an education jobs program—although I seriously question that one—but the question is, Are we going to pay for it?

When are we going to stop mortgaging our children's and grandchildren's future and start balancing the budget and reducing and eliminating spending? Our soldiers and their families are making tremendous sacrifices. Why don't we make some sacrifices? Why don't we forego the earmarks and the special interests and the special deals that continue to characterize our behavior?

I don't need to remind my colleagues that we are fighting two wars. But the House has proposed reduced defense spending for this fiscal year and prior year funding by $3.2 billion to help pay for the $22.8 billion added by the House for domestic programs.

Subsequent to House action on the supplemental, the chairman of both the House and Senate Appropriations Committees further reduced the Defense Department's fiscal year 2011 discretionary base allocations below the President's request by $7 billion and $8 billion, respectively.

In other words, we are increasing domestic spending, larding it on this, by some $60 billion, and at the same time we are cutting defense.

One issue of concern is a provision contained in the Senate-passed bill to provide funding for the Secretary of Veterans Affairs to exercise his authority to expand the number of service-related illnesses presumed to be connected to exposure to Agent Orange. The cost of that provision is $42 billion over 10 years and will most assuredly have a detrimental impact on the ability of the VA to process current and backlogged claims in a timely manner.

Perhaps the most controversial provision added by the House is the $10 billion for an education jobs fund. This money would be used to supplement State budgets to pay the salaries of teachers, administrators, janitors, and other school personnel.

I fully support the goal of saving teachers' jobs, but this certainly isn't the way to do it. In fact, the government should be incentivizing districts to make crucial reforms so that effective teachers are rewarded.

The proposed Education Jobs Fund would continue the archaic seniority system that many say rewards bad teachers instead of the most effective teachers.

Additionally, the House proposed $800 million in spending cuts to help offset the cost of this $10 billion fund—an act which quickly drew a veto threat from the President. The bill proposes to cut $500 million from the Race to the Top Fund. I don't know of a better educational incentive in recent years than the Race to the Top Fund. Yet they are going to cut $500 million from it.

The bill proposes to cut $200 million from the Teacher Incentive Fund that supports creation of pay-for-performance programs and $100 million from the Charter Schools Program. All these are proven ways to help education in America, so they are going to cut them.

They are going to cut the Charter Schools Program. In my State, charter schools have worked and have provided competition to the public school system. If the cuts to the Charter Schools Program in the House-passed bill are enacted, as many as 200 fewer charter schools could start next year and approximately 6,000 charter school employees could be in jeopardy of losing their jobs. There are 420,000 children on charter school waiting lists nationally. Now is not the time to stop supporting the growth of new charter schools.

I could go on and on about what this bill does. Of interest is the House decreased by $27 million the funding for the hiring of additional Border Patrol agents for the southwest border, decreased by $63 million the funding for the acquisition of unmanned aerial vehicles and helicopters, and decreased by $1 million the construction of forward operating bases for use by the Border Patrol. Every one of those programs that have been cut are effective in securing our border.

Even more egregious is that the House cut $100 million more than the President requested from the account that funds the construction of and repairs to the border fence. I support the President's request to rescind $100 million from the failed virtual fence project, but this money should go toward increased Border Patrol and Customs agents and technology. I do not support the House's effort to cut an additional $100 million in funding that is currently available and being used to complete construction of the border fence and repair the constant damage done to the fence by those trying to illegally cross into our country.

In summary, in the past 2 years, America has faced her greatest fiscal challenges since the Great Depression. When the financial market collapsed, it was the American taxpayer who came to the rescue of the banks and big Wall Street firms. But who has come to the rescue of the American taxpayer? Not Congress.

What has Congress done? We have saddled future generations with trillions of dollars of debt. Since January

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. Has anybody seen any good things from that? We spent $83 billion to bail out the domestic auto industry. We passed a $2.5 trillion health care bill. We now have a deficit of over $1.4 trillion and a debt of $13 trillion. That 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 around 9.7 percent. According to forbes.com, a record 2.8 million American households were threatened with foreclosure last year, and that number is expected to rise to well over 3 million homes this year.

Now with this bill, the majority wants to tack on another $80 billion. When is it going to end? It may end next January. It may end next January because the American people will not stand for this continued crime we are inflicting on our children and our grandchildren.

The greatness of America is that every generation has passed on to the next generation a better one than that generation inherited. I cannot say that about the next generation with the debt with which we have saddled them. This kind of legislation has to be soundly rejected.

I yield the floor.

The PRESIDING OFFICER (Ms. LANDRIEU). The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I am pleased to be on the floor this afternoon to join the Senator from Louisiana, who has been such a champion for small business in America, to join my colleagues from the State of Washington who were here earlier, to support the proposal that is before to address an issue that I have been hearing about in New Hampshire for months now. This is something that all Senators have been hearing about in their home States for the last 18 months if they are willing to be honest about it.

That issue is that creditworthy businesses, small businesses are frustrated because they cannot access the capital they need to expand their businesses and hire new workers.

Wherever I go in New Hampshire, small businesses tell me they are having trouble accessing the credit they need to either stay afloat or to expand their businesses. While the community banks have increased their lending in New Hampshire, they can only do so much.

As my colleagues have outlined so eloquently, they have been affected by the financial crisis that struck this country. We have an opportunity to address this issue with the Landrieu-LeMieux amendment that will create a Small Business Lending Fund to put capital into the hands of small businesses.

This $30 billion Small Business Lending Fund will help our community banks put over $300 billion of capital into the real drivers of our economic recovery and give to the small businesses that will make that happen.

I wished to be on the floor today, as we discussed earlier, because I have heard some of my colleagues—and we heard it earlier this afternoon from the Senators from South Dakota and Alabama—criticize this fund as being like TARP. It has been called the son of TARP. I voted against TARP. Let me say this as clearly as I can, something the Presiding Officer has said in her remarks, something we heard Senators CANTWELL and MURRAY say: This program is not TARP. This is not another Wall Street bailout.

I am going to support this fund because it is about helping Main Street, not Wall Street. Small banks and businesses in our communities did not cause the financial crisis in this country, but they have too often suffered the terrible consequences of the reckless behavior of Wall Street. Credit on Main Street has been extremely tight since the financial collapse, and that has devastated too many small businesses across this country.

One of the reasons our economy has not been able to emerge from the recession fully is that larger banks that benefited from TARP have decreased their lending. I heard from one small business owner in New Hampshire. He owns a sheet metal manufacturing company. The company had its line of credit pulled by a large national bank that had been a TARP recipient. This sheet metal company was a creditworthy business. It had never missed a payment. It had never defaulted on its mortgage. Losing that credit line was devastating for this business.

Similar to so many small businesses, it needed a line of credit to buy new equipment so it could make a transition and increase its productivity. But with the credit line gone, this business had nowhere to turn. It is companies such as the sheet metal manufacturing business in New Hampshire that this bill will address.

This proposal provides community banks, which have stepped up their lending but can only go so far, with the support they need to increase lending to small businesses.

Unlike TARP, this program has strong taxpayer protections to ensure the fund serves its purpose. The very structure of the program ensures that community banks that participate in this program will use the capital for small business lending. Only banks that do a vast majority of their lending to small businesses are eligible for this program, and unlike TARP, there will be terms and conditions for repayment. Taxpayers will not be on the hook.

This fund will not add to the Federal deficit. In fact, it is estimated to raise $1 billion over 10 years. The terms of the program will ensure that taxpayers will not be put at risk.

Let me say this one more time because there has been a lot of misinformation thrown out on the floor: The terms of this program will ensure that taxpayers will not be put at risk.

At the end of the day, this proposal is about standing for small businesses in this country. We have all heard from small businesses in our home States that have suffered from a recession they had no part in creating. This is our chance to stick up for the millions of creditworthy small businesses across this country that need capital to operate or grow but that have been shut out.

It is also about turning our economy around. Over 75 percent of new jobs in America are created by small businesses, and since the financial collapse, the majority of jobs lost have been with those small businesses.

If there is one place we should be able to agree to invest, it is our small businesses. If we do not extend credit to them, they will not be able to get the capital they need to expand and create the jobs that will finally get us out of this recession.

This is not TARP. Saying this program is like TARP is just a red herring. This fund is what we should have been doing in the first place—providing capital to community banks so they can extend credit to the small businesses that need this capital to create jobs on Main Street.

I urge my colleagues to join me in supporting the Landrieu amendment to include this critical investment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. SCHUMER. Madam President, I rise in strong support of the bipartisan amendment to the small business bill offered by Senators LANDRIEU and LEMIEUX. The amendment would make $30 billion of capital available to community banks across the country, incentivizing them to lend several times that amount to small businesses in desperate need of credit.

There is no question about it: Small businesses are the great engines of growth in our economy. They employ over half our workers. In the past two decades, they have created over two-thirds of the Nation's new jobs.

Our economy is starting to show signs of life again, but we still have a long way to go. The HIRE Act, especially the payroll tax cut Senator HATCH and I authored, has been a good success, saving businesses billions in taxes. I recently introduced a bill to extend the tax cut for 6 months.

Congress should be focused like a laser on bringing unemployment down and getting the economy humming on

all cylinders again. The bill before us today is an important part of that ongoing effort. It is a targeted bill that will help small businesses expand and hire.

The small business lending fund was once a part of the legislation. Actually, it was not merely part of the legislation, it was the heart of the legislation.

There are many worthy ideas and programs in this bill from bonus depreciation to increasing the loan limits on the SBA's flagship programs to providing grants to help States expand innovative small business initiatives.

These provisions will encourage entrepreneurs to start new businesses and help existing businesses prosper by reducing taxes and streamlining some of the burdens on small businesses.

But a core mission of this bill was always to jump-start lending. When I travel around New York and talk with business owners about creating jobs, the No. 1 thing they bring up is they do not have access to credit.

In his testimony before the Banking Committee yesterday, Ben Bernanke noted that while big businesses can borrow money by accessing the capital markets, small businesses must rely on bank loans and are having a much harder time. The Landrieu-LeMieux amendment goes to the heart of this problem. According to Bernanke, in a series of 40 meetings the Fed conducted with community banks and small businesses from coast to coast, participants expressed unambiguous support for the $30 billion lending fund.

There are several explanations for why small business lending is down. Small businesses blame the banks for not lending and banks in turn blame the regulators for not letting them lend. But one thing is certain: Lending is down, and that is bad for our economic recovery.

I hear from small businesses across my State, businesses that want to expand and cannot because they cannot get credit. For us to stand here and twiddle our thumbs and play politics by saying that this is the TARP? That is wrong. That is wrong, when millions are unemployed and the public is demanding get the economy going.

There are strong provisions in the underlying bill that will help spur lending, including an extension of the successful provisions from the Recovery Act that increased SBA loan guarantees and waived SBA loan fees. I believe the lending fund is a much needed complement to these programs. It will be a shot in the arm for small businesses across America, greatly increasing credit. The fund has been structured to maximize lending by directly tying the dividends rate participating banks pay to the Treasury to their lending performance. The rate starts at 5 percent and goes down 1 percentage point for every 2.5 percent increase in lending over the 2009 levels. Therefore, a bank that increases lending by 10 percent or more will be rewarded with rates as low as 1 percent.

In addition to this carrot, there is the stick. The dividend rate increases for banks that do not increase lending. Banks that attempt to sit on funds will be penalized with rates as high as 7 percent.

Another great feature of this amendment is that it targets small Main Street banks, banks that are especially committed to lending to small local businesses. To participate, banks or thrifts must have less than $10 billion in assets. In New York, banks such as Elmira Savings Bank in the Southern Tier, the Bank of Smithtown on Long Island, and the Oneida Savings Bank in the Mohawk Valley will be eligible for capital infusions, and all this will be done with no cost to the taxpayers.

Let me say that again: All this will be done with no cost to the taxpayers. In fact, the nonpartisan Congressional Budget Office estimates the lending facility would save taxpayers money. They calculate that the lending fund would decrease the deficit by over $1 billion.

Congress needs to do everything in its power to push a growth agenda, a jobs agenda. An integral part of this agenda is to increase lending to creditworthy small businesses. That is why I support the Landrieu-LeMieux lending fund amendment and that is why I also strongly support MARK UDALL's bill to increase the arbitrary cap on the amount credit unions can lend to their member businesses.

Here is the bottom line. Small businesses will be the tip of the shovel that digs us out of these difficult times but that will only happen if we get them the resources they need, and what they need is the Small Business Lending Fund in the Landrieu-LeMieux amendment.

I urge my colleagues to support this very important amendment and, before I yield the floor, I want to pay a great compliment to my colleague from Louisiana, who has spearheaded this drive. We all talk about small business lending. This is the best, most logical, most cost-effective way to do it and she is the reason we are here debating this bill. I want to take off my hat—hundreds of thousands of small business people across the country would do the same—to the Senator from Louisiana.

I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I thank the Senator from New York for those very kind words. But I wish to say again I am humbled, actually, to be able to present this amendment because it is quite unusual. Normally a chairman or a chairwoman presents amendments in bills that they themselves wrote. That happens here all the time. This is a very unusual situation.

As I said earlier today, I did not write this provision. I didn't know very much about this provision. It was written by Senators such as Senator MURRAY, Senator CANTWELL, and Senator MERKLEY. They started working on this idea. They are not even members of the Small Business Committee. They started working on this idea and it picked up momentum and the President spoke about the need to get capital to small business.

Then all the small business organizations, most all of them, stepped up and said, yes, this is what we need. Then the community bankers and the independent bankers stood up and it snowballed.

It has gotten to have a great broad base of support. I am pleased this is a bipartisan amendment with the Senator from Florida—both Senators from Florida have been strong advocates. Senator LEMIEUX joined me in offering this amendment because, for some inexplicable reason, this was going to be left on the cutting room floor.

We managed to get huge bills out here for Wall Street. We managed to get huge bills out here for the automobile companies. But when it came to lifting this smaller bill for small business, it started running into some political rhetoric, some bumper sticker slogans for the next election, some hogwash.

I think our small businesses deserve more than bumper sticker slogans, hogwash, and electioneering chatter. So it got me mad. I said, you know what, I didn't write this provision. I am going to learn about this provision, though, because I am not going to have it stomped under by the same people who voted for TARP, voted for the big banks, voted to bail them out but, when it comes to helping small business, want to say there is something wrong with this. That is why we are fighting.

I see the Senator from Oregon, who helped draft this provision.

The Senator from South Dakota came here and said none of his people are for it. He must not be reading his mail. We have right here the South Dakota Independent Small Bankers—Independent Community Bankers of America, State Community Bank Associations. There are any number of them. I checked. Here we have Independent Community Bankers of South Dakota.

The Senator from South Dakota was just here and said no one in South Dakota is for this. He might want to go check his in-box or e-mail or his mail. The bankers of South Dakota I don't think are a very liberal group, I would guess. They are a pretty hearty bunch out there in South Dakota. I don't think they like big, fat government programs. But the reason they are for it is because it is not a government program. It is a Main Street program. It is for small businesses in South Dakota. That is why we are fighting for it. We are not going to go down without a hard fight.

I am going to recognize the Senator from Oregon in a minute, but the other thing the Senator from South Dakota said was that he loved this report. He said it. He quoted it. The May Oversight Report, ''Small Business Credit

Crunch And The Impact Of TARP.'' The person who wrote this report is a good friend of his, Elizabeth Warren. So he is supporting this report in which Elizabeth Warren said in her view she is not sure this program will work. That is what this report says: She is not sure this program will work. She is entitled to that opinion. But I don't listen to Elizabeth Warren. I don't listen to Washington bureaucrats. I am listening to the small business associations of America. I am listening to the Taco Sisters Restaurant in Lafayette. I know it is a silly name, but it is a very important business to them. I don't care what anybody says about their name, Taco Sisters Restaurant. Katie and Molly Richard dreamed about opening a restaurant. For 24 years they dreamed this dream. Molly convinced her sister Katie to move back home from New Hampshire. She leased a small restaurant on Johnson Street in December of 2008 and opened in February. The restaurant smokes fresh gulf fish and shrimp. When we could actually fish for our shrimp and get our fish, they got it from the gulf.

Their restaurant was voted best new restaurant in Acadiana and best lunch spot in Acadiana. Do you know how hard it is to be the best in Louisiana when all of our restaurants are good? These little girls, these women, worked hard.

I want to tell the Senators from Alabama and South Dakota, they said:

> We have good credit, a good business plan, but we have had trouble finding capital to grow our business. I was surprised credit would be so tight for a business like ours . . . [because we are the best.] Our business has seven employees and would like to keep growing. . . .

We need capital.

And this troop over here wants to tell me that the amendment that Senator LEMIEUX and I are offering is a government program? This is for community banks. Because they want a bumper sticker to run on in this election they are going to throw the small businesses under the bus? Over my dead body.

The National Bankers Association, another very liberal group:

> In no segment of the U.S. economy is the need for lending to small business more urgent than in the distressed communities that our banks struggle to serve every day.

This recession which they did not cause—let me go back here. I feel like I am in Alice in Wonderland. The Senator from Oregon is being patient. Let me get this straight. Big banks, some big banks on Wall Street traded derivatives and entered into major risky finance deals that almost wrecked the entire economy of the world. They, on that side, ran all around themselves when George Bush was President to throw money at them, to help them, and we have restaurants in our districts begging for $10,000 to keep their doors open and they are going to stand there and tell this Senator that my amendment is a government program? This isn't a government program. This is trying to get money to Main Street.

If they want to vote against it, go right ahead. This is very clear. You can't hide behind this. There are no 100,000 pages of this bill. It is a very simple program—$30 billion to community banks that are healthy. It is voluntary. All you have to do is lend it to the Taco Sisters Restaurant in Lafayette so they can continue to be the best restaurant, despite the fact of the moratoria so there is a shutdown so there are no more fish in the gulf that we can fish for. These businesses are still trying.

Did you hear Senator CANTWELL read a story from some small business in her State that had to take out $60,000 on a credit card on which they had to pay 50 percent interest? Do we not hear them? We are trying to give the private sector a solution to put capital in community banks so that small businesses can get a loan at a decent rate and I have to listen to the ranking member of the Banking Committee say he is against it because it didn't go through the Banking Committee.

The last couple of things that came out of the Banking Committee have been a little bit problematic for me and many people, so I am glad this didn't come out of the Banking committee.

I see the Senator from Oregon. This is in large measure because of the design he has come up with, this idea, with several of my colleagues. I wish I could say I did it, because it is a good one, but I have adopted it because I am not going to leave it on the cutting room floor without a fight. It passed the House. Three Republicans voted for it in the House. Interestingly enough—of course all three of them are up in tough elections and I don't think they wanted to explain how they could vote for TARP, vote for Wall Street, but not vote for small businesses. This could be an interesting debate on the campaign trail.

The Senator from Oregon is here. Since he helped to actually write the program—as I said, maybe it is something I am not explaining well. Senator CANTWELL is quite the expert. Senator MERKLEY is quite the expert. Let me turn it over to the Senator.

I see Senator BURRIS from Illinois. Let me ask unanimous consent for the two of them to speak for the next 10 minutes as in morning business, and if a Republican comes we will swap back and forth.

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

The Senator from Oregon.

Mr. MERKLEY. Madam President, I wish to start simply by recognizing the tremendous work the chair of the Small Business Committee is doing in championing commonsense strategies to assist our small businesses in being the job factories that they can be if they have access to credit. That is where the genesis of this bill comes from. The question we have heard in each of our States is: How can I, as a small business, gain access to credit when the credit markets are frozen?

We have done precious little to assist them. So often, we need to indulge in far less partisanship and a lot more problem solving. If one investigates what is going on in the credit markets for small business, one finds that the businesses have gone to their banks, and the banks have said, we are cutting your credit line in half or we are eliminating it.

The small business said, well, we have always made every payment. Yes, but we are in a land of frozen credit and we cannot extend the same amount of credit. When we give you that line of credit, it counts against our leverage, and we have to increase our capital holdings to meet the leverage requirements. So we are taking away or cutting in half or cutting by 90 percent your line of credit.

At that point, the small businesses go to other banks and find out the other banks are in the same position. These are community banks where often the principals know each other, they have worked together, the banks want to lend, the small business wants to borrow, they can see it is a profitable arrangement, but the banks are constrained by their leverage limit.

If there were not a credit crunch in this Nation, the bank would be able to recapitalize and then make additional loans. That is where we had a period of irrational exuberance, now we are in a period of irrational fear, and people do not want to recapitalize community banks, even when they are healthy.

Through much discussion with many thoughtful people from various parts of the country, various parts of the credit system, it became clear that the chokepoint was the capitalization of healthy community banks. This is why what this provision does is it provides for the recapitalization of community banks. Community banks will have to pay that money back.

A lot of questions were raised about this point, and I want to clarify some of them. The first question was: What happens if a bank that is going under is seeking a bunch of money to recapitalize? Will this program help them? Answer: No, it will not. Because only banks that have CAMEL ratings—those are ratings of how healthy they are—of one, two or three qualify. The banks have to be healthy, because this is ultimately not about saving banks, this is about getting capital into the hands of small business.

The second question that many have raised is: Well, will banks not just sit on the funds, and not make loans? Will they not hoard funds in case they have better opportunities as the economy recovers? And the answer is probably not. Because the program was designed so that when a bank recapitalizes in this fashion, they pay dividends. If they do not lend out the money, then they pay a high dividend of 7 percent. They are not going to make money sitting on funds in their bank and paying

7 percent. But if they make loans, then they pay a 1-percent dividend, so that puts them in a situation where they will make money if they make loans. So they will not even ask for the money if they do not intend to lend it. That was a thoughtful question for some of my colleagues to ask, would banks sit on these funds. It is important that we design this program so that they do not. And we did.

A third question came: Well, does this not put taxpayer funds at risk? The answer is, actually it does not, because we are not lending to unhealthy banks, we are capitalizing healthy banks. The Congressional Budget Office estimates that this will make $1 billion, over $1 billion for the U.S. Treasury. That estimate does not include the taxes that individuals will pay on the wages they earn because small businesses are able to hire. That estimate does not include the taxes that small businesses will pay on their profits which will be higher when they are able to expand. So that is a bottom-line positive return that could be far larger when you take into account the impact on employment and the success of small businesses.

Other folks have asked another question: Why get lending into the hands of our small businesses through the hands of community banks? Why not create some government organization to do it? Well, very simply, banks are on Main Street. It is their business to know what works and what does not work. They know the principals involved. They know the local market dynamics. You do not want to set up a government agency to distribute loans when you can have the power, the knowledge, the wisdom, of community banks making smart decisions.

Then finally an additional question was asked: Well, will banks not make loans that maybe are not a good bet if they have this additional capitalization? Well, actually, no, they will not, because, first, they are not required to be recapitalized in this fashion. And if they do make loans through this system, they are not guaranteed loans.

When you have a guaranteed loan, you are saying to someone: You bear no risk. But these loans are not guaranteed. This is a bank doing its standard lending. In that standard lending, they make money if they make good loans, and they lose money if they make bad loans. So they have absolutely no incentive to lend, because if a loan goes under, the bank is hurt. It is all the power of a smart path to getting capital into the hands of our small businesses.

I guess my request to all of my colleagues is to ask yourselves if we are going to ever get out of this recession if we do not unleash the power of small business in America to create jobs. Please ask yourself, is it possible to unleash the power of small businesses if the small businesses do not have access to credit, and, therefore, if you believe in small business, if you believe in job creation, if you believe in strengthening communities through successful businesses and employed families, then this plan makes a lot of sense.

I will close with this thought: Let's bring commonsense problem solving to the challenge of putting America back on track. Let's set partisanship aside, let's set thoughts about the November elections aside, and let's engage in commonsense bipartisan problem solving, and this program makes all the sense in the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. I want to echo the sentiments of the distinguished Senator from Oregon. His comments are very well taken.

I also rise to support the distinguished Senator from the great State of Louisiana in her efforts to deal with this amendment to add to the small business legislation, of getting this $30 billion out to the community banks so they can put those dollars in the communities.

For the past 2 years, this country has been held in the grips of an unprecedented economic crisis.

The housing market collapsed. The bottom dropped out of Wall Street. And for the first time in generations, many Americans felt their hard-earned economic security begin to slip away.

Here in Washington, Members of the House and Senate were faced with a harsh reality: For decades, regulators and policymakers alike had fallen short of their responsibilities. A divisive political process drove them to duck the tough issues, and kick the can down the road, time and time again.

This failure of regulation, and the absence of political will, allowed Wall Street fat cats to let their greed get the better of them. They gambled with our economic future. They designed complicated financial products and placed high-stakes bets against them. In short, they built a house of cards, and when it finally came crashing down, the American economy lay in ruins.

There can be no quick fixes after a disaster of this magnitude. But under President Obama's leadership, our elected leaders finally took the bull by the horns and did what was necessary to stop the bleeding, and set our country back on the road to recovery.

I was proud to join many of my colleagues in supporting the American Recovery and Reinvestment Act—a landmark stimulus bill that helped reverse the rising tide of economic misfortune. Thanks to this legislation, and to the landmark legislation that was signed into law just yesterday, that created the most sweeping reform of Wall Street since the Great Depression, we are on the road to recovery. But as anyone in this chamber can tell you, the real key to a full recovery is jobs. And no sector of this economy creates jobs more effectively than small businesses.

Long before I ever entered public service, I was a banker. I know firsthand what it takes to support our small business community because I have done it.

This is a time for bold action. Not pointless ideological battles. This is a time to move forward, not back. So I call upon my colleagues to seize this opportunity. Let's keep America on the road to recovery and restore the hard-earned security of ordinary folks and small business owners who are in desperate need of help.

We should start by increasing our support for small businesses, especially those owned by disadvantaged and minority individuals. These companies foster progress and innovation. They have the power to create jobs, and direct investment to local communities, where it can have the greatest impact.

Small businesses form the backbone of our economy, but in many ways, they have suffered the most as a result of this economic crisis. It is no secret that minority-owned businesses, particularly those in poor or urban areas, have been hit hardest by the current economic downturn. That is why these are the areas we should target for our strongest support.

We can rely on a proven initiative to inject new life into disadvantaged areas. So I would ask my colleagues to support the Small Business Lending Act. I would ask them to reject the tired politics that got us into this mess, and embrace the spirit of bipartisanship that can lead us out.

On behalf of small and minority-owned businesses, I call upon this body to take action. Our economic future may be uncertain, but with the Small Business Lending Act, we have the rare opportunity to influence that future.

So let's pass this measure, to guarantee some degree of relief for the people who continue to suffer the most.

Let's renew our investments in America's small businesses, and rely on them to drive our economic recovery.

And let's do so today.

I have financed them from scratch. They would walk in to me and say, look, I got an idea. I love to do this. Let's get a business plan together. Where do they get the capital from to create the jobs that are needed? They get it from the bank giving them credit, taking some equity from them, getting some investment from them. That is what I have done.

I stand on this floor, with successful lending from banks to small companies. It created jobs. Some of them are still in business today, some 40 years later. Some of them have been sold off and bought off by big Fortune 500 companies. They were able to start from scratch.

I know what it takes in a small community to lend to small businesses. Now we are up here talking about, we are not going to put in resources. This is not going to cost us any money. The

taxpayers are due to support these types of efforts. That is what we are here for. The purpose of government is to do for those which they cannot do for themselves.

Now we are debating on this floor whether we are going to put the money into helping small businesses, give it to the banks to lend to the small businesses, so they can then go out and hire people. This ought to be a no-nonsense vote. It makes no sense what we are doing on this floor, debating this issue at this time, when this economy is in this condition.

So having lent money to small businesses, having been a banker, where your stripes depended on many good loans you made, I have been there, and I support this legislation 100 percent. If we can put those resources into those banks, that will then put them into the community, the banks are not going to be out there giving this money away. This is not charity. It is going make money for us. So let us wise up. Let us make sure we support this amendment, pass it now, and get on to the business of helping small businesses.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Madam President, I rise to speak about the vote that is coming up soon, the Landrieu-LeMieux amendment to the small business bill that is before us.

First, I want to say that I respect tremendously both Senators. I have enjoyed working with them on so many issues. Many of us in the Congress have worked over this last year to end the TARP that went in place during a time of a financial system meltdown. I supported that, as did many in this body. Seventy-four Senators voted during a time of critical stress in our country's financial system to put that in place.

I also have pushed hard to end that program as soon as it was unnecessary, and many of us have tried to end it. Finally that was done when the financial reform bill that passed a couple of weeks ago, or this last week passed and became law yesterday.

A lot of times around here we go through this process of erosion; that is, an idea will come up, and it is embraced for one issue, and then, over time, as happened with TARP, as a matter of fact. TARP was there to rescue our financial system so that small businesses, people all across our country, could continue to get payroll checks and do those things our financial system provides.

Then it became perverted. Industrial policy was embraced after that, something that was not the intention of TARP. Now we have another perversion of that by virtue of this amendment that has been put forth. Many of us were very concerned about the steps that were taken under TARP during that crisis. We felt it was a crisis and it was necessary. But in many ways, this is more insidious, because not only is the government making an investment in final institutions across this country, it then is telling those institutions what to do with that money.

I know that small businesses across this country are hurting. I have been a small businessman most of my life. As a matter of fact, I still am a small businessperson. I still have small business interests. I understand what it means to be a small businessman. I understand what it means to not have access to credit, to have difficulties during crises such as this. I lived through one in 1990 and 1991, and had great difficulties, as so many people are having today.

We have had a tremendous explosion in government involvement in the private sector, something I do not think many Americans ever expected to see. I think the last thing we need to do now, as Americans are retrenching, as the economy is beginning to grow, is to take another step back in this direction.

I cannot more strongly object to the LeMieux-Landrieu amendment, even though I respect them very much. I urge Members who believe in our market system and want to see us move ahead with a healthy economy, I urge all such colleagues to vote against this amendment. It is another step in a direction that the majority of the country wants to move away from.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. I appreciate the comments of the Senator from Tennessee. I couldn't agree with him more that this amendment should not be adopted, should not be added to the small business bill. We have had a number of people coming to the floor to speak on the amendment. The Senator from Louisiana made a couple of observations after I spoke in opposition to the amendment, one of which was that Republicans have evidently some newfound affection for Elizabeth Warren. I don't think that is the case. In fact, she is the rumored choice of the administration to head the new Consumer Financial Protection Agency. The observation I was making was that she, who most of us perceive to be somewhat more on the liberal side, had made strong statements about this particular small business lending finance program and compared it to TARP. She also pointed out that the capital purchase program under TARP had very mixed results with regard to whether it encouraged banks to participate and lend. It also carries with it, as TARP did, an inherent risk that taxpayers may be left on the hook.

It has been that this will be a revenue raiser, that this, the $30 billion TARP, is going to actually generate a $1 billion budget surplus. The Congressional Budget Office was directed to score this differently than they were the original TARP. If the same accounting conventions were used and applied to this particular program and the calculation including market risk, we would have a $6 billion cost attached to this $30 billion TARP rather than a $1 billion budget savings.

There was the suggestion that there isn't any risk to taxpayers. Anytime we are putting $30 billion out there, granted, it may be well intended, but we all saw what happened with TARP. The expectation with TARP is that it will lose about $127 billion for taxpayers. We hope it is less, but that is the estimate today. It is fair to point out again that people who come into the Chamber and believe they are voting for something other than TARP are misleading themselves. If we line this up with the way the TARP was structured, side by side, it is check, check, check, right down the line. This is the same essential thing. To call it something else is all fine and good, but that is what it is. This is a TARP. It is a reincarnation of TARP, intended for small businesses and smaller banks, which is all fine and good, but make no mistake. If we vote for this, we are voting for a TARP. That poses risk to taxpayers.

There was the suggestion that somehow I don't know what my bankers in South Dakota think. I think most of us who represent our States try to stay informed about the views of our constituents. I sat down with a number of my bankers 2 days ago. They were clear this is not something they are advocating for nor do they need. They had other issues they wanted to talk about. We have not had contacts in our office advocating for this. Most of us represent our States in a way that we have a pretty good idea of what the views of our various constituencies are. At least where South Dakota is concerned, this is not something South Dakota bankers are asking me to do for them. They do have concerns about the financial services reform bill passed last week and signed into law. That is something they have deep concerns about. But this is certainly not something they are advocating for.

Inasmuch as we all want to do the right thing for small businesses, the best thing we can do for them is get off their backs, quit putting taxes and mandates and regulations on them. They are looking at the prospect next year of a huge tax increase, when tax rates go up. They are looking at a potential new energy tax, if a cap-and-trade bill were to pass. They are trying to figure out what is going to happen with the estate tax. They already have a new health care mandate that will put no cost burdens on them and raise the cost of doing business. Those are the types of things that will impact small businesses' ability to create jobs. Those are the things we ought to be focused on. Creating a new TARP is not going to be the answer that many of my colleagues who support this amendment think it is.

I urge colleagues to vote against this. I suggest we look at the things we can do that do impact small businesses.

Most of what we are doing in Washington right now is detrimental to economic growth and job creation.

Mr. CORKER. Will the Senator yield?

Mr. THUNE. Certainly.

Mr. CORKER. I was listening to the Senator. The fact is, this carries, in many ways, a greater risk. I would call this son of TARP. This carries a greater risk than the original TARP because the terms under which this money is given to banks is at a lesser rate. So that means the money that is paid back, there is less margin to cover losses. In addition, banks can continue to lower the cost of that capital by putting money out quickly to small businesses. Again, we like to see small business credit expanded, but we like to see it done in a market and healthy way. I hope Senator DODD will have hearings. My guess is he will over the next several months. But in many ways it is more risky because the rates are lower. The more money we put out, there is going to be a perverse incentive for banks to put money out quickly in ways that could be at a higher credit risk. This is far riskier than the first program.

Again, I know there are good intentions. All of us want to see small business thrive. All of us know that 80 percent of the new jobs are created through small business. I know the Senator and I have done as much as we could while we have been here to try to get government off the backs of small business.

What I would say to small businesses—and I don't think many of them support this, but to those that do—be careful what you ask for. Once the U.S. Government gets involved in our financial system in this way, putting money out and then directing where it goes, we know how the camel's nose under the tent works in government. We understand what it means for the Federal Government to get more involved in our community banks. I know I had one in particular, when I was in Tennessee, say he wanted me to look at this because he wanted to use these funds to replace TARP funds they had not been able to pay back yet. I don't think this is a good step. I don't think there are many people who support it. I know this probably has some political mileage in this body because it does address an issue we care about, small business. But it is a bad idea directed at something we all support; that is, small business growth. Again, I urge rejection of this amendment.

Mr. THUNE. Mr. President, to the Senator's point about this perhaps acting as an encouragement for lenders to get money out the door quickly, perhaps with assuming more risk than perhaps they should, I wish to point out, again—and because I am quoting Elizabeth Warren, somehow there was an implication earlier that Republicans have a newfound affection for her, but she is someone whom the Democrats look to extensively when it comes to advice on these issues. As the head of the congressional oversight panel, in their assessment of TARP, particularly with regard to this specific program, the small business lending fund, they said it ''runs the risk of creating moral hazard by encouraging banks to make loans to borrowers who are not creditworthy.''

This is not something that many of us are making up. Clearly, there are those who are very concerned that this could become not unlike what we saw with the original TARP, which there are still a lot of concerns about. Many of us who voted for that the first time around thought it was going to end up as something different than it was. I don't think we need to go down that path again.

Mr. CORKER. Elizabeth Warren is a smart person. There are things I agree with her on, and there are things I disagree with her on. But on that point, I absolutely agree. If we think about the moral hazard issue, that means a business that wants to run its business the way America generally has run business—on their own, they don't want to be involved in government support—they would be at a disadvantage. That is the other moral hazard. An institution in Tennessee or South Dakota that wants to go out and lend more money to small business and goes out and raises equity to do so, that equity is going to cost more than this. So a bank that chooses to take advantage of a government program actually has an advantage over a company that wants to run itself the way most Americans want to see small business and companies run. There are all kinds of moral hazards. I know the notion of small business attracts a lot of people. I hope people on both sides of the aisle will think about this, realize how insidious this is, think about the next idea that comes after this. Again, it is another government investment into the private sector.

We have gone from systemic risk to auto companies, to suppliers of auto companies. Now we are looking at going into small business. We sure have gone the gamut here. It is time to go the other way. Tennesseans have spoken loudly about the fact that they don't want to see any more government involvement in the private sector. It is time to stop it now. We thought we had it killed last week with financial regulation when TARP ended. Now it is raising its head again.

Mr. THUNE. I hope we will defeat this today because there is moral hazard associated with it. We want to do the right thing by small businesses. I have named several things small businesses are concerned about—cap and trade, more government takeovers, more Federal spending and debt and higher taxes and more mandates through the health care bill passed earlier this year. It is important to keep in mind in this debate the taxpayers. Anytime we talk about a program such as this, there are inherent risks. Again, to use the accounting methodology that CBO used when they scored the original TARP, if they used that accounting convention which takes into consideration market risk, this program would be a $6 billion cost rather than a $1 billion savings, as proponents of the amendment advocate.

This is about taxpayers as well as small businesses and small banks. This is not the correct way to help them. I hope our colleagues in the Senate will reject the amendment.

Mr. CORKER. 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. 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.

BUDGET DEFICITS

Mr. DORGAN. Mr. President, there has been a lot of discussion on the floor of the Senate in the last couple of days about small business legislation and various things dealing with jobs, and clearly we need a lot of jobs in this country. We have gone through a very steep economic decline that has victimized lots of Americans. Because of that, we have a lot of people who are waking up in the mornings without work and wondering what to do next. They feel helpless and hopeless and are trying to get their feet on the ground. But they need some help from this Congress; that is, we do not create jobs, but we do create conditions under which jobs can be created by the private sector.

So I want to talk a little about the issue of what might give the American people some confidence because confidence is everything. If they are confident about the future, it means our economy can expand. If people are not confident about the future, our economy will contract. It is that simple.

There is no question that this country now, having gone through the biggest economic downturn since the Great Depression, has the largest Federal budget deficits we have ever had. In the last couple of years there have been enormous budget deficits. In fact, the budget was in deficit by $1 trillion by the end of June in this fiscal year.

But our colleagues—some of whom voted for all the war funding over these last years and voted for the big tax cuts to reduce the government's revenue, and all of those issues—are now rushing to the floor with everything but suspenders and proclaiming that now the deficit is a big problem.

Well, I will tell you why it is a big problem. It is a big problem because 10 years ago a lot of folks in here decided to cut the revenue steeply, and cut taxes mostly for wealthy Americans, and cut them in a very significant way. So the government had less revenue. They did that because they believed we

had budget surpluses that were going to exist for 10 years.

We had not had a budget surplus for 30 years in this country. We ran deficits for 30 years. Then, all of a sudden, at the end of the Clinton administration, we had a budget surplus of a couple hundred billion dollars. I am pleased about that because I voted for the economic plan that helped create that. We put that in place in the middle 1990s, and we got to a budget surplus.

When that happened, in the year 2000 we had a bunch of folks say, when a new President came into office in 2001: Do you know what? We have a budget surplus. We have a bunch of hotshot economists telling us we are going to have budget surpluses as far as the eye can see. We are going to have budget surpluses for the next 10 years.

Then Alan Greenspan, the Chairman of the Federal Reserve Board, said he could not sleep because he was worried we were going to have surpluses too large and we were going to pay down the Federal debt too quickly. That is right. I know it sounds like a joke, but the Chairman of the Federal Reserve Board worried we would pay down our debt too quickly.

So the President came to town in 2001 and said: Let's have very big tax cuts, and I and others said: Let's probably not do that because at this point we don't know what is going to happen for 10 years. We had economists who could not remember their telephone number for 3 hours telling us what was going to happen for 10 years.

So they said: We are going to have 10 years of surpluses. Let's have very big tax cuts. So the President constructed very big tax cuts, mostly for the wealthy, and here we are. What happened as a result of that? Well, almost immediately we were in a recession in 2001. Then we had a terrorist attack against this country in September of that year. Then we were at war in Afghanistan and at war in Iraq and in a war against terrorists.

So we sent hundreds and hundreds and hundreds of thousands of soldiers abroad, and we rotated them in and out for 8 years and never paid for a penny of it because the President said: We are going to spend emergency funding, which means we do not pay for it; we just put it on the debt. We did that for a decade.

Now, all of a sudden, all the people who voted for the same things—that is, tax cuts for the wealthy and deciding to send soldiers to war without paying for it—now we hear all this bloviation about how the debt is important. Well, yes, it is important. It was important when they voted to cut taxes for the wealthy as well. It was important when we decided to fight two wars and not pay for a penny of it. The fact is, it is unsustainable now, and we have to find ways to fix it.

It is interesting, yesterday, I came to the Senate floor because one of my colleagues came to the floor and said the priority is to eliminate the estate tax. That is the priority. He did not say that. He said ''eliminate the death tax'' because a clever pollster said: If you say ''death tax,'' it invokes a lot of passion. So we are going to eliminate the death tax—not understanding, apparently, or not caring, perhaps, that there is no such thing as a death tax.

When you die, there is no tax on your death. In fact, had I been on the Senate floor when my colleague mentioned that—I know my colleague is married—so I would have asked: God forbid something should happen to you. But if it did, tell me what would happen to your estate because I know the answer.

The answer is, his spouse would inherit the estate, no matter how large, tax free, because we have a 100-percent spousal exemption. So that Senator's death would have, obviously, been nontaxable.

So where is the death tax? We do not have a death tax. We never had a death tax. We have a tax on inherited wealth. That is what we have. So my colleague said, the most important thing at the moment, while we are deep in debt in the country—and with a growing debt and a need to control the debt—the most important thing at the moment is to get rid of the death tax, which means you want to provide tax breaks for billionaires.

I did not vote for the proposal in 2001 that put us on a course of changing our tax system with very large tax cuts for the wealthy and reducing the estate tax obligation so that it came down to having zero estate taxes in 2010 and then spring back to a higher estate tax in 2011. I did not vote for that. I thought it was about half nutty. But it passed. Enough people thought, apparently, it was OK, so they voted for it.

So now, last year, we had an estate tax that had an exemption of $7 million for husband and wife—$3.5 million each—and a 45-percent rate.

This year, the estate tax went to zero; that is, nobody has to pay any estate tax. So we have had four billionaires die this year. The late George Steinbrenner died, the owner of the Yankees. So his estate will not be taxed—well over $1 billion.

I have said, this is the ''throw mama from the train year.'' You know the movie ''Throw Mama from the Train.'' This is the year—if somebody has to go, I guess, especially billionaires, they get to pay no taxes this year. Then the estate tax is supposed to spring back to a $1 million exemption, husband and wife, and a 55-percent rate.

So my colleague and others now say the highest priority for them is to eliminate the death tax. This year, we will have lost about $15 billion in revenue because there is no estate tax. That is just this year. Over 10 years, it is a very substantial amount.

Who is going to benefit if you eliminate the estate tax? Well, if under last year's law you had to have $7 million in total assets to pay an estate tax, how many people would pay it? Very few, less than 1 percent. In fact, I think it is three-tenths of 1 percent of the American people would ever pay an estate tax. Now we are told the highest priority is to eliminate the estate tax, which means that America's billionaires are going to be given a tax break, and those who want to do it say we want to do that because they should not be taxed twice. Well, they are not taxed twice.

That estate, in most cases, has never borne a tax. Most of it is growth appreciation from stocks or bonds or property and has never borne the tax that most people have to pay.

A lot of people get up in the morning and put on their clothes and go to work, and they work at a manufacturing job all day—although there are fewer these days because we are moving those jobs to China—but they get up and go to work and then they come home and they have withholding on their paychecks and it says they paid taxes. They have to pay taxes for kids to go to school and to build roads and to pay for the police and to pay for the Defense Department and so on—the Centers for Disease Control. They have to bear a burden as an American citizen to help pay for the things we have together.

But if we eliminate the estate tax, we say to, for example, Bill Gates—when Bill Gates expires—that $50-some billion or $60-some billion of yours, most of which has never had any kind of a tax burden at all, we believe it ought to be tax free. That is the highest priority?

I used the word ''nutty'' before. Let me state again that is just nutty. What are you thinking?

Here is something I quoted yesterday from Will Rogers. Will Rogers, 80 years ago, had it right, and it certainly applies to some in this Chamber for sure. Will Rogers said:

> The unemployed here ain't eating regular, but we'll get around to them as soon as everybody else gets fixed up OK.

Well—do you know what?—go back about 18 months and just figure out who got fixed up in this country, who got fixed up OK. Do you think the folks at the top of the economic ladder get fixed up? Yes, yes. In fact, the lowest unemployment rate in America is those at the top of the economic ladder.

There is a pretty low unemployment rate actually in the Senate, now that I think of it. We all get up in the morning and put on a white shirt and a suit and a tie, and we all eat three meals a day.

But the people at the bottom of the economic ladder—those 5 million Americans who have lost the manufacturing jobs, the people who are looking for jobs and cannot find them, when we are 20 million jobs short; the people who have been laid off, professional people who, in many cases, were laid off and have been searching for work for 2 years and cannot find it—they are the people who seem somehow forgotten.

So now we have a priority by some in this Chamber of saying we have to get rid of the death tax—a tax that does not exist. In a bill they filed that would only benefit largely billionaires in this country. It is unbelievable. It is just unbelievable.

I do not know, maybe the people who are out of work need to change their names. There are names that signify wealth, at least it sounds like they are from a family that inherited wealth. But it just seems to me to be something that is pretty much in sync with what Will Rogers said a long time ago in terms of what is happening here. The people at the top get fixed up pretty well, and the rest do not matter much. That is a pretty pathetic set of priorities, in my judgement.

TRIBAL LAW AND ORDER ACT

Mr. President, I want to say a word about a piece of legislation the Senate has passed and the House has passed and ought to make all of us feel as if we have done something very admirable and something that is going to save lives. So let me do that in a very positive way.

The Tribal Law and Order Act, which we passed—I passed, along with a lot of help from the Indian Affairs Committee, and the Senate passed—now the House has passed that legislation. That will now be signed by the President into law.

Why is that important? Well, let me give you an example. On the Standing Rock Sioux Indian Reservation—that straddles North Dakota and South Dakota—the rate of violent crime is not double or triple the national rate of violent crime. That would be pretty tough to live in a neighborhood where you have double or triple the national rate of violent crime. It is eight times the rate of violent crime for the rest of the country.

Live in that circumstance. Be a young child going to school or be an elder trying to get along and live in a neighborhood, live on a reservation, live in a circumstance where the rate of violent crime is eight times the national average. The stories we have heard at the hearings we have held are unbelievable.

On the Standing Rock Sioux Indian Reservation—it is almost the size of the State of Connecticut—they had nine full-time police officers to patrol over two million acres of land. It is not possible to do a good job with so few officers. In one area of that reservation, a violent sexual rape, a crime in progress, a robbery, and a call to the police might get someone there later that day, or it might be the next morning, or days later—nine police officers to patrol that land 24/7. That does not work.

We have passed a piece of legislation that I think is very good, the tribal law and order bill. It is bipartisan. I am proud of that. Senators JON KYL and JOHN BARRASSO worked with me to get this legislation through the Senate. Let me mention cosponsors JON TESTER, MAX BAUCUS, MARK BEGICH, MICHAEL BENNET, JEFF BINGAMAN, BARBARA BOXER, MARIA CANTWELL, MIKE CRAPO, AL FRANKEN, TIM JOHNSON, JOE LIEBERMAN, JEFF MERKLEY, LISA MURKOWSKI, PATTY MURRAY, DEBBIE STABENOW, JOHN THUNE, MARK UDALL, TOM UDALL, RON WYDEN—so many. But there are so many who worked so long to try to respond to these problems.

The legislation deals with cross-deputization of law enforcement officers on Indian reservations and those off the reservation. We deal with the tribal court system and a wide range of provisions that we put in this legislation that are going to make a very big difference.

I have said on the floor previously that violence against American Indian and Alaska Native women has reached epidemic levels. We have heard it in the hearings and the testimony. One in three American Indian and Alaska Native women will be the victim of rape during her lifetime—one in three. That is an epidemic of violence.

We held 14 hearings in the Committee on Indian Affairs, which I chair, relating to public safety on Indian lands over the past 3 years. I had staff go across the Nation consulting with tribal governments and local law enforcement. Based on those consultations, we put together a piece of legislation that I think will make a very big difference. It strengthens the tribal justice system. It provides tools to law enforcement officers on the Indian reservations.

It will require the U.S. Attorney's Office to do its job. Violent crimes on Indian reservations are to be prosecuted by the U.S. Attorney's Offices, and in most cases those offices are many, many miles away from a reservation. Crime on Indian reservations becomes just a part of the backwater of work in those offices. We have information that 50 percent of murder cases on Indian reservations are declined for prosecution. They call them declinations. Think of that. In 50 percent of the cases, there is a declination of prosecution for the charge of murder. Nearly three-fourths of the cases for sexual assault are declined to be prosecuted. That is not fair, it is not tolerable, and we shouldn't stand for it.

We had a hearing with Chairman Herman Dillon of the Puyallup Tribe in Washington, who testified about the gang activity crisis on their reservation. There are 28 active gangs on that reservation, with members as young as 8 years old. The gangs are involved in drug trafficking, weapons sales, and turf wars where innocent bystanders are injured. This piece of legislation is going to increase the number of law enforcement personnel on reservations and provide better law enforcement training for those personnel.

I won't go through the stories we have heard, but they are unbelievable. There are a whole lot of victims out there living in Third World conditions on Indian reservations where they have inadequate health care, housing, and education. We have worked on all of those issues.

I am proud to say we passed the Indian Health Care Improvement Act earlier this year. It is now signed into law. We did that this year. It is the first time in 17 years that the Congress has dealt with those issues.

Now we have passed the Tribal Law and Order Act. This is the most significant of policy changes and legislation affecting the first Americans that has been passed in decades. I want to say to my Republican and Democratic colleagues who worked with me to accomplish this that I believe lives will be saved because of this legislation. I believe this will make a profound difference across this country in addressing these critical issues.

We have had hearings about Mexican drug cartels now running drugs through Indian reservations. I just described the circumstances of gangs.

There is so much that needs to be done. Finally, at last—at long, long last—we start down the road of improvement by having passed this legislation. I talked to President Obama yesterday and mentioned the passage by the U.S. House of our bill. He campaigned on this issue. It was very strongly supported legislation, and I know he will take great pride in signing it.

Finally, with all of the competition and tension, sometimes, between the House and the Senate, let me say how much I appreciate the work the House of Representatives did on this legislation.

Let me make one final point about Indian policy as I complete my statement. There is one other issue that is out there that I think desperately needs to be resolved, and that is something called the Cobell lawsuit. It has been languishing for 15 years. Last December, there was an agreement reached between the U.S. Government and the Indians in the Cobell case. We were given 30 days in the Congress to approve the settlement, and it has not happened. We must, must, must find a way to make that happen soon.

I showed a picture of a woman living on an Indian reservation with oil wells that were hers that she could see from her house, and she lived in a very small house. Why is that the case? Because she didn't get the money from the oil wells she owned. The U.S. Government created trust accounts for Indians, and manipulated those trusts, stole from those trusts, lost the records from those trusts over 150 years, and that is what resulted in this lawsuit called the Cobell lawsuit. It has gone on for 15 years, and a good many Indians have died while that lawsuit has gone on who should have benefitted from that lawsuit.

There was a settlement agreement reached last December between the parties. We were given 30 days by the Federal court to approve the agreement, and now it is 6 months later and

nothing has happened. The first Americans don't deserve this treatment. I hope very soon that the Cobell settlement will be a part of a piece of legislation that is passed by the Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I don't think we are under any time agreement. I think the leadership is coming to talk about how we might vote tonight because we have a couple of very important votes to make tonight, if I could speak for the next 10 minutes.

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

Ms. LANDRIEU. Mr. President, before I speak about the underlying amendment, the small business amendment——

Mr. DORGAN. Mr. President, will the Senator yield for a question?

Ms. LANDRIEU. Yes, I will.

Mr. DORGAN. I apologize for interrupting the Senator. I didn't catch what she said about votes. Has there been a decision made about votes?

Ms. LANDRIEU. I don't have the final details, but I understand we will be voting sometime tonight, in the near future, on several different amendments that have to do with potentially the supplemental bill and potentially the small business bill, but the good Senator might wish to check with somebody a little above my pay grade.

Mr. DORGAN. Well, that is actually fairly specific, though. It was sometime later about some things. I appreciate the Senator for responding to me.

Ms. LANDRIEU. I am just in charge of one amendment, but I thank the Senator.

Mr. DORGAN. I understand.

Ms. LANDRIEU. Mr. President, I have spent the better part of this day on the floor with many of my colleagues speaking about the small business jobs bill that is so important, and I would like to give credit to some of my Republican colleagues. They have worked very hard on portions of this bill, and I am very grateful. A portion of it came out of the Small Business Committee with a lot of bipartisan support; a portion came out of the Finance Committee with bipartisan support; and this amendment I am offering is a bipartisan amendment. Senator LEMIEUX, the Senator from Florida—in fact, both Senators from Florida have been extremely supportive. The Senator from Florida and I are the lead sponsors of an amendment that has over a dozen cosponsors. The Presiding Officer, a member of the Small Business Committee, is a cosponsor of our amendment, and I am so grateful to the Senator from Illinois for his input into the bill.

This is a very important amendment to the small business package. The House has already voted on the package of the small business bill. They had a strong vote, and it was a bipartisan vote. Three Republicans voted in the House, including my own Congressman from the city of New Orleans, and the Congressman from Delaware and the Congressman from North Carolina also voted for the small business package with the three components: the $12 billion tax cut for small business—and they most certainly need it—the other part which strengthens the Small Business Administration's programs, and they voted for the Small Business Lending Fund.

So that bill, of course, has come over here. Because there was really inexplicable opposition from many of the Republicans, we have had to go into a little different strategy, offering the lending fund amendment separately. I am very confident we will have the 60 votes because Senator LEMIEUX has stepped up from Florida. I see the other great Senator from Florida on the floor, who has been a great supporter of this amendment. What they know, what I know, what Senator CANTWELL knows, what Senator MERKLEY knows, what the Presiding Officer knows is that without this amendment, small businesses throughout America are still going to have a very difficult time getting the capital they need to expand and grow.

Small businesses did not cause this economic meltdown. Our community banks did not cause this economic meltdown. The ripoffs, the meltdown, the dysfunction of our financial system was caused by big banks that took risky positions on instruments they couldn't explain, and then they made up more, and the system collapsed like a house of cards. But do we know who is paying the price, unfortunately, besides the taxpayers? Small businesses and our community banks.

Hundreds and hundreds of letters have come from the community banks. This one we will put up said:

> Majority Leader Reid, Minority Leader McConnell, on behalf of 5,000 members of the Independent Community Bankers, I write to urge you to retain the Small Business Lending Fund in the Small Business Jobs Act. The Small Business Lending Fund is the core component of this legislation and the provision that holds the most promise for small business job creation in the near term. Failure to even consider the SBLF in the Senate would be a missed opportunity that our struggling economy cannot afford.
>
> The Nation's nearly 8,000 community banks are prolific small business lenders.

A report I submitted for the RECORD earlier said this: We gave—and many Republicans in this Chamber gave—lots of money to the big banks. Do my colleagues know what they did? They cut their lending to small business. These small banks that hardly got anything from TARP tried to keep lending the best they could. But then we sent them more regulations, their capital is getting squeezed, and if we don't provide additional capital to healthy banks, we are not going to get lending to small business. That is what these community bankers are saying.

The opposition has come to the floor and said this is TARP II. Let me say again, this is for Main Street. We have a Main Street sign. This is for Main Street. This is for small business. TARP is the Troubled Asset Relief Program, $700 billion for big banks on Wall Street. This is a Main Street program for healthy banks to lend to small businesses that are on Main Street. It is a $30 billion program that will earn, according to the CBO, $1 billion. It doesn't cost the taxpayer as TARP did; it saves the taxpayer money, and it actually puts $1.1 billion into the Treasury at the end of 10 years. That is what the CBO score said.

Two people came down—one, Senator SNOWE, for whom I have a lot of respect, and the other, the Senator from South Dakota—both came down and said: But our estimate is that it will cost $6 billion. I appreciate their estimates, but the only estimate we go by in this Chamber is CBO. They are entitled to their own estimates, but I want people to know that the only score that matters is the official CBO score. We have the official CBO score. It doesn't cost money; it makes $1.1 billion. They are entitled to their opinion.

So it is not TARP, it does not cost the taxpayer money, and it most certainly is not a bailout for banks. It is a help to small banks.

The other thing I heard—and I see the Senator from Michigan, and I know she wishes to speak on this as well, and potentially the Senator from Florida—the other amazing argument I heard from the Senator from South Dakota was that this is another Democratic government program. I told the Senator from South Dakota—with all due respect, through the Chair, I said: If we had to take out the words ''big government,'' ''taxes,'' and ''regulations,'' nobody on the other side could finish a sentence. This is not a government program; this is a program to give capital to community banks.

As the Presiding Officer knows, there was a version of this that came to my attention, as the Senator from Michigan will know, that said: Let's not go through community banks. Let's do the direct lending. Let's just give it to the Small Business Administration, $30 billion, and let them lend to small businesses because some banks are lending, some banks aren't. Small businesses are so desperate. All they have is high-interest-rate credit cards. Let's do direct lending.

And silly me said: You know, we really want bipartisan support for this, and I just don't think I am going to be able to convince one Republican—even though I think it might work, I don't think I am going to be able to convince them to go through a direct lending program for the government.

So I had to go tell about 10 Democrats who were very upset: I am sorry, I don't think we can do that. But I do think we can do a private sector lending approach that might work.

So I have to sit here and listen to some Republicans come to the floor today and say to me that this is not a

private sector approach. It is ludicrous. It is, on its face, a private sector approach.

These are not banks run by the government. These are private sector banks, run by our friends in our communities. We see them at the Kiwanis, Rotary, in church and synagogues; we talk to them every day. But the Republicans don't want to help community banks and small businesses.

The same Senator, from South Dakota, who came down here to say this was like TARP, voted for TARP. This isn't TARP. This is a program to help small business.

I see the Senator from Michigan—and we are going to vote in a minute.

Mr. NELSON of Florida. Will the Senator yield for a question?

Ms. LANDRIEU. Yes, I yield to the cosponsor of the amendment.

Mr. NELSON of Florida. I would like the Senator from Louisiana to underscore the fact that the $30 billion put into this lending program, which will inure to the benefit of small business, is going to end up multiplying like the fishes and the loaves; it will end up being worth, over that 10-year period, $300 billion.

Ms. LANDRIEU. Yes.

Mr. NELSON of Florida. Would the Senator also agree that when you look at the list of all the institutions that support this lending facility, they are some of what we would think of as the most conservative organizations, and they are very much in favor of this?

Ms. LANDRIEU. Absolutely.

Mr. NELSON of Florida. Including the Florida Bankers Association, including the Community Bankers Association—because they know what it is. They got dissed on the big TARP—which some of us voted against—even when we tried to carve out little portions for small business, and it never worked because the banks would not lend the money; and now we are going to create a program specifically targeted to help small business through community banks.

Ms. LANDRIEU. Absolutely. The Senator is correct. He refers to this long list, which I have read several times on the floor. It is quite lengthy. These are not liberal organizations. They are not even Democratic or Republican organizations. They are business organizations, including the American Apparel and Footwear Association, the Arkansas Community Bankers, American Bankers Association, the Marine Retailers—these are conservative-to-center organizations. This isn't the Sierra Club. These are conservative organizations that are supporting this.

This is a private sector approach. It is $30 billion that will multiply to $300 billion. We have boxes of letters from small businesses saying all they have—as the Senator from Michigan knows—is the credit cards that they have to pay 16 to 20 percent on. Senator CANTWELL almost choked me up when she said that one of the businesses in her State had to take out a loan at 50 percent. How do you make money when you are borrowing money at 50 percent interest?

We have a program where they can walk down the street and go to their community banks and borrow not from the payday lenders but from the community bank. The Republican caucus wants to tell us this is like TARP so they can put a bumper sticker on their car for the election.

The Senator from Florida is correct. There are any number of conservative organizations from all of their States that are supporting this.

Ms. STABENOW. Will the Senator yield?

Mrs. LANDRIEU. Yes.

Ms. STABENOW. I thank the Senator from Louisiana for her tireless advocacy and leadership in getting us to this point, because this is absolutely critical for small businesses, certainly in Michigan and across the country. I know we talked about it before.

Isn't it true that when we look at job growth—and this is a jobs bill, I am sure the Senator agrees—small businesses are creating the jobs? Would she not agree, as well, that when we look at manufacturing in my State, the suppliers are small businesses? So what we are talking about here is growing jobs. Would the Senator agree and speak about the fact that this is about jobs, about the fact that the majority of the jobs are coming from small business, and these are the folks who didn't cause the financial crisis, and they didn't create the recklessness on Wall Street? They got hit by it, along with our community bankers who didn't cause it; would the Senator agree?

Ms. LANDRIEU. Absolutely, this is a jobs bill. The Senator from Michigan represents a State that has been one of the hardest hit States, the automobile industry. She has firsthand experience there. She knows these numbers as well as I do: From 1993 to 2009, 65 percent of jobs have been created by small business, and only 35 percent of the jobs were created by big business.

If some people are wondering why this recovery seems to be a jobless recovery, it is because it is. Big businesses have a lot of profit right now. Has anybody noticed that the stock market is going up? They are sitting on their cash. Has anybody noticed what Goldman Sachs reported lately? They did very well out of this.

If you want a recovery with jobs, where people can actually go to work, earn a paycheck, and pay taxes to help us get out of this deficit, and stimulate demand, you better support this. I am so tired of hearing the other side, I say to the Senator from Michigan, when they come down here and say: But the NFIB says that there is no demand.

First of all, the National Federation of Independent Business did not say that. So to their credit, I want to say on their behalf—although they have not come out strongly in support, they are not opposing, they are neutral—their own survey said that 40 percent of NFIB'S membership—a very conservative organization—said they didn't need any money. But that leaves 60 percent who said they could not get the loans they had asked for.

So this whole argument that says there is no demand—I want the Senators who vote against this to go back and try to give a speech on Main Street. I challenge you, all of you who might consider voting ''no'' on this amendment, I want to see you go home and stand on any Main Street and try to say to your people—look them straight in the eye and say: We know down here there is no demand. Nobody needs any money because nobody is selling anything, and there is no demand.

Mr. NELSON of Florida. Will the Senator yield for another question?

Ms. LANDRIEU. Yes, I yield for that purpose.

Mr. NELSON of Florida. I ask the question to underscore what the Senator from Louisiana has just said, which is that small business, which is the mainstay of the economic engine in so many of our States—certainly, that is true with Florida, as a matter of fact—the technological ingenuity of America often comes out of small business firms. How many times have we heard in our townhall meetings or in meetings with elected officials back in our States, the people who are being starved to death are the small businesses, because the banks won't lend? The big banks don't give them a break, and they are going out of business. They could have hired or doubled their employment. The community bankers want to lend, but they feel that the regulators have clamped down on them and this program—if it can multiply to $300 billion of lending for small business over the next 10 years, at a minimum, isn't that the kind of jumpstart we need to provide jobs and get this economy moving again?

Ms. LANDRIEU. Yes. It will create many jobs, and maybe we can then have a recovery that has jobs associated with it. That is the effort. We have fashioned this so that it is going to make money for the Treasury. It is not related to TARP funding. It is only for community banks. It is only for small business.

I see the Senator from Michigan. I wish to yield time to her, if she wishes to speak, and then the Senator from Oregon and the Senator from Washington wish to speak as well.

Ms. STABENOW. Mr. President, I thank the Senator, the chair of the Small Business Committee, for her leadership and her passion.

I could not agree more. We have to focus on jobs. When you support small business, both the underlying bill and the changes, in terms of tax cuts for small business, as well as this provision, this is a great opportunity for us to support small businesses in this country, where the majority of jobs are created.

Every time I go home, as the Senator from Florida mentioned, I am approached by small businesses that cannot get capital and cannot get the loans they need or get their line of credit extended. This is absolutely critical for us.

In addition, I thank Senators KLOBUCHAR and LEMIEUX for their export promotion piece, which is equally important. When we look at opportunities for small business and the opportunity to support their efforts to sell their products overseas in a global economy, this is also about creating jobs. I had the opportunity not long ago to be in Beijing, China, at the global auto leaders summit. I heard from people with the Foreign Commercial Service that they needed more assistance. If they had more staff, they would be able to support more businesses being able to sell into China.

We want, in this global economy, to be exporting our products, not our jobs. So focusing on exports and supporting what the President has called for—doubling exports in the next 5 years—creates jobs as well.

I again thank Senators KLOBUCHAR and LEMIEUX for their efforts on exports, and I thank Senator LEMIEUX and Senator LANDRIEU for the amendment as it relates to the lending authority. All of this adds up—all of this together, the underlying bill, with tax cuts, support for small businesses, which have seen collateral depreciate, and the efforts that we can provide to be able to support them to get loans through a collateral assistance program, the loan program, which is, in my judgment, a core provision, and then adding exports—all of it together is a jobs bill.

This is a fundamental jobs bill for small businesses all across the country. I urge colleagues to come together. I can't think of anything more bipartisan or anything that should be more bipartisan than a focus on American small businesses. This amendment is at the heart of that.

I strongly urge a very strong bipartisan vote.

I thank the Chair.

Ms. LANDRIEU. Mr. President, I see several Members on the floor. I am going to speak for 2 minutes, and then Senator KLOBUCHAR for 1 minute, and Senator MERKLEY for 10; and if somebody else comes, we will put them in the queue. Senator LEMIEUX may want to add a word.

I ask unanimous consent for that.

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

Ms. LANDRIEU. This says: Is small business credit in a deep recession? This is the NFIB. They are one of the most conservative business organizations. I want to read to you their executive summary. It says:

Forty percent of small businessowners attempting to borrow in 2009 had all of their credit needs met.

Forty percent.

Ten percent had most of their needs met.

Let's say that 50 percent had most of their needs met. That means that 50 percent of the 27 million small businesses in America did not have their needs met.

This is not the Sierra Club here. This is the National Federation of Independent Business, one of the most conservative business groups. I don't know who wants to come to the floor and say they don't know what they are talking about. I think they do on this subject, and on others. I don't agree with them on everything, but they are very legitimate when it comes to what their members say. They said that 50 percent did not get their needs met. The financial institutions extending lines of credit during 2009, when the country was operating at a high level—the same survey—a few years earlier, before the recession, said that 90 percent of businesses were finding the credit they needed. That is why we were having great economic times, because small business could get credit.

This is economics 101. This is not complicated. Right now small businesses have credit card debt up to here. They are paying 16 and 24 percent. Maybe that makes the other side happy. They have no equity in their homes to borrow, and here we have a provision trying to give community banks some capital, healthy small banks to lend to small businesses.

We know there is a need. Fifty percent of NFIB's own membership says they cannot get the money they need, and we have to fight?

I see the Senator from Minnesota. She has a very important part of this amendment. I would like to turn the floor over to her.

Ms. KLOBUCHAR. Mr. President, I thank Senator LANDRIEU for her great leadership on this bill.

What I have heard over and over from small businesses in my State is they want to know how come Wall Street is doing OK right now and they are still struggling. Somebody once said that it is like Wall Street got a cold and Main Street got pneumonia. They are still having trouble. Yet 65 percent of the jobs in this country come from small businesses.

When I look at the big businesses in Minnesota, such as Medtronic, it started as a little business in a garage. The Mayo Clinic started with two doctors starting a practice together. 3M started as a sandpaper company up in Two Harbors, MN. Big businesses start as small businesses, and we need to help them.

I support all the work that is done with getting the credit out there. I did want to note the important part of this amendment that was put together by myself and Senator LEMIEUX to help with exports. Ninety-five percent of the customers of this country right now are outside our borders, and 30 percent of small businesses say: If we could export, we would love to do it. We just don't have the people who speak the language who work for us. We only have five employees or we don't have the contacts to export our goods to Turkey. We don't have a full-time trade person.

Having some help for them so they can talk with people at the Commerce Department to figure out are these real customers, simply get on the computer and call our embassies. Those embassies should be their embassies, not just for big business. They should be the embassies for small and medium businesses too.

We are hopeful. This is a bipartisan amendment with a lot of support. It is going to help jobs in America. I hope we can get this passed because it is incredibly important to small- and medium-sized businesses.

The PRESIDING OFFICER (Mr. TESTER). The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I appreciate those remarks. A portion of the LeMieux-Landrieu amendment is to step up exports.

The Senator from Oregon has been one of the key designers of this program. He is going to speak about a very important point that we have been debating today. That point is this oversight report that was written by Elizabeth Warren, who now seems to be a very good friend of the other side. She wrote this report, and they held it up saying we have to listen to Elizabeth Warren. It is very interesting because I think they have had some problems with what she has been doing. Nonetheless, they think this report bolsters their argument.

I ask the Senator from Oregon to comment about this report because I think it has been misrepresented. I am confident it has been misrepresented. It basically says it is inconclusive. They are not sure this program is going to work. I will tell you who is sure this program is going to work: our community bankers, our small business associations that have written thousands of letters. Is anyone opening their mail?

I am not going to listen to a bunch of bureaucrats up here who are not sure something is going to work. I would like to listen to the hometown folks, and that is what this amendment is about.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I came to the floor earlier to talk about a number of concerns that had been raised and how those did not actually fit the bill. One of those concerns was that banks would simply sit on the funds, which is not the case because there is incentive to lend. Another concern is there would be capitalization of failing banks, which is not the case because ratings are being applied so that capitalization only goes to healthy banks.

The point is not to save banks. The point is to get lending, to get capital into the hands of small businesses. I went through a number of those concerns.

Since I left the floor, there were three more issues that were raised by those who have concerns about the program. I wished to come back and address those issues.

One issue that was raised by a colleague is he said this program will have the government saying where to send money, what businesses will get money. In fact, no, not at all because similar to any capitalization of a small bank, the bank decides where to send money. That is the beauty of this public-private partnership; we are channeling, we are connecting to the power and wisdom of the small banks that understand the economy on their Main Street, that understand the reputation and capabilities of the folks who are asking for the loans, that understand the local economic dynamics. That is the duty. It is small banks that do what they do very well, which is decide where it is smart to invest and not invest.

A second concern that was raised since I last left the floor was that this would create a rush to lend. I think maybe the speaker had some picture in his mind that the moment a small bank got capitalized, they would immediately be judged on how much they had loaned out and that their rate of dividends would be set on that and, therefore, they would just throw the money out the door.

I wanted to make sure folks understood the basic mechanism in this bill. It works like this: For every 2.5 percent incremental increase in loans made by small and medium banks, the dividend would be reduced by 1 percent. This is the key phrase: The enumerated loans would be monitored for a 2-year period, starting on the date of the investment. Based on the lending rate at the end of that 2-year period, the dividend rate would be locked in and the bank would benefit from this attractive rate for the next 3 years.

If a bank seeks some funds to be recapitalized, it has a full 2 years to get loans out the door and needs to do so only at a rate of 2.5 to 1; whereas, we know a lot of banks will leverage that at 10 to 1. This is a modest standard and certainly nothing that would impel a rush.

The third critique that was raised said this report—I hold up the cover, the ''May Oversight Report, Small Business Credit Crunch and the Impact of TARP,'' said there was a moral hazard in the structure of a small business lending fund. Let's find the language in the report and analyze what was actually being said. We will find it on page 77. Feel free to look it up.

In this report, it is going through a series of issues and saying: OK, this is something worth considering. That is why we value these kinds of reports because they point out the challenges we might be facing and allows us to design legislation to work better.

This report notes:

A capital infusion program that provides financial institutions with cheap capital and a penalty for banks that do not increase lending runs the risk of creating moral hazard by encouraging banks to make loans to borrowers who are not creditworthy.

Then it goes on to answer that critique:

Although, in the legislation, the carrot . . . is arguably stronger than the stick. . . .

It is an incentive system rather than a penalty system.

Then it goes on to note further, and it received feedback from Treasury:

. . . the SBLF was designed to minimize the chances that banks will use the capital to make risky bets.

Why is that?

The program does not shift risk away from the banks that receive the capital: any institution that receives funds under the SBLF is obligated to repay that money to Treasury and therefore will lose money if it makes a bad loan.

I made this point earlier that unlike a guaranteed loan program where it does not matter if you make a bad judgment, in this case, it is the banks themselves putting at risk their own profits, utilizing their best judgments.

I think it is appropriate that folks come to the floor and say: I want to oppose this bill because it has this problem and this problem. That is the value of debate. Others can come to the floor and say: Actually, it is not designed like that; actually, it has been addressed because it has gone through months of people wrestling with the best design to harness the power of small banks, to address the challenges of small businesses in getting loans.

We will not get out of this recession if we do not empower our small businesses. There is only one other approach that has been brought to this floor as an alternative, and that alternative is to tell the small business to run up its credit card. I don't know about in my colleagues' States, but in my State, running up your credit card is not a viable option for small businesses to succeed.

We have the power, the wisdom of Main Street banks helping Main Street small businesses. Let's put that power to work.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I see the cosponsor of this amendment. I will ask unanimous consent for him to be recognized. But before I do, I wish to ask a question of the Senator from North Carolina. Senator HAGAN is on the floor. I would like to pose a question, if I may, because she was a banker, I understand. I would like to ask her if, in her view as a banker—I think it might be interesting to hear from somebody who was actually a banker. Senator BURRIS was a banker. He spoke—what does she think about this program.

If she was still a banker, would she be interested in accessing this capital from the Treasury and how it might help small businesses in the communities she used to lend to, if she would be so kind as to answer that question.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. HAGAN. Mr. President, I applaud the Senator from Louisiana for putting forward this amendment with the Senator from Florida. I think banks would be interested in lending this money. I think small local, community banks know their client base, know their customers. They are the ones to which these funds are going to be made available. It is not going to be the big banks. This is going to go to banks with $10 billion assets or less. There is nothing forcing these banks to take this money.

I highly recommend we move forward with this bill. I echo so much what Senator LANDRIEU has been talking about on the floor today. The small business lending fund is an absolutely critical component of the small business package we are moving through the Senate. Small businesses are the backbone of our economy and, in particular, in the State of North Carolina. In fact, small businesses represent over 98 percent of the State's employers in North Carolina and close to 50 percent of the private sector jobs.

Having spent the last year and a half meeting with small business owners all across North Carolina, I have seen firsthand the power of their determination and innovation. I know that the small businesses will be the catalyst that we need right now for our economic recovery.

In North Carolina, we have over 455,000 people unemployed—455,000. We need to be doing all we can in Congress to help this recovery. Small businesses cannot begin to grow and expand and hire until they have access to credit and capital to invest. The small business lending fund does a lot to address that problem by giving banks a powerful incentive to increase lending to small businesses.

I have heard my colleagues in South Dakota and Alabama speak today about this bill, comparing it to TARP, implying that banks will not participate because the fund too closely resembles TARP. Nobody is making a bank participate. This is totally voluntary. The small business lending fund is not another TARP. It is not another bailout. This fund goes to Main Street banks, our local community banks, not the big ones, not the ones with $10 billion assets or larger.

These are provisions targeted at providing money to the banks that are the healthiest and most capable of increasing lending. In fact, the measure contains provisions to ensure that the funds only go to the banks that are healthy and viable.

In North Carolina, which is one of the biggest banking States in the country, our bankers have offered their endorsement of this proposal.

I am focused on creating a better climate for businesses to add jobs in North Carolina and across the country. I think this is a sensible proposal that will help small businesses to hire and grow.

I thank the Senator from Louisiana, as well as the Senator from Florida, for putting forth this amendment.

Ms. LANDRIEU. I thank the Senator from North Carolina, and I ask unanimous consent to yield the next 15 minutes to the Senator from Florida.

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

The Senator from Florida.

Mr. LEMIEUX. I again thank my colleague from Louisiana and all my other colleagues. I see the Senators from Washington and Minnesota, who have worked on this bill are here. I think this is a very important piece of legislation, and that is why I have worked in a bipartisan way with my friend from Louisiana, who has been a leader on this bill and has put this bill together.

I know this is not without controversy. Some of my colleagues were here earlier, and they do not support this bill. I have enormous respect for my friends from South Dakota and Tennessee, and I appreciate their perspective, but I respectfully disagree with it. I think it was Ronald Reagan who said that if we agree on something 90 percent of the time, that means we are friends, and we are friends. I have tremendous respect for their views. But this bill does not bring with it, I believe, the problems my friends pointed out. This legislation helps small businesses, and in my State of Florida, that really matters because while we are the fourth largest State in the country, we are a small business State, not a big business State. We do have our share of big businesses, and we will grow more in the future. But because of Florida's meteoric rise in population over the past 20 or 30 years, we don't have those Fortune 100 companies headquartered in our State as other States do. Instead, we are a collection of small businesses, for the most part—nearly 2 million small businesses in Florida.

But during this recession—the worst recession Florida has seen in anyone's recent memory—those small businesses have been hurting. When I drive down the interstates and the State roads of Florida and I go past the small strip shopping centers and small buildings that house those small businesses that employ so many Floridians, unfortunately I now see a lot of dark and vacant buildings because these businesses have not been able to make it through this recession. Our unemployment in Florida is nearly 12 percent, and it may be worse than that because many no longer seek employment. If you figure the underemployed along with the unemployed, one in five adult Floridians who are able to work either doesn't have a job or doesn't have enough of a job. We are No. 2 in mortgage foreclosures, and we are No. 1 in the country in being behind on our mortgage payments. So Florida is hurting. There are signs that things are getting better, but we are struggling. And more than perhaps any other State, our small businesses need help.

This bill does that in a commonsense way, and let me explain why. The bill provides $30 billion for local community banks. This isn't Goldman Sachs, this isn't AIG, this is the banker down the street—the one you see at church or synagogue, the one in your Kiwanis or Rotary, the one who shops in the same stores you do. This is not some Wall Street banker but your local banker. So the bill provides $30 billion for local banks to make loans to small businesses.

The first reason it is not like the other program that was passed to bail out Wall Street is it is optional. The Treasury Secretary and the Chairman of the Federal Reserve are not going to get a bunch of local banks in a boardroom one night and pressure them into taking this money, as was done with TARP. It is voluntary. If they do not want it, they do not have to take it.

Second of all, this isn't going to increase the deficit. In fact, unlike most programs here in Washington—and my friends on the other side know I come to the floor all the time worried about the way we spend money in this Congress, worried about our debt and deficit, worried about what it will mean for our kids and our future—this piece of legislation is actually going to return more than $1 billion to the Treasury over time—so not a deficit, a surplus.

Again, the program is voluntary, it doesn't create a debt or deficit, and it doesn't create big government. It puts the money in the hands of community bankers to lend to small businesses, the folks who create jobs. My friend from Louisiana had a chart up earlier reflecting that 65 percent of all jobs are created by small businesses. I believe that number is far greater in my home State of Florida.

So who supports this amendment on which we have been working? Well, in Florida, the Florida Bankers Association does. Alex Sanchez, the president and CEO, wrote me and said:

> This bill will help create jobs for Floridians by increasing the loans to Florida's economic engine: Small businesses.

Who else supports it? Camden Fine, the president and CEO of the Independent Community Bankers of America. He said:

> This legislation is a positive for our community banking sector and to our small business customers who are vital to job creation and the economic recovery.

Robert Hughes, National Association for the Self-Employed, says:

> The National Association for the Self-Employed, on behalf of our 200,000 member businesses, strongly supports creating the Small Business Lending Fund, which we hope will alleviate the funding and credit freeze faced by small businesses by expanding loan resources.

Barney Bishop, president of Associated Industries of Florida, which represents businesses throughout Florida, says that this act moving through the Senate right now will help small businesses and ''lead to jobs, jobs, and more jobs.''

David Hart, executive vice president of the Florida Chamber of Commerce, says:

> Their ability to access capital is critical for economic recovery and job growth. The Florida Chamber of Commerce Small Business Council believes the Small Business Lending Fund will enhance the ability of small business owners to create jobs and transition Florida to a new and sustainable economy.

Javier Palomarez, president and CEO of the Hispanic Chamber of Commerce, writes in support of this bill:

> The United States Hispanic Chamber of Commerce, which represents more than 200 local Hispanic chambers and serves as the national advocate for nearly three million Hispanic-owned businesses in our country, supports passage of the Small Business Lending Fund Act.

These are Main Street groups. These are business groups that support this bill. So with all due respect to my colleagues who spoke before, this is good for business, and it is done in a measured and focused way that empowers the private sector. This is not big government. This doesn't run a deficit and it doesn't increase taxes.

In fact, to my friends who are supporting the base piece of legislation but may not want to support the amendment, they should know that our amendment cuts $2 billion in taxes out of the base bill. So we are going to cut taxes. The base bill has a lot of other cuts in taxes for small businesses, and I talked about that when I spoke earlier today.

This is going to be good for Floridians and Americans by getting needed capital to these small businesses that are struggling. That is why I support it. And I hope my friends on this side of the aisle will look at this bill seriously. I hope they think enough of me to look at it and give it a thorough evaluation because I know it is sort of a strange position I am in here. There may not be a lot of support for this on this side of the aisle, but my job representing Florida is to do what is right by the people I represent and to do what is right for the people of this country, and I believe this bill will do just that. It is not a perfect bill. No piece of legislation is. It will not solve the entire problem. No piece of legislation can. But I believe it will help. It will help in Florida, and it will help across the States of this great country, and that is why I support it.

In conclusion, Mr. President, I hope we can vote on this bill. I know the leadership is going back and forth trying to figure out a way to have some more amendments on this bill, and I believe that is the only obstacle to voting on this bill. I believe amendments should be allowed on this bill—a reasonable number—so we can get to it and we can pass it. Let's pass this thing before the weekend. Let's not wait until next week. Let's consider it, let's get it done, and let's help these small businesses.

Mr. President, I yield the remainder of my time to the Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I thank the Senator from Florida for his outstanding remarks and for his ability and his willingness to stand for the people of Florida because his State has had a great deal of difficulty, not unlike the State of California.

I see the Senator from California and the Senator from Illinois are on the floor and they want to speak. I would like to turn the next 5 minutes over to the Senator from California, but before I do, I want to respond to something the Senator from Florida said.

The Senator from Florida may not be the only Republican to vote for this amendment because today Senator GEORGE VOINOVICH said he would support the amendment. He is quoted today, if this quote that was reported in the paper is correct, as saying there is a real need out there to provide some money to some of these businesses and to get banks back involved.

He said:

> We have got to start doing something. Voinovich dismissed claims by fellow Republicans, including Snowe and Minority Leader McConnell, that the lending program resembles TARP because it involves Treasury Department loans to banks. Republicans have nicknamed it TARP, Jr. ''I don't buy that,'' Voinovich said. '' That is just messaging.''

As I said, my good friend from Florida may not be the only Republican to stand up and vote for this amendment, and I hope others will because this could mean a great deal to small businesses throughout America. This is for small business, it is for jobs, it is to get this recession over. We have to focus on Main Street.

Mr. President, the Senator from California would like the next 5 minutes.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I wish to thank the Senator from Louisiana, the chairman of the Small Business Committee, for her impassioned remarks. I have worked with MARY LANDRIEU on many issues. Sometimes we are on opposite sides. I don't like those times. I like these times. And I thank the Senator from Florida for his strong support.

Here is where we are. We are coming out of the worst recession since the Great Depression, and I don't sugarcoat it when I go home because everybody knows where we are. And I remember back to those days at the end of the Bush administration when we were bleeding hundreds of thousands of jobs every single month, and at that time, as we all looked at the situation, we realized who the job creators had been for the past 15 years. They had really been the small businesses. They created 64 percent of the new jobs. So when we talk about jobs, when we talk about turning this recession around, we have to focus on small businesses because they are the job creators. We have seen big corporations' profits return to prerecession levels, and they are sitting on their cash and they are not hiring.

We know small businesses are asking us to work with them so they can get credit. This is about healthy community banks being able to lend to healthy small businesses. This is not about toxic assets and toxic investments. This is such a strong program, the small business lending program, that the CBO estimates that we will make back $1.1 billion as the banks and small businesses pay back the fund.

Mr. President, I am going to spend the rest of my time reading into the RECORD the organizations and the businesses that support this bill:

The American Apparel and Footwear Association; the American Bankers Association; the American International Automobile Dealers Association; the Arkansas Community Bankers; the Associated Builders and Contractors; California Independent Bankers; Community Bankers Association of Alabama, Georgia, Illinois, Kansas, Ohio, Iowa, Washington, West Virginia, and Wisconsin; the Conference of State Bank Supervisors; the Fashion Accessory Shippers Association; the Financial Services Roundtable; the Florida Bankers Association; the Governors of Michigan, Ohio, Colorado, Connecticut, Illinois, Massachusetts, New Mexico, New York, North Carolina, Oregon, Washington, and West Virginia; Heating, Airconditioning and Refrigeration Distributors International; the Independent Bankers Association of Texas, of Colorado, and of New Mexico; the Independent Community Bankers of America, of Minnesota, and of South Dakota; the Indiana Bankers Association. It goes on and on. The Maine Association of Community Banks; the Maryland Bankers Association; the Massachusetts Bankers Association; the Michigan Bankers Association; the Missouri Independent Bankers Association. It goes on and on. The National Association for the Self-Employed; the National Association of Manufacturers; the National Bankers Association; the National Council of Textile Organizations; the Marine Manufacturers Association; the National Restaurant Association; the National RV Retailers Association; the National Small Business Association; the Nebraska Independent Community Bankers; the Pennsylvania Association of Community Bankers; the Printing Industries of America; Small Business California; the Small Business Majority; the Tennessee Bankers Association; the Travel Goods Association; the Virginia Association of Community Banks; the Hispanic Chamber of Commerce; and the Women Impacting Public Policy.

This is a list that reflects America. This is a list that reflects economic activity. This is a list of organizations in States that are struggling to get to good times.

This idea, that I have to say originally came from a Merkley-Boxer bill embraced by Senators LANDRIEU and CANTWELL and LEMIEUX, made better as it went down the legislative road, deserves to get 60 votes. It deserves to get, frankly, 100 votes. Because if we are serious about jobs, then we need to show it with our votes. It is not enough to get on the floor and complain and say, Where are the jobs? This is legislation, an amendment to a very important bill, that will leverage $30 billion into $300 billion. That is what we are talking about, the kind of a jolt to this economy that we need. And it makes money for the taxpayers.

Talk about a win-win, that is what this is. I am going to yield the floor and I am going to say one more time to the Senator from Louisiana, Senator LANDRIEU, thank you for your leadership. Thank you for your passion. This is about jobs, jobs, jobs, and anyone who votes no on this, in my opinion, don't say that you are for jobs because this is a proven job creator. We know it. Small business creates the jobs, 64 percent of the jobs. They need access to credit. They are not getting it from big banks. This allows us to get it from our community banks and it brings a very good marriage together—helping community banks, helping small businesses, and job creation.

I yield the floor.

Ms. LANDRIEU. Mr. President, I see the Senator from Illinois. I will ask unanimous consent for him to speak for 2 to 3 minutes. But before that, I wish to thank the Senator from California. The Senator from Illinois would know this, but this issue, this provision came originally from an idea that Senator BOXER and Senator MERKLEY had. She deserves a tremendous amount of credit.

Of course, she represents the largest State in the Union. Of course, she represents one of the States that has high unemployment. Of course, she listens to the people of her State and they are saying: Senator, where is the money to create the jobs?

I will submit this for the RECORD. The Senator from California does not need to see this because she knows it: Jobs lost by small business. Do we want to know why this recession is happening? I wish I had this blown up: 81 percent of the job losses come not from big business, not from Wall Street. I understand Wall Street is having fancy lunches. They had a lot of fancy lunches on Wall Street today. Do you know who is not even eating lunch, there is no brown bag to put it in? Small business. The Senator from California is a great Senator, fighting for her State. She has one of the highest unemployment rates in the country. The Senator from Illinois knows this as well. I thank her for putting this provision forward. I am happy to pick it up and try to carry the ball a little way down the field.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Are we under controlled time or seeking unanimous consent?

The PRESIDING OFFICER. We are not.

Mr. DURBIN. I ask unanimous consent to speak for 5 minutes.

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

Mr. DURBIN. I thank Senator LANDRIEU, who chairs the Small Business Committee. Not only does she have the facts, she has the tenacity and ferocity to take on these issues. You always want MARY LANDRIEU on your team. Like Senator BOXER, there are times when we are not on the same team. Thank goodness they are rare. But when we are together I know it is going to be a spirited fight and I am glad to join her in this effort. I thank her and Senator CANTWELL, but I also acknowledge, as she has, that Senators MERKLEY and BOXER were involved in the early formulation of this idea.

The idea was so obvious, it was so obvious that we knew when we spoke to small businesses the struggle they were having. They couldn't borrow money. Even good, reputable small businesses with great records could not borrow money. When they couldn't borrow money, it was impossible for them to sustain their business growth and to hire people.

In America, as we have lost 8 million jobs, with all the hardship and heartache that comes with it, we faced some hard choices. This week, the Senate and the House finally, after weeks of filibustering, came through with unemployment benefits for the millions of Americans who are struggling to feed their families during these hard times. That to me is the safety net. But if we are going to go beyond the safety net and create the jobs to put people back to work and get beyond this debate on unemployment benefits, we have to look to small business.

I heard the Senator from Louisiana talk about her view of small business and job creation. This bill that is before us, this amendment that Senator LANDRIEU brings before us today, is one that will create jobs in my home State of Illinois.

There were over 258,000 small business employers in Illinois in 2006, led by professional service and construction firms. These small businesses accounted for over 98 percent of the employers in my State. These small businesses added 93,000 jobs in 2006, more than three times as many as those by companies with more than 500 employees. Another 850,000 people worked for themselves in 2006, meaning the number of people working for small businesses was that much larger.

I am concerned about every firm losing jobs, but I know if we do not address the fundamental challenge facing small business, we are not going to turn this recession around quickly and that is what we all need to do and want to do.

What I struggle to understand, I will say to the Senator from Louisiana—perhaps she can answer this question: Where is the opposition to this? Where is the opposition? The Senator has read comments from the National Federation of Independent Businesses, a conservative business group. I have worked with them. Many times we lock horns but we have worked together on health care and things. So where does the opposition to this come from?

Don't we know if we take this money and loan it to small businesses it will be repaid? It has a leverage, a multiplier in terms of what it can mean to our economy, creating jobs, which means more taxes being paid, more people earning money with paychecks. I am trying to understand. Have people come to the floor on the other side of the aisle and explained why we would not want to provide credit for small businesses in the middle of a recession to help create jobs? I wish to ask the Senator if she would respond, through the Chair.

Ms. LANDRIEU. We have had three Senators come to the floor. The Senator, the ranking member of the committee is here now, Senator SNOWE. I have the greatest respect for the Senator. She outlined a few points that she has concerns about. I will come back to that in a minute.

There were only two other Senators who came to the floor—the Senator from Alabama and the Senator from South Dakota. From what I could gather, they think—the Senators said they thought this was sort of like TARP.

I tried to explain to them that, first of all, TARP was a $700 billion fund for banks that had troubled assets. This is a $30 billion fund for healthy banks to lend to small business. There were lots of bankers opposed to TARP. I tried to say to them in this case every banking organization that we know of, national organization, and the majority of the State bankers—not all; I want to be clear—the majority are all for it. So we are having a difficult time.

There may be some questions about the cost. It gets into a lot of detail. The Senator from Maine raised that issue. Our score, I said, is what I go by. The Senator knows it will generate $1.1 billion for this program.

Mr. DURBIN. If I can reclaim my time—I have a limited amount of time—thank you, because that addresses the issue. The fact is that this money will generate money to the Federal Treasury so it is not adding to our debt, it is creating jobs, helping businesses, reducing our deficit, and I might add—I am glad you made a reference to TARP. According to the Treasury Department, the 22 largest recipients of TARP dollars, banks, decreased their small business lending by $12.5 billion between April and November of 2009.

Here we are in TARP sending money to bail out the biggest banks and they are reducing their loans to small businesses as a result of it. What the Senator is saying, as I understand it, what this amendment is, is take this money, give it to healthy banks with the understanding it will be loaned to small businesses, they will prosper, create jobs, more taxpayers, fewer people on unemployment, and a net gain to the Treasury?

Ms. LANDRIEU. Yes.

Mr. DURBIN. This does not sound like TARP at all to me.

Ms. LANDRIEU. It is not. The Senator is absolutely correct. That is why I spent the majority of this day trying to be responsive to the several arguments that have been raised against it. I thought the Senator from Oregon did a beautiful job, much better than I did, explaining the nuances of this report that has been used to criticize this program.

But again, it is a private sector approach which the other side usually likes. It is community bankers whom we know, to small businesses that we know need the help. I cannot quite understand where this opposition is coming from. I said earlier, if you are looking for a bumper sticker for the election, go look elsewhere. Don't put a bumper sticker on the backs of small business in America. They don't deserve it. The letters are heartbreaking. The letters from Illinois are heartbreaking.

Women who have waited for 20 years while they raised their children finally start their business and I have to hear from the other side they don't like the bumper sticker? This is not about bumper stickers. We have waited a year and a half to get on a bill for small business. The House has already passed this bill.

It is laughable, to try to go home to your district. I don't care whether you are in Arizona or South Dakota or Alabama, you will be laughed out of the townhall meeting if you go home and try to explain that you don't think small business should get money from their local bank. They don't have the money to buy a train ticket to New York.

I mean, this is not funny. So unless somebody comes down here and gives me a relatively good argument—and I have the greatest respect for the Senator from Maine. We have never argued about anything on our committee. This didn't even come to our committee so we never argued about it. We have not argued about one thing because we feel so strongly. But for some reason this has become a political football. She did not make it that way and neither did I. Somebody did, but neither one of us did.

Mr. DURBIN. If the Senator from Louisiana will allow me to reclaim my time and finish and yield the floor at this point, I thank her for her passion and commitment. Around here we go through so many issues and debates, it sounds as if people are reading telephone directories and don't care, but there occasionally comes along an issue where it does touch you. You can tell from the Senator from Louisiana, she feels this issue—as she should. These are real people, who put their all into a business, who are about to lose it. These are real people who think their businesses can grow with a little bit of help and hire some people. Instead, what we hear from the other side

is we are afraid somebody is going to twist this into a bumper sticker that will look bad.

I used to have a friend of mine named Mike Synar, from Oklahoma. We used to laugh when Members of the House of Representatives would say, ''Man, I hope we don't have to vote on that tough issue again.'' He said, ''If you don't want to fight fires, don't be a firefighter. If you don't want to come to Congress and vote on tough issues, get another job somewhere else.'' I think he was right. He is still right. If these people are afraid of helping small businesses for fear that somebody is going to dream up a bumper sticker and a 30-second ad, think about another job. Because if we can't face issues this important in the middle of a recession and help small businesses with the Landrieu amendment, then we have lost our way.

I am glad to support the Senator, and I yield the floor.

Ms. LANDRIEU. Mr. President, I see other Members on the floor. Senator BURRIS had spoken earlier. I wish to say there was an organization we failed to mention, but the Minority Bankers of America also have given their support to this. We are getting constant letters of support in.

I can speak for a few more minutes. I don't know if anyone else is interested in speaking. We still do not have a vote on this, so I will continue, I guess.

Mr. LEVIN. Will the Senator yield?

Ms. LANDRIEU. Yes, to the Senator from Michigan.

Mr. LEVIN. Mr. President, one of the arguments I have heard against the Senator's amendment—as the Senator from Illinois said, this is a replay of the TARP battle. I want to explore that for one moment with my friend from Louisiana.

Before I do, I must say about the Senator from Louisiana, her passion and commitment to small business, reflected in her chairmanship on the Small Business Committee—and I am honored to serve with her on it—has been nothing short of breathtaking. I thank her for that leadership.

On the TARP issue, those of us who voted for TARP have been criticized back home because it didn't result in a lot of credit flowing. We would have loved to have had the time so we could have taken some steps so we could have connected credit flow with what we were doing to try to save this economy from totally going under.

We did not have the time to do it at that time. We have been criticized, and to some extent I think fairly, for not connecting some kind of requirement on the part of banks that are being helped through TARP with some commitment to lend out that money, to get credit flowing again.

The issue we have heard more than anything about back home, I would say, in terms of businesses and why they are not adding jobs, is that even the businesses that have paid all their bills, that have folks out there who are willing to buy their products, cannot get the regular lines of credit that they have relied on, mainly because the assets that those credit lines have been based on have gone down in value, the way our homes have gone down in value.

So they have the same accounts. They have never missed payments they owe the banks. They have sales they can make. But in terms of the ratio that the banks follow because of the regulators, those banks are unwilling to extend the traditional line of credit because the assets of the companies have gone down in value, although their business sales have not gone down. So we have creditworthy businesses waiting for credit.

What this amendment does is—and I wish to ask the Senator if this is correct—this really is something—we are filling a gap TARP did not fill. A failure that TARP, I am afraid, legitimately is criticized for, we are trying and the Senator's amendment is trying to correct, to fill a gap which we did not fill in when we passed the TARP.

So there are incentives in this amendment to extend credit. That is the point of the amendment; that is, we will get credit flowing again. So the TARP reference, to me, is totally inappropriate. I wish to ask the Senator if that is correct.

Ms. LANDRIEU. The Senator from Michigan is absolutely correct. That is why this is so flabbergasting to me, because the Senator is correct. The TARP, some of us voted for it, some of us did not, but there are some legitimate criticisms of it. I mean, it went to a lot of the big banks, bigger banks. It did go to some middle-sized banks, I will concede that to the opponents. They have pointed that out, that it went to some middle-sized banks.

But what we did not do was connect it to lending. They took the money and they cut the line of credit. We are trying to fix that. This is an amendment to fix what we did not do correctly. This is an amendment supported by bankers, by small businesses. It does not go to big banks. They are not even eligible. It is voluntary. They do not have to take it.

If any Senator wants to vote against this and go home and say: Look, I can only give you credit cards with 16 percent interest—your people in Michigan cannot survive that, the Senator knows. They cannot survive it.

Mr. LEVIN. One last thing. This is what our local banks have been pleading for.

Ms. LANDRIEU. Yes.

Mr. LEVIN. I wish to thank the Senator for her leadership on so many other parts of this bill. This is a critical bill. It is a critical amendment that is now being offered.

We are at yet another moment in this ongoing economic crisis at which we have to choose, choose between taking action to help lift our country and its people, or failing to act to alleviate their struggles. Too often, in the face of opposition from many of our Republican colleagues, we have been delayed in making these choices. The legislation before us today is no exception: This bill has been on the Senate floor for 10 legislative days.

That is sad, because every day of delay on this bill has been another day that small businesses, businesses our Republican colleagues repeatedly commend as America's job-creation engines, lack the access to capital they need to continue to operate or grow. As the financial system recovers from the damage done by the greed and speculation of some on Wall Street, local banks that small businesses have depended on, and in many cases worked with for years, are not providing them with the capital to finance their inventories, meet their payrolls, operate their factories or add new products.

This legislation seeks to bridge that gap. If passed it will give thousands of American business owners a chance to keep current workers or hire new ones. It is the sort of thing we should rush to do in this economy.

Let me outline a few of the ways in which this legislation will help. This legislation would establish the State Small Business Credit Initiative, an effort that I have been working on for many months along with several of our colleagues here in the Senate, leaders in the House of Representatives, and the administration. Building on successful efforts in Michigan and other States, the initiative would provide crucial funding to State and local programs that expand capital access for small businesses.

These programs help businesses escape one of the traps that continues to hold back our economy: The fact that just as the recession has damaged the value of our homes, it has also damaged the value of the real estate, equipment and other items these businesses offer as collateral to secure loans, making it harder to get those loans and therefore harder to keep or hire workers, feeding a downward spiral that stunts growth.

This bill also includes a series of efforts to boost small-business lending that will create thousands of jobs without adding to the deficit. For instance, inclusion of the Small Business Job Creation and Access to Capital Act, which raises Small Business Administration loan limits, will increase small-business lending by as much as $5 billion. It also includes an Intermediary Lending Pilot Program, a proposal I offered which allows SBA to make loans to nonprofit intermediary lenders, who can then loan that money to growing businesses.

Other provisions of the bill will help more small businesses sell their products overseas or win government contracts, and provide much-needed assistance to SBA's women's business centers and microloan programs that help businesses in underserved communities.

The substitute amendment now before us does not include one provision which I support, but which hopefully we will now add. The Small Business Lending Fund would have provided $30 billion in capital support to the Nation's small banks. It is similar to the Bank on Our Communities Act that I and many others have supported.

Some of our colleagues objected to this provision, ostensibly on the grounds that it was a reprise of TARP. But unlike TARP, in which most of funds went to the largest institutions, this program targets the community banks that actually make the vast majority of small business loans. While many of the financial institutions receiving TARP funds failed to use that support to make the business loans needed to boost our economic recovery, this program's whole purpose would be to increase small-business lending. Community banks would be rewarded for increasing their small business lending, and penalized if they do not, This program would not cost taxpayers. Instead, it would raise approximately $1.1 billion. At a time when some in this chamber say the deficit is such a problem that we cannot even afford extended benefits for the jobless, why would we not support a program that would not only help create jobs, but reduce the deficit by $1.1 billion?

While I strongly support the Small Business Lending Fund, I believe it is an urgent priority to get small businesses the help they need. Even without the Small Business Lending Fund provision, this legislation represents a much-needed effort to provide more capital to businesses in need.

New access to an SBA loan or to support from a State capital-access program can be the difference between expanding or contracting, between growing or going out of business. These businesses and their workers should not have to wait for help any longer, and we can provide it, today, by approving this bill.

Ms. LANDRIEU. I see the Senator from Maine. In all fairness, we have had a lot of time. I want to yield 1 minute to the Senator from Minnesota. Then I will be happy to yield. We have no time agreements. There are no scheduled votes. I am most certainly not holding up this vote. The leadership is not here. I am not sure when we are voting. I know Members want to leave. I am not holding up the vote. We are ready to go to the vote at any time, but we do not have any agreement to go to the vote.

Ms. KLOBUCHAR. I thank the Senator from Louisiana. Again, I thank you for including the piece of this bill on exports because we have waited so long to include it. This is something that came out of the Commerce Committee. So I appreciate the Small Business Committee being willing to put this amendment in there, a bipartisan amendment.

It went through the Commerce Committee unanimously, with the sole focus of helping small- and medium-sized businesses, people who do not have the resources, that when they want to send their products, 30 percent of them say they want to export. They look at the world, and it looks like one of those ancient maps where you do not see all the countries.

They do not have contacts out there. They do not know someone in Kazakhstan or someone in Turkey or someone in Morocco, but yet someone there wants their product. So the whole idea was to have some resources, some tools, so they can access those markets. We all know that if we are going to get out of this economic slump, we can do some of it by selling products in the United States, but a lot of it has to deal with us selling our products abroad because we have to become a country again that makes stuff, that thinks again, that sends things to other countries, that creates jobs in America, so you turn over something when you go in a store and it says: ''Made in the USA.''

The way we do that is by selling things in our own country but also selling things to all those customers, all those millions and millions of customers who are starting to get buying power in other countries. But it should not be just for the big businesses; the small- and medium-sized businesses should be able to access those markets as well.

That is why this amendment is so incredibly important, an amendment that came, this piece of it, unanimously through the Commerce Committee. It boggles my mind that anyone would be voting against it.

I yield the floor.

Ms. LANDRIEU. Mr. President, I am hoping we can vote right now, if possible. I know the Senators all have schedules. The Senator from Maine was very kind to say she could even speak after the vote. I appreciate that everybody has been so patient today. We have had a good debate. We are trying to get to a vote on this bill. We are waiting for the leadership, but people are going to have other appointments. The Senator from Maine has agreed to speak after the vote, which is very nice.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REID. I ask unanimous consent that at 8 o'clock tonight, the Senate proceed to vote on the motion to invoke cloture on amendment No. 4500; and that if cloture is invoked, notwithstanding rule XXII, the Senate then proceed to the House message to accompany H.R. 4899, as provided in this order; that if cloture is not invoked, the majority leader then be recognized to enter a motion to reconsider the vote by which cloture was not invoked; and the cloture motion on the substitute amendment and the bill be withdrawn; further, that the Senate proceed to the House message regarding H.R. 4899, supplemental disaster relief/summer jobs; that the Senate move to concur in the House amendment to the Senate amendment to the bill; and vote immediately on the motion to invoke cloture on the motion to concur in the House amendment to the Senate amendment to the bill; that if cloture is invoked, then the Senate proceed as provided under rule XXII; that if cloture is not invoked, then the motion to concur be withdrawn, and the Senate then move to disagree to the House amendment to the Senate amendment to the bill, and that the motion to disagree be agreed to, and the motion to reconsider be laid upon the table; that no further amendments or motions be in order to the House message to accompany H.R. 4899, except the following specified here: Lincoln amendment to the motion to concur, with an amendment to the disaster assistance/child nutrition; Reid amendment to the motion to concur with an amendment on the subject of border security; Specter amendment to the motion to concur with an amendment on the construction of ocean-going vessels; Reid amendment to the motion to concur with an amendment on the Federal Lands Transaction Facilitation Act, and the following amendments on the motion to concur with respect to the class action settlement negotiated involving African-American farmers and American Indians, jobs for teachers, and public safety employer-employee cooperation; that no debate be in order with respect to any amendment covered in this agreement; that each be subject to an affirmative 60-vote threshold; that if they achieve that threshold, then the amendment be agreed to; if the amendment does not achieve the threshold, then it be withdrawn and the motion to reconsider be laid upon the table, with no further amendments or motions in order as provided above except the motion to disagree.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, I object to the Lincoln amendment. I object to the Reid amendment, and with regard to the issue of border security, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3170; that all after the enacting clause be stricken, and the substitute amendment at the desk, which is a fully offset border security provision, be agreed to; that the bill, as amended, be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCONNELL. Mr. President, I have a further unanimous consent request. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4853; that all after the enacting clause be stricken, and the substitute amendment at the desk be agreed to; that the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table.

Before the Chair rules, I would like to clarify that the amendment includes provisions that do the following:

One, make permanent the $1,000 child tax credit; two, make permanent the deduction for State and local sales tax; three, make permanent the expired research and experimentation credit; four, repeal section 9006 of the Patient Protection and Affordable Care Act, the small business 1099 paperwork mandate; five, add a sense of the Senate on the recess appointment of Dr. Donald Berwick, based on the Roberts amendment No. 4512; and extend the alternative minimum tax patch for 2009 permanently, adjusted for inflation.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, those are laudable goals. I look forward to working with my friends on the other side of the aisle to come to conclusion of these matters. But at this stage, I think it is pretty late at night, and we have had little opportunity to talk to our committees. In fact, it would just not work at this stage. So I object.

The PRESIDING OFFICER. Objection is heard.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4853; that all after the enacting clause be stricken and the substitute amendment at the desk, which would add the previously requested lawsuit settlement language, modified with a rescission of unobligated stimulus funds to cover the costs and modified to reflect Barrasso amendment No. 4313, be agreed to; that the bill, as amended, be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, we have been through this before. This is a ''beat up the lawyer'' amendment. We will not agree to that. I object.

The PRESIDING OFFICER. Objection is heard.

The Republican leader.

Mr. MCCONNELL. Mr. President, it is my understanding there has been an objection to everything but the cloture vote on the supplemental.

Mr. REID. And small business.

Mr. MCCONNELL. And the small business bill.

The PRESIDING OFFICER. Without objection, the request has been modified.

The Senator from Arkansas.

Mrs. LINCOLN. I would like some clarification on that last comment, please, from the minority leader. There is no objection now on the UC?

Mr. MCCONNELL. There has been an objection to all of the add-ons.

The PRESIDING OFFICER. It is the Chair's understanding that the entirety of the agreement has been agreed to except the amendments of the motion to concur to the supplemental.

Mr. REID. Mr. President, I think it is fair to the Senator from Arkansas that there is an understanding that an amendment that passed this body at least 6 months ago, that was bipartisan in nature, that gave emergency funding for a number of States because of agricultural disasters, the question is, Is that being objected to?

Mrs. LINCOLN. That is not my question.

Mr. REID. I am sorry then.

Mrs. LINCOLN. My question is what is the pending issue and is the question on whether there is an objection to the supplemental; is that correct?

The PRESIDING OFFICER. It is the Chair's understanding that the majority leader's request, as amended, is agreed to.

Mr. REID. I don't want any misunderstanding. If anyone is objecting to our moving forward on the supplemental, this is the time to speak.

Mr. MCCONNELL. Mr. President, it is my understanding the only thing in order is the vote on cloture on the motion to concur on the supplemental.

Mrs. LINCOLN. I would like to wage my objection until I can further discuss it with the majority leader.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. 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. REID. Mr. President, I renew my earlier unanimous consent request with the exception of those exceptions.

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

Mr. REID. I ask unanimous consent that the Monday quorum be waived with respect to the House message.

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

Mr. REID. Mr. President, I appreciate very much the inordinate amount of time that everyone has waited. I am sorry we had to do that. But Senators LINCOLN and CHAMBLISS have been real professionals. They have done a lot of talking. But I think we are at a point now where we can finish our business tonight.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the LeMieux-Landrieu et al. amendment No. 4500 to the Reid-Baucus substitute amendment No. 4499 to H.R. 5297, the Small Business Lending Fund Act of 2010.

Harry Reid, Mary L. Landrieu, Sheldon Whitehouse, Byron L. Dorgan, Roland W. Burris, Richard J. Durbin, John D. Rockefeller, IV, Robert Menendez, Carl Levin, Daniel K. Akaka, Debbie Stabenow, Patty Murray, Jack Reed, Maria Cantwell, Dianne Feinstein, Daniel K. Inouye, Bernard Sanders.

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

The question is, Is it the sense of the Senate that debate on amendment No. 4500 to amendment No. 4499 to H.R. 5297, the Small Business Lending Fund Act of 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Vermont (Mr. LEAHY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT) and the Senator from Missouri (Mr. BOND).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted ''nay.''

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

The yeas and nays resulted—yeas 60, nays 37, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—60

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

NAYS—37

Alexander	Coburn	Graham
Barrasso	Cochran	Grassley
Bennett	Collins	Gregg
Brown (MA)	Corker	Hatch
Brownback	Cornyn	Hutchison
Bunning	Crapo	Inhofe
Burr	Ensign	Isakson
Chambliss	Enzi	Johanns

Kyl	Risch	Thune
Lugar	Roberts	Vitter
McCain	Sessions	Wicker
McConnell	Shelby	
Murkowski	Snowe	

NOT VOTING—3

Bond	DeMint	Leahy

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 37. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2010

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the House message to accompany H.R. 4899, which the clerk will report.

The assistant legislative clerk read as follows:

Resolved that the House agree to the amendment of the Senate to the title of the bill (H.R. 4899) entitled ''An Act making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes,'' and be it further resolved that the House agree to the amendment of the Senate to the text of the aforesaid bill with an amendment.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment to H.R. 4899, an act making supplemental appropriations for the fiscal year ending September 30, 2010.

Daniel K. Inouye, Tom Harkin, Christopher J. Dodd, Patrick J. Leahy, Max Baucus, Richard J. Durbin, Charles E. Schumer, Al Franken, Patty Murray, Benjamin L. Cardin, Jack Reed, Roland W. Burris, Dianne Feinstein, Mark Begich, Amy Klobuchar, Byron L. Dorgan, Mark Udall.

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

The question is, Is it the sense of the Senate that debate on the motion to concur in the House amendment to the Senate amendment to H.R. 4899, the Supplemental Appropriations Act of 2010, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Vermont (Mr. LEAHY) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT) and the Senator from Missouri (Mr. BOND).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted ''nay.''

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

The yeas and nays resulted—yeas 46, nays 51, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—46

Akaka	Gillibrand	Murray
Baucus	Goodwin	Nelson (NE)
Bingaman	Hagan	Nelson (FL)
Boxer	Harkin	Reed
Brown (OH)	Inouye	Reid
Burris	Johnson	Rockefeller
Cantwell	Kaufman	Sanders
Cardin	Kerry	Schumer
Casey	Klobuchar	Shaheen
Conrad	Kohl	Stabenow
Dodd	Lautenberg	Tester
Dorgan	Levin	Udall (NM)
Durbin	Lincoln	Whitehouse
Feingold	Menendez	Wyden
Feinstein	Merkley	
Franken	Mikulski	

NAYS—51

Alexander	Crapo	McCaskill
Barrasso	Ensign	McConnell
Bayh	Enzi	Murkowski
Begich	Graham	Pryor
Bennet	Grassley	Risch
Bennett	Gregg	Roberts
Brown (MA)	Hatch	Sessions
Brownback	Hutchison	Shelby
Bunning	Inhofe	Snowe
Burr	Isakson	Specter
Carper	Johanns	Thune
Chambliss	Kyl	Udall (CO)
Coburn	Landrieu	Vitter
Cochran	LeMieux	Voinovich
Collins	Lieberman	Warner
Corker	Lugar	Webb
Cornyn	McCain	Wicker

NOT VOTING—3

Bond	DeMint	Leahy

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Under the previous order, the motion to concur is withdrawn.

The motion to disagree to the House amendment to the Senate amendment to H.R. 4899 is considered made; the motion to disagree is agreed to; and the motion to reconsider is considered made and laid upon the table.

Mr. MCCONNELL. Mr. President, today, tomorrow and the next day marines and soldiers will patrol the streets of places like Marja and Garmsir and assist Afghan policemen in the areas around Kandahar.

They are well trained, they are intent on accomplishing the mission they have been given, and they are supported by loving families here at home.

For their sacrifice, they ask little. They ask that they be well led, prepared, and to have clear-cut missions and guidance. They ask that their families be cared for.

We have become so used to their sacrifice in the days, months, and years since September 11, 2001, that it may become easy to take the extraordinary service rendered by this All-Volunteer Force for granted.

So easy, it seems, that the funding request submitted by Secretary Gates in February to fund combat operations has languished here in the Congress for months.

As a Senate, we should not take this sacrifice for granted.

Secretary Gates spoke to my Republican colleagues and me about the need to pass the defense supplemental so the training and pay of our military would not be at risk.

He has also written to the majority leader and asked that we finish this supplemental before the August recess so that he will not be forced to furlough thousands of civilian employees at the Department of Defense.

It has taken until this late date to now vote once again on funding for our All-Volunteer Force. With each passing day we approach the end of the fiscal year and Secretary Gates loses the ability to shift funding from other activities in the Defense Department to the training of our forces scheduled to deploy.

I am afraid we are losing sight of the purpose of these war supplemental bills. These bills are not for forward-funding domestic programs. They are not for funding projects that won't pass elsewhere.

It would be irresponsible to give the House any further reason to shirk the responsibility of getting this funding to our fighting forces.

We need to pass this supplemental tonight, send it back to the House and reject any delaying tactic or additional matters that can wait for future consideration in this session.

Mr. FEINGOLD. Mr. President, I voted to end debate on the House amendment to the supplemental appropriations bill because that amendment addresses important domestic priorities for Wisconsin and this country without adding a penny to the deficit. The amendment provides $10 billion to help school districts around the country facing funding shortfalls due to the ongoing recession, all of it paid for. It also provides almost $5 billion in fully offset funding to help ensure that the millions of low income students who receive Pell grants do not see reductions in their awards.

The House amendment also includes a provision to give public safety employees, like firefighters and police officers, collective bargaining rights. While Wisconsin and other States already protect public safety employees' collective bargaining rights, there are still several States that do not. Police officers, firefighters, and other public safety officers are on the front lines of protecting our communities and we should ensure that these hard working professionals have the ability to bargain for better wages and working conditions.

However, I continue to oppose funding for a massive, open-ended war in Afghanistan. This war funding will add tens of billions to our deficit without contributing to our national security.

MORNING BUSINESS

Mr. BEGICH. 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.

Mr. BEGICH. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The asistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—H.R. 5297

Mr. REID. Mr. President, I ask unanimous consent that the postcloture time with respect to the Landrieu-LeMieux amendment No. 4500 suspend until such time as the Senate resumes consideration of H.R. 5297.

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

DISCLOSE ACT—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Mr. President, I now ask unanimous consent that it be in order to proceed to Calendar No. 476, S. 3628.

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

Mr. REID. I now move to proceed to that bill, and I send a cloture motion to the desk.

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

The cloture motion having been presented under rule XXII, the clerk will state the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 476, S. 3628, the DISCLOSE Act.

Harry Reid, Charles E. Schumer, Sherrod Brown, Claire McCaskill, Patrick J. Leahy, John F. Kerry, Byron L. Dorgan, Patty Murray, Barbara Boxer, Roland W. Burris, Robert Menendez, Jack Reed, Joseph I. Lieberman, Tom Udall, Kent Conrad, Mark Begich, Robert P. Casey, Jr.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

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

Mr. REID. Mr. President, I ask unanimous consent that the cloture vote on the motion to proceed occur at 2:45 p.m., Tuesday, July 27, with the time from 2:15 to 2:45 p.m., equally divided and controlled between the two leaders, or their designees, with the majority leader controlling the final 15 minutes.

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

REMEBERING FORMER GOVERNOR KENNY GUINN

Mr. REID. Mr. President, I have just learned of the loss of one of my dear friends. He was an orphan. He was a stellar athlete. He came to Las Vegas to be a schoolteacher, but he had such a dynamic personality that soon they learned in that rapidly growing school district, which is the fourth or fifth largest in the country, that they needed his kind of leadership. He went from being a teacher to running that huge school district in Las Vegas, the Clark County School District.

He had such a magnetic personality. Kenny Guinn was built like an athlete. He was handsome as a movie star.

He left the school district after a number of years and became a bank president. He became a big utility president in our major utility in Nevada. Then he became president of the university. I think he worked for $1 a year. He just did it to be nice.

Somebody said to him: What you should do is run for Governor. It was a slam dunk. He was a very moderate Republican. He was elected Governor twice very easily. He did an extremely good job as Governor.

We do not know what happened to Kenny today, but from reports we received, he was in an accident. He was on the roof and fell. He is dead now. I feel so badly about this. I talked with him a week or so ago about my campaign and his wonderful, beautiful, charming wife Dema. I feel so sad that Kenny is not with us anymore.

I join all of Nevada in mourning the loss of truly a great man, one of Nevada's outstanding Governors, and a friend of mine about whom I will always feel strongly.

TRIBUTE TO SISTER ROSEMARY LYNCH

Mr. REID. Mr. President, today I rise to honor Sister Rosemary Lynch for her lifetime of promoting peace throughout Nevada, the United States, and the entire world. Sister Lynch recently celebrated her 93rd birthday, and I am pleased to recognize her life and achievements before the U.S. Senate.

Sister Lynch was born in Phoenix, AZ, but her spiritual service in the Franciscan Order brought her to Las Vegas after periods in Mexico, Europe, Africa, and Indonesia. She began her devotion to the Franciscans more than 75 years ago and eventually ascended to an administrative post within the order. Spending 16 years in Italy helping to manage the order's global organization, Sister Lynch still found time to travel the world to deliver her message of compassion. These days, Sister Lynch can be found at the Franciscans' house on Bartlett Street in Las Vegas, where she devotes her day to assisting the underprivileged community of the city.

Sister Lynch's age has not slowed her commitment to spread peace throughout her community. Her boundless energy is apparent in the daily early morning walks she takes through her neighborhood and the unflagging devotion to combating poverty she displays through her work at the Franciscan house. She speaks five languages, a testament to her incredible mind and her experience in spreading peaceful ideas throughout the world.

In addition to her work with the Franciscan Order, Sister Lynch founded the Pace e Bene Nonviolence Service, a group dedicated to educating communities about theories of peaceful conflict resolution. This organization celebrated 20 years of activity last year, and it continues its mission internationally due to the efforts of Sister Lynch. ''Pace e Bene'' means ''peace and all good'' in Italian, and I cannot think of a better phrase to describe the life's work of Sister Rosemary Lynch.

I am honored that Sister Lynch has offered her services to the State of Nevada for a significant portion of her life. I thank her for her ceaseless altruism and selflessness, and I wish her continued health and success in her endeavors.

EDUCATION JOBS PACKAGE

Mr. BENNET. Mr. President, I rise today to urge this body to get our priorities straight. During this trying moment for struggling families all over America, as we work to get our economic ship righted, it is our kids and schools that should be at the top of our list.

And moving forward with a more lasting agenda, this body must make good on our commitment to ensure that we leave more opportunity for our children than we ourselves have had. It starts with our commitment to education.

We have a very American responsibility—to set the table for our kids' futures; to prepare them for the competitive world that awaits them; and to enrich their lives with a better education than the one that was offered to us. This is our central calling.

As I have discussed many times before back in Colorado and here on the Senate floor, we must be willing to make the hard choices necessary to jumpstart our economy and put the country on a path that will return us to fiscal responsibility. This means recognizing how we got into this fiscal mess—by not paying for our priorities, not planning for future emergencies, taking on more than we can afford, and damaging, expensive bailouts.

Yet we cannot fight our way out of this fiscal hole riding on the backs of our kids. It is wrong, and it is a disservice to them.

I support legislation to preserve teacher jobs. And the full Senate must do the same. In so many areas, our children are taking the brunt of our economic downturn. School is one place we have to try to inoculate from economic hardship.

Hundreds of thousands of teachers across the country—including an estimated 3,000 teachers in Colorado—are in jeopardy of losing their jobs if we do not act. Districts have already cut their budgets substantially. The education jobs package would preserve thousands of these middle-class jobs.

I am the first person to say that we cannot simply continue to do the same thing in education and expect a different result. We need to improve the system so it does a better job of supporting our teachers and educating students.

However, we cannot stand by while schools are devastated by layoffs. Allowing this would be a shortsighted blow against our communities.

The education jobs package would keep people working, and ensure that students can continue learning. This will actually spur economic recovery in the short run, preserving thousands of good jobs, and by laying the groundwork for our kids' success, it would foster prosperity in the long run.

Preserving teaching jobs is a commonsense investment. Yet inside the Beltway the livelihood of our teachers has become a political pawn. We have seen people using this money as a negotiating tool. And we have seen people force false choices between jobs and critical education reforms. Let's not play politics with our children's future.

I call on our colleagues to move quickly to pass an education jobs package and keep our teachers in the classroom so our kids have the tools they need to succeed.

TREATMENT OF END USERS

Mrs. LINCOLN. Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated June 30, 2010, from Senator DODD and me to House Chairmen PETERSON and FRANK regarding the treatment of end users in the Dodd-Frank Wall Street Reform and Consumer Protection Act, H.R. 4173.

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

U.S. SENATE,
Washington, DC, June 30, 2010.

Hon. Chairman BARNEY FRANK,
Financial Services Committee, House of Representatives, Rayburn House Office Building, Washington, DC.

Hon. Chairman COLLIN PETERSON,
Committee on Agriculture, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CHAIRMEN FRANK AND PETERSON: Whether swaps are used by an airline hedging its fuel costs or a global manufacturing company hedging interest rate risk, derivatives are an important tool businesses use to manage costs and market volatility. This legislation will preserve that tool. Regulators, namely the Commodity Futures Trading Commission (CFTC), the Securities and Exchange Commission (SEC), and the prudential regulators, must not make hedging so costly it becomes prohibitively expensive for end users to manage their risk. This letter seeks to provide some additional background on legislative intent on some, but not all, of the various sections of Title VII of H.R. 4173, the Dodd-Frank Act.

The legislation does not authorize the regulators to impose margin on end users, those exempt entities that use swaps to hedge or mitigate commercial risk. If regulators raise the costs of end user transactions, they may create more risk. It is imperative that the regulators do not unnecessarily divert working capital from our economy into margin accounts, in a way that would discourage hedging by end users or impair economic growth.

Again, Congress clearly stated in this bill that the margin and capital requirements are not to be imposed on end users, nor can the regulators require clearing for end user trades. Regulators are charged with establishing rules for the capital requirements, as well as the margin requirements for all uncleared trades, but rules may not be set in a way that requires the imposition of margin requirements on the end user side of a lawful transaction. In cases where a Swap Dealer enters into an uncleared swap with an end user, margin on the dealer side of the transaction should reflect the counterparty risk of the transaction. Congress strongly encourages regulators to establish margin requirements for such swaps or security-based swaps in a manner that is consistent with the Congressional intent to protect end users from burdensome costs.

In harmonizing the different approaches taken by the House and Senate in their respective derivatives titles, a number of provisions were deleted by the Conference Committee to avoid redundancy and to streamline the regulatory framework. However, a consistent Congressional directive throughout all drafts of this legislation, and in Congressional debate, has been to protect end users from burdensome costs associated with margin requirements and mandatory clearing. Accordingly, changes made in Conference to the section of the bill regulating capital and margin requirements for Swap Dealers and Major Swap Participants should not be construed as changing this important Congressional interest in protecting end users. In fact, the House offer amending the capital and margin provisions of Sections 731 and 764 expressly stated that the strike to the base text was made ''to eliminate redundancy.'' Capital and margin standards should be set to mitigate risk in our financial system, not punish those who are trying to hedge their own commercial risk.

Congress recognized that the individualized credit arrangements worked out between counterparties in a bilateral transaction can be important components of business risk management. That is why Congress specifically mandates that regulators permit the use of non-cash collateral for counterparty arrangements with Swap Dealers and Major Swap Participants to permit flexibility. Mitigating risk is one of the most important reasons for passing this legislation.

Congress determined that clearing is at the heart of reform—bringing transactions and counterparties into a robust, conservative and transparent risk management framework. Congress also acknowledged that clearing may not be suitable for every transaction or every counterparty. End users who hedge their risks may find it challenging to use a standard derivative contracts to exactly match up their risks with counterparties willing to purchase their specific exposures. Standardized derivative contracts may not be suitable for every transaction. Congress recognized that imposing the clearing and exchange trading requirement on commercial end-users could raise transaction costs where there is a substantial public interest in keeping such costs low (i.e., to provide consumers with stable, low prices, promote investment, and create jobs.)

Congress recognized this concern and created a robust end user clearing exemption for those entities that are using the swaps market to hedge or mitigate commercial risk. These entities could be anything ranging from car companies to airlines or energy companies who produce and distribute power to farm machinery manufacturers. They also include captive finance affiliates, finance arms that are hedging in support of manufacturing or other commercial companies. The end user exemption also may apply to our smaller financial entities—credit unions, community banks, and farm credit institutions. These entities did not get us into this crisis and should not be punished for Wall Street's excesses. They help to finance jobs and provide lending for communities all across this nation. That is why Congress provided regulators the authority to exempt these institutions.

This is also why we narrowed the scope of the Swap Dealer and Major Swap Participant definitions. We should not inadvertently pull in entities that are appropriately managing their risk. In implementing the Swap Dealer and Major Swap Participant provisions, Congress expects the regulators to maintain through rulemaking that the definition of Major Swap Participant does not capture companies simply because they use swaps to hedge risk in their ordinary course of business. Congress does not intend to regulate end-users as Major Swap Participants or Swap Dealers just because they use swaps to hedge or manage the commercial risks associated with their business. For example, the Major Swap Participant and Swap Dealer definitions are not intended to include an electric or gas utility that purchases commodities that are used either as a source of fuel to produce electricity or to supply gas to retail customers and that uses swaps to hedge or manage the commercial risks associated with its business. Congress incorporated a de minimis exception to the Swap Dealer definition to ensure that smaller institutions that are responsibly managing their commercial risk are not inadvertently pulled into additional regulation.

Just as Congress has heard the end user community, regulators must carefully take into consideration the impact of regulation and capital and margin on these entities.

It is also imperative that regulators do not assume that all over-the-counter transactions share the same risk profile. While uncleared swaps should be looked at closely, regulators must carefully analyze the risk associated with cleared and uncleared swaps and apply that analysis when setting capital standards for Swap Dealers and Major Swap Participants. As regulators set capital and margin standards on Swap Dealers or Major Swap Participants, they must set the appropriate standards relative to the risks associated with trading. Regulators must carefully consider the potential burdens that Swap Dealers and Major Swap Participants may impose on end user counterparties—especially if those requirements will discourage the use of swaps by end users or harm economic growth. Regulators should seek to impose margins to the extent they are necessary to ensure the safety and soundness of the Swap Dealers and Major Swap Participants.

Congress determined that end users must be empowered in their counterparty relationships, especially relationships with swap dealers. This is why Congress explicitly gave to end users the option to clear swaps contracts, the option to choose their clearinghouse or clearing agency, and the option to segregate margin with an independent 3rd party custodian.

In implementing the derivatives title, Congress encourages the CFTC to clarify through rulemaking that the exclusion from the definition of swap for ''any sale of a nonfinancial commodity or security for deferred shipment or delivery, so long as the transaction is intended to be physically settled'' is intended to be consistent with the forward contract exclusion that is currently in the Commodity Exchange Act and the CFTC's established policy and orders on this subject, including situations where commercial parties agree to ''book-out'' their physical delivery obligations under a forward contract.

Congress recognized that the capital and margin requirements in this bill could have an impact on swaps contracts currently in existence. For this reason, we provided legal certainty to those contracts currently in existence, providing that no contract could be terminated, renegotiated, modified, amended, or supplemented (unless otherwise specified in the contract) based on the implementation of any requirement in this Act, including requirements on Swap Dealers and Major Swap Participants. It is imperative that we provide certainty to these existing contracts for the sake of our economy and financial system.

Regulators must carefully follow Congressional intent in implementing this bill. While Congress may not have the expertise to set specific standards, we have laid out our criteria and guidelines for implementing reform. It is imperative that these standards are not punitive to the end users, that we encourage the management of commercial risk, and that we build a strong but responsive framework for regulating the derivatives market.

Sincerely,

CHAIRMAN CHRISTOPHER DODD,
Senate Committee on Banking, Housing, and Urban Affairs, U.S. Senate.

CHAIRMAN BLANCHE LINCOLN,
Senate Committee on Agriculture, Nutrition, and Forestry, U.S. Senate.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, earlier this week, I came to the Senate with the respected senior Senator from Tennessee and sought a time agreement to consider Jane Stranch of Tennessee, a judicial nomination that has been stalled by the Republican leadership for more than 8 months. It is one of more than 20 judicial nominations being delayed from Senate consideration by Republican objection. Despite the support of Senator ALEXANDER, the senior Senator from Tennessee who is part of the Republican leadership, the Republican leader objected to a time agreement to consider the Stranch nomination to the Sixth Circuit. I was disappointed, as I have been repeatedly by Republican obstruction since President Obama was elected.

Senate Republicans have further ratcheted up the obstruction and partisanship that have regrettably become commonplace this Congress with regard to judicial nominees. We asked merely for a time agreement to debate and vote on the nomination. I did not foreclose any Republican Senator from voting against the nominee or speaking against the nominee but simply wanted a standard agreement in order to allow the majority leader to schedule the debate and get to a vote. This is for a nomination reported favorably by the Judiciary Committee over eight months ago with bipartisan support. Yet the Republican leader objected and blocked our consideration.

No one should be confused: the current obstruction and stalling by Senate Republicans is unprecedented. There is no systematic counterpart by Senate Democrats. In fact, during the first 2 years of the Bush administration, the 100 judges confirmed were considered by the Democratically controlled Senate an average of 25 days from being reported by the Judiciary Committee. The average time for confirmed Federal circuit court nominees was 26 days. The average time for the 36 Federal circuit and district and circuit court judges confirmed since President Obama took office is 82 days and the average time for Federal circuit nominees is 126 days. So when Republicans say that we are moving faster than we did during the first 2 years of the Bush administration they are wrong. It was not until the summer of 2001 that the Senate majority shifted to Democrats, but as soon as it did, we proceeded on the judicial nominations of President Bush, a Republican President. Indeed, by this date during the second year of the Bush administration, the Senate had confirmed 58 of his judicial nominations and we were on the way to confirming 100 by the end of the year. By contrast, Republican obstruction of President Obama's judicial nominees has meant that only 36 of his judicial nominees have been confirmed. We have fallen dramatically behind the pace set for consideration of President Bush's nominees.

With respect to Senate Republican leadership's current practice of holding, delaying and obstructing Senate consideration of judicial nominees reported favorably by the Judiciary Committee, this is a tactic they reserve for nominees of Democratic Presidents. Indeed, when President Bush was in the White House, Senate Republicans took the position that it was unconstitutional and wholly inappropriate not to vote on nominees approved by the Senate Judiciary Committee. With a Democratic President, they have reverted to the secret holds that resulted in pocket filibusters of more than 60 nominees during the Clinton years. Last year, Senate Republicans successfully stalled all but a dozen Federal circuit and district court nominees. That was the lowest total number of judges confirmed in more than 50 years. They have continued that practice despite the fact that judicial vacancies continue to hover around 100, with more than 40 declared judicial emergencies.

Since the nomination of Jane Stranch of Tennessee is for a vacancy in the Sixth Circuit, when the Republican leader blocked consideration of her nomination earlier this week, I provided the history of how nominees to the Sixth Circuit by Presidents Clinton and Bush had been treated. Despite the fact that Senate Republicans had pocket filibustered President Clinton's nominees, Senate Democrats proceeded to consider President Bush's.

Today I would like to outline the recent history of the Fourth Circuit. Two nominees from North Carolina to the Fourth Circuit were the subject of a request for a time agreement by the Senator from North Carolina last week. The Republican leader objected to any agreement to debate and vote on those nominations, as well. I note that one of those North Carolina nominations was reported unanimously by the Judiciary Committee, and the other received six Republican votes in favor and only one vote against. They are supported by both Senators from North Carolina, one a Republican and one a Democrat. Still the Republican leadership refuses to allow the Senate to consider them.

When I became chairman of the Judiciary Committee midway through President Bush's first tumultuous year in office, I worked very hard to make sure Senate Democrats did not perpetuate the judge wars as tit-for-tat. In fact, we did not. Senate Republicans had pocket filibustered more than 60 of President Clinton's judicial nominations and refused to proceed on them. Included among these was one of the nominees from North Carolina now pending before us again, Judge Wynn. Nevertheless, during the 17 months I chaired the Judiciary Committee during President Bush's first 2 years in office, the Senate proceeded to confirm 100 of his judicial nominees. The Fourth Circuit was problematic, as I will explain, but we were able to make progress there as well. It was not as much progress as I would have liked, but during the Bush administration we were able to reduce the number of vacancies in the Fourth Circuit.

In contrast to the Republican Senate majority during the Clinton administration that obstructed nominations and more than doubled circuit court vacancies, Senate Democrats contributed to the reduction of circuit court vacancies by two-thirds during the Bush administration. The Senator from Kentucky complained last week about two nominations made during the 7th and 8th years of the Bush administration, including one that did not have the support of home State Senators. He did not mention that, during the Clinton administration, Senate Republicans pocket filibustered five of President Clinton's nominations to the Fourth Circuit, resulting in a doubling of Fourth Circuit vacancies, which rose from two to five. The Republican leader did not mention that Senate Republicans did not proceed on even one of President Clinton's Fourth Circuit nominees during the last three years of his administration or the fact that, by

contrast, Senate Democrats did proceed to confirm Judge Agee of Virginia to the Fourth Circuit in the last few months of the Bush administration.

The fact is that Senate Democrats did not do what Republicans are apparently now doing—retaliating for perceived slights. We did not engage in tit-for-tat. When I became chairman of the Judiciary Committee midway through President Bush's first year in office, the first nominee the Judiciary Committee and the Senate considered was a Virginia nominee to the Fourth Circuit. Judge Roger Gregory had been pocket filibustered by Senate Republicans after being nominated by President Clinton. We also considered and confirmed the controversial nomination of Judge Dennis Shedd from South Carolina to the Fourth Circuit before the end of that Congress. Senate Democrats cooperated in order to break a longstanding logjam that had prevented any North Carolina representation on the Fourth Circuit for many years with the confirmation of Judge Allyson Duncan to the Fourth Circuit in 2003.

In 2008, under my chairmanship of the Judiciary Committee, we moved forward to confirm Judge G. Steven Agee of Virginia to the Fourth Circuit. The confirmation of Judge Agee was one more Fourth Circuit confirmation than Senate Republicans would allow during the last 3 years of the Clinton administration and allowed us to reduce the vacancies on the circuit during the Bush administration by one. While I would have liked to have been more productive, and would have been had the Bush administration not been intent on packing the court, we were able to reduce the vacancies on the Fourth Circuit during the Bush administration and reverse the effect of Senate Republicans' obstruction of President Clinton's nominees. That is a more accurate snapshot of the recent history of the Fourth Circuit than the isolated nominations at the end of the Bush administration that the Republican leader referenced as if they justified his objection to proceeding to debate and vote on the consensus nominations of Judge James Wynn and Judge Albert Diaz now.

The Fourth Circuit is a good example of how much time and effort was wasted on ideological nominations by President Bush. For example, there was the highly controversial and failed nomination of William ''Jim'' Haynes II, to the Fourth Circuit. Senator GRAHAM of South Carolina criticized that nomination just recently during the Judiciary Committee consideration of the nomination of Elena Kagan to the Supreme Court. As general counsel at the Department of Defense, he was the architect of many discredited policies on detainee treatment, military tribunals, and torture. Mr. Haynes never fulfilled the pledge he made to me under oath at his hearing to supply the materials he discussed in an extended opening statement regarding his role in developing these policies and their legal justifications.

The Haynes nomination led the Richmond Times-Dispatch to write an editorial in late 2006 entitled ''No Vacancies,'' about the President's counterproductive approach to nominations in the Fourth Circuit. The editorial criticized the Bush administration for pursuing political fights at the expense of filling vacancies. According to the Times-Dispatch, ''The president erred by renominating . . . and may be squandering his opportunity to fill numerous other vacancies with judges of right reason.'' The Times-Dispatch editorial focused on the renomination of Mr. Haynes, but could just as easily have been written about other controversial Fourth Circuit nominees.

Another example is President Bush's nominations of Duncan Getchell, over the objections of both his home State Senators, a Republican and a Democrat. That nomination was later withdrawn.

Another example is President Bush's nomination of Claude Allen to a vacancy in Maryland, despite the fact that he was opposed by both Maryland Senators. That nomination was withdrawn and Allen was later arrested and convicted of fraud.

The President insisted on nominating and renominating Terrence Boyle over the course of 6 years to a North Carolina vacancy on the Fourth Circuit. This despite the fact that as a sitting U.S. district judge and while a circuit court nominee, Judge Boyle ruled on multiple cases involving corporations in which he held investments. The President should have heeded the call of North Carolina Police Benevolent Association, the North Carolina Troopers' Association, the Police Benevolent Associations from South Carolina and Virginia, the National Association of Police Organizations, the Professional Fire Fighters and Paramedics of North Carolina, as well as the advice of the Senator from North Carolina who opposed the nomination. Law enforcement officers from North Carolina and across the country opposed the nomination. Civil rights groups opposed the nomination. Those knowledgeable and respectful of judicial ethics opposed the nomination. President Bush persisted for 6 years before withdrawing the Boyle nomination.

I mention these ill-advised nominations because Senate Republicans seem to have forgotten this recent history and why there are continuing vacancies on the Fourth Circuit. The efforts and years wasted on President Bush's ideological nominations followed in the wake of the Republican Senate majority's refusal to consider President Clinton's Fourth Circuit nominees. All four nominees from North Carolina to the Fourth Circuit were blocked from consideration by the Republican Senate majority. These outstanding nominees included U.S. District Court Judge James Beaty, Jr., U.S. Bankruptcy Judge J. Richard Leonard, North Carolina Court of Appeals Judge James Wynn, and Professor Elizabeth Gibson. The failure to proceed on these nominations has yet to be explained. Had either Judge Beaty or Judge Wynn been considered and confirmed, he would have been the first African-American judge appointed to the Fourth Circuit.

In contrast, I worked to break through the impasse and to confirm Judge Allyson Duncan of North Carolina to the Fourth Circuit when President Bush nominated her. I also worked to reduce Federal judicial vacancies in North Carolina by confirming eight district court judges during the Bush administration. By contrast, during the entire 8 years of the Clinton administration, only one district court judge was allowed to be confirmed for North Carolina.

Overall judicial vacancies were reduced during the Bush years to less than 4 percent. Federal judicial vacancies are now over 10 percent. During the Bush years, the Federal circuit court vacancies were reduced from a high of 32 down to single digits after Senate Republicans had more than doubled circuit court vacancies during the last 6 years of the Clinton administration. Our progress has not continued with President Obama. Instead, Republican obstruction is putting that progress at risk. During the Bush years, we reduced vacancies on nine circuits. Since then, vacancies on six circuits have risen and circuit court vacancies have doubled from their low point.

There did come a time in the 108th Congress when President Bush and Senate Republicans were intent on packing the courts with ideologues, and the Republican chairman of the Judiciary rewrote or broke our rules and practices in his attempt to assist that effort. They forced filibusters of nominees. Most of those were ultimately confirmed and some withdrew, including Miguel Estrada who withdrew when the Bush administration would not accommodate Senate requests for access to information about his work. Senate Democrats did not replicate or retaliate for Republican excesses during the Clinton years. As chairman I proceeded on judicial nominees I opposed, I made blue slips public and Senate Democrats debated judicial nominees in public and gave their reasons for opposition rather than relying as Senate Republicans had on secret holds and pocket filibusters.

I have not done what the Republican chairman did. I have respected and protected the rights of the minority. I have followed our rules and practices. President Obama has not done what President Bush did by making nominations opposed by home State Senators. Instead, President Obama has reached out and worked with home State Senators from both parties. He has identified well-qualified nominees. Despite our efforts, the qualifications of the nominees, and the support of home State Senators, including Republican

Senators, Senate Republicans have filibustered, obstructed and delayed consideration of President Obama's judicial nominees favorably reported by the Judiciary Committee.

I have tried to ratchet up the cooperation between parties and branches in my role as chairman. It is disappointing to see the Senate Republican leadership take the opposite approach. They are holding up for no good reason consideration of nominees reported from the Judiciary Committee for weeks and months. Their pattern is to stall and obstruct. Republicans' sense of injury is misplaced in my view. Moreover, the disproportionateness of their response to perceived slights disserves the American people and our Federal justice system.

I was interested to see the Republican leader in his statement last week claim credit for the confirmations of Judge Andre Davis of Maryland and Judge Barbara Keenan of Virginia to the Fourth Circuit. I would be delighted to praise the Republican leader were he to work with us, and I look forward to doing so were he to agree without further delay to debates and prompt votes on the more than 20 judicial nominees now being stalled by Republican objection.

Let us remember what happened with the two nominees he now mentions: the nomination of Judge Andre Davis was stalled for 5 months after being reported by the Judiciary Committee with a strong bipartisan majority by a vote of 16 to 3. Some would say this nomination was delayed for 10 years since Judge Davis had been nominated by President Clinton toward the end of his administration in 2000 and was not confirmed until 2010. Judge Davis was a well-respected judge who had served for 14 years as a Federal district judge and before that for 8 years as a Maryland State court judge and had received the highest rating by the ABA. I understand why the Republican leader ultimately voted for him, along with more than 70 other Senators who provided a strong bipartisan majority once Republicans allowed the vote to proceed. It is up to each Senator how he or she chooses to vote. My concern is that the debate and vote on the nomination was needlessly stalled for 5 months.

The case of Judge Barbara Keenan is even more troubling. Judge Keenan had been a judge for 29 years and served on each of the four levels of Virginia State courts. The ABA awarded her its highest rating as did the Virginia State Bar. Judge Keenan's nomination was reported unanimously by the Judiciary Committee on October 29, 2009. It took until March 2, more than 4 months, to get the Senate to debate and vote on this nomination after it was unanimously reported. And even that does not fully indicate the Republican obstruction. It also took the majority leader's filing a cloture petition to bring the nomination to a vote. Having refused to agree to a time agreement on this consensus nomination, the Senate had to invoke cloture to end the stalling. When the vote was finally taken, it was unanimous. No Senator voted against this nomination or spoke against it. So, I asked, why the stalling? Tragically, that stalling and obstruction has continued and is continuing. I said then that even when Republicans cannot say no, they nonetheless demand that the Senate go slow. This is wrong. Judge Keenan's nomination is just one example from several where after stalling and delaying consideration for weeks and months for no good reason, Senate Republicans do not vote against the nomination.

I suspect that will happen again with the North Carolina nominees to the Fourth Circuit whose consideration the Republican leader objected to last week. After all, they were reported 18 to 1 and 19 to 0. Judge James Wynn of North Carolina and Judge Albert Diaz of North Carolina are examples of the judicial nominees being stalled who would be confirmed by the Senate if the Senate Republican leadership would agree to debate and vote on them. The list includes not only the 21 Federal circuit and district court nominees currently stalled by Republican objection from final Senate consideration, but also many of the 36 confirmed but who were needlessly delayed. What is being perpetuated is a shame that does harm to the American people and the Federal courts.

REMEMBERING FIRST LIEUTENANT VERNON BAKER

Mr. BARRASSO. Mr. President, I rise today to pay tribute to 1LT Vernon Baker, a native of Cheyenne, WY. Our Nation has lost a son of Wyoming and hero of World War II.

First Lieutenant Baker not only fought the fascist Axis powers but he also fought to serve in a segregated U.S. Army. Vernon Baker's life story is a testament to no door or opportunity can be permanently shut in the United States.

As a young man, Mr. Baker made the decision to serve his country in World War II by joining the U.S. Army. He was initially told by Army recruiters he could not sign up because he was Black. His determination to serve his country was not deterred. Vernon returned to the Cheyenne recruiting office and found a recruiter who would sign him up.

First Lieutenant Baker went on to serve with the 92nd Infantry Division's 370th Regiment, an all Black unit in Italy. Throughout his World War II service, Mr. Baker was awarded the Bronze Star, Purple Heart, and the Distinguished Service Cross. Fifty years later, First Lieutenant Baker was awarded the Medal of Honor for his leadership and bravery in destroying a number of German positions near Viareggio, Italy, almost single handedly.

I thank Mr. Baker for his service. Mr. Baker is survived by wife Heidy, four children, and a grandson.

Mr. President, I ask unanimous consent to have printed in the RECORD First Lieutenant Baker's Medal of Honor citation and an article that appeared in the Casper Star Tribune.

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

Citation: For extraordinary heroism in action on 5 and 6 April 1945, near Viareggio, Italy. Then Second Lieutenant Baker demonstrated outstanding courage and leadership in destroying enemy installations, personnel and equipment during his company's attack against a strongly entrenched enemy in mountainous terrain. When his company was stopped by the concentration of fire from several machine gun emplacements, he crawled to one position and destroyed it, killing three Germans. Continuing forward, he attacked an enemy observation post and killed two occupants. With the aid of one of his men, Lieutenant Baker attacked two more machine gun nests, killing or wounding the four enemy soldiers occupying these positions. He then covered the evacuation of the wounded personnel of his company by occupying an exposed position and drawing the enemy's fire. On the following night Lieutenant Baker voluntarily led a battalion advance through enemy mine fields and heavy fire toward the division objective. Second Lieutenant Baker's fighting spirit and daring leadership were an inspiration to his men and exemplify the highest traditions of the Armed Forces.

[From the Associated Press]

MEDAL OF HONOR HERO DIES

WYOMING NATIVE OVERCAME DISCRIMINATION, SEGREGATION IN MILITARY

(By Rebecca Boone)

ST. MARIES, IDAHO.—Wyoming native Vernon Baker, who belatedly received the Medal of Honor for his role in World War II, died at his home near St. Maries, Idaho. He was 90.

Baker died Tuesday of complications of brain cancer, Benewah County Coroner and funeral home owner Ron Hodge said.

Then-President Bill Clinton presented the nation's highest award for battlefield valor to Baker in 1997. He was one of just seven black soldiers to receive it and the only living recipient.

"The only thing that I can say to those who are not here with me is, 'Thank you, fellas, well done,'" Baker told The Washington Post after the ceremony. "'And I will always remember you.'"

In 1944, 2nd Lt. Baker was sent to Italy with a full platoon of 54 men. On April 5, he and his soldiers found themselves behind enemy lines near Viareggio, Italy.

When concentrated enemy fire from several machine gun emplacements stopped his company's advance, Baker crawled to one and destroyed it, killing three Germans. Continuing forward, he attacked an enemy observation post and killed two occupants.

With the aid of one of his men, Baker attacked two more machine gun nests, killing or wounding the four enemy soldiers occupying these positions. Then he covered the evacuation of his wounded soldiers by occupying an exposed position and drawing the enemy's fire.

On the following night, Baker voluntarily led a battalion advance through enemy mine fields and heavy fire.

In all, Baker and his platoon killed 26 Germans and destroyed six machine gun nests, two observer posts and four dugouts.

He said later he felt the company commander, who said he was going to get reinforcements, had abandoned his group of men. ''It made me all the more determined to accomplish our mission,'' he told the PBS series ''American Valor.'' ''Because at that time the Army was segregated. It was thought that we were unable to fight.''

No black soldiers were awarded the Medal of Honor during World War II, although Baker did receive the Purple Heart, a Bronze Star and Distinguished Service Cross.

In 1993, U.S. Army officials contracted Shaw University in Raleigh, N.C., to determine if there was a racial disparity in the way Medal of Honor recipients were selected. The university researchers found that there was, and recommended 10 soldiers to receive it. From that list, Pentagon officials picked seven.

But there was one problem—the statutory limit for presentation had expired. Congress was required to pass legislation that allowed the president to award the Medals of Honor so long after the action.

Baker was the only recipient still living; the other six soldiers received their awards posthumously, with their medals being presented to family members.

Baker was initially rebuffed when he tried to join the Army. Baker said in an interview with public television that a recruiter told him that there was no quota for enlisting ''you people.''

Reflecting on life in a segregated Army unit, he told The Washington Post, ''I was an angry young man. We were all angry. But we had a job to do, and we did it.'' He added, though, that he ''knew things would get better, and I'm glad to say that I'm here to see it.''

Baker returned to his northern Idaho home after the war. When he received a call telling him he was to receive a Medal of Honor, at first he was astonished. Then he was angry.

''It was something that I felt should have been done a long time ago,'' he told Idaho public television. ''If I was worthy of receiving the Medal of Honor in 1945, I should have received it then.''

Baker called his 1997 memoir ''Lasting Valor.''

U.S. Rep. Walt Minnick said he met Vernon Baker in the 1990s when the soldier spoke at a College of Idaho event. Minnick said he'd been expecting a tough, battle-hardened soldier, but says he was instead struck by Baker's gentle demeanor. Minnick said Baker's valor on the battlefield in Italy was a rebuke of racist policies that dominated the U.S. military into the middle of the last century.

''His actions on the front line demonstrates better than words can describe why discrimination and segregation in the military was both unfair and absolutely inconsistent with an effective fighting force,'' Minnick said. ''He demonstrated a degree of courage few people have. He was prepared to give his life for his country—a country in which he was considered a second-class citizen.''

Baker was born in 1919 in Wyoming. Orphaned as a small child, he was raised by his grandparents in Cheyenne. He was working as a railroad porter when he decided to join the Army in mid-1941, a few months before Pearl Harbor.

In 2004, Baker underwent emergency surgery to remove a malignant brain tumor. Before he fell ill, he had failed to sign up for benefits from Veterans Affairs and Medicare, not realizing what the requirements were. Community members and politicians in Idaho pitched in to help him get aid for his unpaid medical bills.

Hodge said Baker continued to battle brain cancer over the next years, and he recently began receiving hospice care at his home. Baker was surrounded by his family when he died Tuesday evening.

Hodge said Baker's wife, Heidi Baker, plans to have a memorial service in St. Maries but the arrangements have not yet been made. He said Heidi Baker also planned to talk with military officials about possibly having Baker buried at Arlington National Cemetery.

A war hero, Baker was also a man of peace. After receiving the award, he told a newspaper reporter for the Moscow-Pullman Daily News: ''I hope never to see someone else having the Medal of Honor hung around his neck by the president of the United States. You young people coming up, please don't take war as a solution to a problem. God gave you the brains to think and not to use violence as a means to an end.''

ADDITIONAL STATEMENTS

GANN VALLEY, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, today I pay tribute to the 125th anniversary of the population center of our State, Gann Valley. This community, just 15 minutes away from the Missouri River, is the county seat of Buffalo County.

Gann Valley was named after Herst Gann, one of the area's pioneers as well as the publisher of one of two local newspapers. Gann also donated the courthouse when the town was founded on January 14, 1885. Since the railroad never came through, a freight line made three trips a week to neighboring Kimball to bring in goods for the town and ship out the products from the town's creamery.

Gann Valley will spend Saturday, July 31, celebrating this historic milestone. A wagon train will arrive in the morning to kick off the festivities, followed by a parade, games, a dance, and more. Small towns like Gann Valley are the backbone of South Dakota, and I am proud to recognize the people who live in and around this great community.●

TIMBER LAKE, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, today I pay tribute to the 100th anniversary of Timber Lake, SD, on the Cheyenne River Sioux Indian Reservation. The county seat of Dewey County, this small town embodies South Dakota values.

Originally established by the Secretary of the Interior, the land plots were so popular that 1,000 people camped out when the land went on sale. The town grew quickly with many ''tent stores'' springing up. Settlers arrived before the railroad did, so building materials were brought in by wagon. The Milwaukee Railroad quickly realized the demand for a railroad through Timber Lake, and by May, trains were reaching the thriving new town. Timber Lake officially incorporated in February 1911. The census in 1920 showed a population of 555, making it officially a city of the second class.

In the early 1920s, sewer lines were laid for a town septic system. The digging machine unearthed a metal object, which was put in the bank. Upon further examination, and after it was cleaned, it was determined to be a sculpture of two hands clasping a rose branch with a snake winding through the hands. The origin of this unexpected find is still unknown.

To honor its 100 year anniversary, the Timber Lake community is having a ''Days of 1910'' celebration, complete with a banquet, a talent show and play, and a viewing of 4–H exhibits. I am proud to recognize them on their historic milestone, and I look forward to seeing what else this great town accomplishes.●

TRIBUTE TO SONYA DAMSKER LEFKOVITS

● Mr. SHELBY. Mr. President, today I wish to pay tribute to Sonya Damsker Lefkovits, who is being honored by the Columbiana Chamber of Commerce for her dedication and service to her community.

Sonya was born May 6, 1923, in Memphis, TN, to Louis and Helen Richberger Damsker. Raised in Tyler, TX, Sonya graduated from Tyler High School and went on to attend Louisiana State University, where she earned a degree in public school music. Following her graduation at LSU, Sonya moved to Birmingham to work at the Jewish Welfare Board as its first activities director. It was there that she met her future husband, Norman Leo Lefkovits.

In July, 1947, Sonya married Norman Leo Lefkovits, and she moved to Columbiana to operate the Lefkovits family mercantile store, The Columbiana Leader. Since arriving in Columbiana, AL, nearly 63 years ago, Sonya has been an integral member of her community. In 1949, she became a charter member of the Vignette Club, which gave her the opportunity to participate in various community projects. Among her proudest achievements was working on the building committee during the construction of the Columbia Library when she was chairman of the Columbiana Library Board.

Sonya has also held various community leadership positions. She was a member of the Shelby County High School Band Boosters Club, the womens coordinator for the Columbiana Civil Defense Organization, and co-chairman of the Shelby County Civil War Centennial Commemoration. Sonya was an active member of the Shelby County Historical Society. In 1999, Sonya helped to form the Columbiana Merchants and Professional Association, where she worked on the Columbiana Downtown Renovation Committee. She also served as an ambassador to the South Shelby Chamber of Commerce.

Sonya has two children, Norman Leo Lefkovits, Jr. and Marsha Phyllis Lefkovits, both of whom now reside in California. In the early 1980s, Marsha

served with distinction as a member of my staff in Washington, DC. Soon, Sonya will be leaving Columbiana to join her children on the west coast.

I am sure that Sonya will be sorely missed in Columbiana, whose residents will reap the benefits of her contributions to their community for years to come. Regardless of where she resides, I know that she will continue to touch the lives of everyone fortunate enough to meet her.

I wish Sonya luck on her journey west, and I ask this entire Senate to join me in recognizing and honoring the life and career of my good friend Sonya Lefkovits.●

RECOGNIZING AXIOM TECHNOLOGIES

● Ms. SNOWE. Mr. President, I have long held the belief that the availability of broadband undoubtedly contributes to business expansion, employment growth, and greater educational opportunities. Indeed, the Internet can truly transform the way small firms do business. This is particularly the case in places like my home State of Maine, which is not only largely rural, but is home to over 150,000 small businesses. As such, it is with great admiration that today I recognize Axiom Technologies, based in the town of Machias, for the firm's outstanding commitment to the goal of bringing broadband Internet service to rural Maine communities that have not previously known its remarkable power.

Founded in 2004 by Nelson Geel and Chris Moody, Axiom originally sought to provide inexpensive consulting services to small businesses and communities in Washington County, Maine's easternmost county. Yet the two quickly realized that there was a growing desire for affordable broadband in the area, which was largely overlooked by corporate providers. As such, the company reevaluated its business vision in an attempt to allow rural areas of the State to benefit from the same advantages of broadband Internet provided to Maine's more urban regions.

In addition to operating on a sustainable financial basis, Axiom Technologies prides itself on always attempting to hold true to a unique social mission as well. Axiom is well aware ''of the central role that business plays in society'' and seeks to solidify this responsibility ''by initiating innovative ways to improve the quality of life in the communities in which [it] operate[s].'' Not only has the company done this by spreading equality of access to information through broadband services, but its employees also take it upon themselves to improve their community.

One shining example is Susan Corbett, Axiom's CEO, who was instrumental in the development of a type of community-minded, service-based listserv for Washington County called Mighty Women. In 2006, she, along with some of her entrepreneurial and social service peers, created the ''rolodex'' of e-mail contacts that could be solicited to assist those in need throughout eastern Maine. Indeed, in 2009, the Mighty Women listserv mobilized to raise last minute funds for Washington county children who were in need of toys and warm clothing for the holiday season. With just a week before Christmas, the group raised approximately $3,000 to help give the children the holiday joy that they deserved.

People such as Susan Corbett are representative of the family-like mentality which Axiom Technologies hopes to foster among its employees and within the greater community. Small businesses around the country have historically helped build a sense of community in the areas in which they operate, and Axiom is no exception. The ability to access information via broadband should be something available to all people across America, and Axiom Technologies has built its business around fulfilling this goal. The company has done it economically, but most inspiringly, Axiom has attempted to promote the well-being of the people in the communities they serve. When a business cares about helping others as does Axiom, the community can rest assured that Axiom's employees share their goals and aspirations for improving the overall community.

While small businesses are duly noted as the drivers of the Nation's economy, they cannot be overlooked for their positive social impacts on the communities in which they operate. Although they may serve a relatively small market, Axiom is certainly on the cutting edge when it comes to promoting broadband equality, a goal of national importance. I thank everyone at Axiom for their numerous and varied contributions to the health of Maine's economic future and general welfare, and I wish them much success in the years to come.●

TRIBUTE TO ALTON ''RED'' FRANKLIN

● Mr. VITTER. Mr. President, today I wish to acknowledge Coach Alton ''Red'' Franklin for his dedicated service to Louisiana and in particular to Haynesville High School in northern Louisiana. I would like to take some time to make a few remarks on his accomplishments.

Throughout his distinguished career as the Haynesville High School football coach, he won 27 district championships and participated in the State playoffs 31 times. The team had 8 undefeated seasons and 191 shutouts. Coach Franklin led the team to 11 State championships in four decades winning four consecutive State championships from 1993 to 1996. Coach Franklin was inducted in the Louisiana High School Coaches Association Hall of Fame in 1991. He was also named State coach of the year 6 times and district coach of the year 23 times throughout his career.

When Coach Franklin retired in January of 2002, he retired as the second most winningest football coach in Louisiana history and number 15 nationally. Coach Franklin had accumulated a remarkable record of 366 wins, 76 losses, and 8 ties.

Even after his outstanding career, Red Franklin continued to be actively involved in his community, returning to Haynesville High in 2003 as a volunteer assistant coach for his son David, the current head coach. In 2009, Red Franklin won his first State championship as an assistant coach to his son. On July 10, 2010, Red Franklin received the high honor of being inducted into the National Federation of State High School Associations Hall of Fame Class of 2010.

Thus, today, I honor a fellow Louisianian, Coach Alton ''Red'' Franklin, for his exceptional and distinguished service to Haynesville High School and to our State.●

MESSAGES FROM THE HOUSE

At 11:13 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2693. An act to amend title VII of the Oil Pollution Act of 1990, and for other purposes.

H.R. 4380. An act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, and for other purposes.

H.R. 5566. An act to amend title 18, United States Code, to prohibit interstate commerce in animal crush videos, and for other purposes.

H.R. 5716. An act to provide for enhancement of existing efforts in support of research, development, demonstration, and commercial application activities to advance technologies for the safe and environmentally responsible exploration, development, and production of oil and natural gas resources.

The House also announced it passed the following bill, without amendment:

S. 1053. An act to amend the National Law Enforcement Museum Act to extend the termination date.

The message further announced that the House agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 292. Concurrent resolution supporting the goals and ideals of National Aerospace Week, and for other purposes.

At 3:00 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House agreed to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 4213) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

ENROLLED BILL SIGNED

At 4:31 p.m., a message from the House of Representatives, delivered by

Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4213. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. INOUYE).

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2693. An act to amend title VII of the Oil Pollution Act of 1990, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 292. Concurrent resolution supporting the goals and ideals of National Aerospace Week, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 3628. A bill to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3643. A bill to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, to improve oil spill compensation, to terminate the moratorium on deepwater drilling, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–6789. A communication from the Director of the Regulatory Review Group, Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Dairy Product Price Support Program and Dairy Indemnity Payment Program'' (RIN0560–AH88) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6790. A communication from the Director of the Regulatory Review Group, Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Wheat and Oilseed Programs; Durum Wheat Quality Program'' (RIN0560–AH72) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6791. A communication from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, the Board's semiannual Monetary Policy Report to the Congress; to the Committee on Banking, Housing, and Urban Affairs.

EC–6792. A communication from the Deputy Assistant General Counsel, Office of Aviation Enforcement and Proceedings, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Posting of Flight Delay Data on Websites'' (RIN2105–AE02) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6793. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Abatement of Highway Traffic Noise and Construction Noise'' (RIN2125–AF26) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6794. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Skate Complex Fishery; Amendment 3'' (RIN0648–AW30) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6795. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 21'' (RIN0648–AY43) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6796. A communication from the Acting Director for Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Closure'' (RIN0648–XW90) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6797. A communication from the Acting Director for Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Suspension of the Primary Pacific Whiting Season for the Shore-based Sector South of 42 Degrees North Latitude'' (RIN0648–XW80) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6798. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Model 777 Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2009–1249)) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6799. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Re-Registration and Renewal of Aircraft Registration'' ((RIN2120–AI89) (Docket No. FAA–2008–0188)) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6800. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft; Modifications; OMB Approval of Information Collection'' ((RIN2120–AJ10) (Docket No. FAA–2007–29015)) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6801. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—August 2010'' (Rev. Rul. 2010–19) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Finance.

EC–6802. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Preventive Services Under the Patient Protection and Affordable Care Act'' ((RIN1545–BJ60) (TD 9493)) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Finance.

EC–6803. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, a report entitled, ''2010 Data Book: Healthcare Spending and the Medicare Program''; to the Committee on Finance.

EC–6804. A communication from the General Counsel of the Department of Defense, transmitting a legislative proposal relative to authorizing the President to transfer certain naval vessels by grant; to the Committee on Foreign Relations.

EC–6805. A communication from the General Counsel, Occupational Safety and Health Review Commission, transmitting, pursuant to law, the report of a rule entitled ''Regulations Implementing the Freedom of Information Act'' (29 CFR Part 2201) received in the Office of the President of the Senate on July 21, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–6806. A communication from the Chief Privacy Officer, Privacy Office, Department of Homeland Security, transmitting, pursuant to law, a report entitled ''Privacy Office Third Quarter Fiscal Year 2010 Report to Congress''; to the Committee on Homeland Security and Governmental Affairs.

EC–6807. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Tribal-State Road Maintenance Agreements Report; to the Committee on Indian Affairs.

EC–6808. A communication from the Department of State, transmitting, a report on the Verification of the Treaty Between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms (The New START Treaty) (OSS Control No. 2010–1146) signed in April 8, 2010 in Prague; to the Committee on the Judiciary.

EC–6809. A communication from the Department of State, transmitting, pursuant to law, a report relative to the transfer of detainees (OSS Control No. 2010–1061); to the Committee on the Judiciary.

EC–6810. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report relative to the progress and status of compliance with

the privatization requirements of the National Capital Revitalization and Self-Government Improvement Act of 1997; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–131. A resolution adopted by the Senate of the State of Louisiana urging Congress to oppose the creation of a new consumer regulatory agency for FDIC insured institutions; to the Committee on Banking, Housing, and Urban Affairs.

SENATE RESOLUTION, NO. 147

Whereas, H.R. 4173 and S. 3217 are sweepingly broad bills pending in conference in the United States Congress that would restructure the financial regulatory system; and

Whereas, both measures would create a new Consumer Financial Protection Agency/Bureau with overly broad powers that would have complete authority over Louisiana banks and thrifts with respect to writing future consumer regulations; and

Whereas, although improvements can and should be made to further protect consumers from unscrupulous practices, the creation of an enormous, new federal bureaucracy is the wrong approach because it will harm both Louisiana banks and their customers; and

Whereas, Louisiana banks and thrifts will be subject to greatly increased regulation and compliance costs, which will hamper their ability to effectively serve their customers' needs; and

Whereas, this increased regulatory burden will likely lead to increased costs of obtaining credit for consumers and overall less access to financial products and services; and

Whereas, the vast majority of FDIC insured institutions, especially Louisiana banks and thrifts, did not contribute to the financial crisis, yet would be subject to the broad jurisdiction of this proposed agency; and

Whereas, Louisiana banks and thrifts are already heavily regulated and examined on a regular basis for compliance with existing consumer laws and safety and soundness; and

Whereas, this new proposed agency, which has no experience as a bank regulator, would likely create a mountain of new regulation that is one sided in its focus without balancing bank safety and soundness considerations of the financial institution; and

Whereas, this will put Louisiana banks and thrifts in a position where they must try to comply with conflicting mandates that ultimately could put their businesses at risk; and

Whereas, creating another layer of bureaucracy in the banking industry also does not address the gaps in regulation that exist with respect to non-bank lenders; and

Whereas, the Obama administration itself has acknowledged that 94% of the high-cost mortgage loans that have so damaged our economy were made by non-bank financial companies; and

Whereas, with this in mind, Congress should concentrate on improving the supervision and examination of such non-bank institutions rather than adding to an already large regulatory compliance structure for banks and thrifts. Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to oppose the creation of a new consumer regulatory agency for FDIC insured institutions. Be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–132. A resolution adopted by the Senate of the State of Louisiana urging the federal government to explore creating a federal entity to oversee and enforce federal, state, and local safety regulations on all deep-water drilling rigs; to the Committee on Energy and Natural Resources.

SENATE RESOLUTION NO. 136

Whereas, the safety of all individuals working on deep-water drilling rigs is paramount and a top priority; and

Whereas, after a tragedy like the Deepwater Horizon, governments at every level need to look at ways to incorporate new ideas and rules to prevent similar tragedies from happening again; and

Whereas, after the attacks on September 11, 2001, the federal government created the Transportation Security Administration and the office of law enforcement, Federal Air Marshal Service, to address the security issues that were highlighted by the attacks; and

Whereas, it is necessary for the well-being of this state and this country to have deepwater drilling rigs operating in the absolute safest manner possible; and

Whereas, the implementation of a federal entity whose sole job is to oversee the safety of all deep-water drilling rigs is a necessary and appropriate step in light of the Deepwater Horizon tragedy; and

Whereas, this federal entity may operate in a similar fashion to the Federal Air Marshal Service, with a federal employee stationed on every deep-water drilling rig.

Therefore, be it

Resolved, That the Senate of the Legislature of Louisiana does hereby urge and request the federal government explore creating a federal entity to oversee and enforce federal, state, and local safety regulations on all deep-water drilling rigs. Be it further

Resolved, That a copy of this Resolution be transmitted to secretary Ken Salazar, the United States Department of the Interior, and to each member of the Louisiana Congressional delegation.

POM–133. A resolution adopted by the Senate of the State of Louisiana urging the Department of Commerce to establish a foreign trade zone in the Delta region of Louisiana; to the Committee on Finance.

SENATE RESOLUTION NO. 125

Whereas, foreign-trade zones, established under the Foreign-Trade Zone Act of 1934, are secure areas under United States Customs and Border Protection supervision that are free-trade zones; and

Whereas, usual formal entry procedures and payments of duties are not required on foreign merchandise entering the zone unless it enters the territory for domestic consumption, at which point the importer generally has the choice of paying duties at the rate of either the original foreign materials or the finished product; and

Whereas, domestic goods moved into the zone for export may be considered exported upon admission to the zone for the purpose of excise tax rebates and drawback; and

Whereas, qualified public or private corporations may operate facilities within the zone; and

Whereas, foreign-trade zones offer several commercial advantages, such as the following:

(1) Customs and Border Protection duty and federal excise taxes, if applicable, are paid when merchandise is transferred from the zone for consumption;

(2) Goods may be exported from the zone free of duty and excise tax;

(3) Customs of Border Protection security requirements provide protection against theft;

(4) Merchandise may remain in the zone indefinitely; and

Whereas, the Mississippi River is a strategic asset to international manufacturers; and

Whereas, Act No. 347 of the 2007 Regular Session of the Legislature of Louisiana enacted Louisiana Revised Statutes 3:33, the Delta Develop Initiative; and

Whereas, Act 347 defined the ''Delta Region'' to include Caldwell, Catahoula, Concordia, East Carroll, Franklin, Madison, Morehouse, Ouachita, Pointe Coupee, Richland, Tensas, and West Carroll parishes, a cross roads intersection of the Mississippi River and the 1–20 corridor that connects the South Central United States from Dallas, Texas to Atlanta, Georgia; and

Whereas, a proposed foreign-trade zone in the Delta region could consolidate marine, rail and base transport; offer industrial storage facilities; provide light assembly, warehousing and logistics services; and provide inbound and outbound connections to rail, truck, air, and barge transportation. Therefore, be it

Resolved, That the Senate of the Legislature of Louisiana does hereby urge and request the United States Department of Commerce to establish a foreign trade zone in the Delta region of Louisiana. Be it further

Resolved, That a copy of this Resolution be transmitted to the secretary of the United States Department of Commerce, each member of the Louisiana Congressional delegation, and the governor of Louisiana.

POM–134. A concurrent resolution adopted by the Legislature of the State of Louisiana urging Congress to continue to support and invest in the National Cancer Institute Community Cancer Centers Program; to the Committee on Health, Education, Labor, and Pensions.

SENATE CONCURRENT RESOLUTION NO. 122

Whereas, the National Cancer Institute (NCI) Community Cancer Centers Program (NCCCP) began in 2007 to provide community cancer centers and their patients across the United States better access to the most advanced cancer research; and

Whereas, NCI estimates that the vast majority of cancer patients (about 85 percent) are treated at community hospitals in or near the communities in which they live and only about 15 percent of U.S. cancer patients are diagnosed and treated at the nation's major academic-based cancer centers; and

Whereas, many patients choose community hospitals because they are close to family, friends, and jobs, whereas treatment at the major cancer centers may require long commutes or extended stays away from home; and

Whereas, the NCCCP extends NCI programs into local communities, giving patients easier access to state-of-the-art cancer care and clinical trial opportunities; and

Whereas, the NCI Community Cancer Centers Program has formed a national network of community cancer centers to expand cancer research and deliver the most advanced cancer care to more Americans in the communities where they live; and

Whereas, the Cancer Program of Our Lady of the Lake and Mary Bird Perkins was one of only 16 community cancer programs in the country selected to participate in the NCI Community Cancer Centers Program because of its proven medical leadership, phenomenal community outreach and experience in conducting clinical trials; and

Whereas, the Cancer Program of Our Lady of the Lake and Mary Bird Perkins was the

only cancer program in Louisiana, and the only program in the Gulf South, selected for the NCI Community Cancer Centers Program; and

Whereas, the NCI Community Cancer Centers Program is designed to create a community-based cancer center network to support basic, clinical and population-based research initiatives, addressing the full cancer care continuum from prevention, screening, diagnosis, treatment and survivorship through end-of-life care; and

Whereas, the seven major focus areas of the NCI Community Cancer Centers Program are to reduce cancer healthcare disparities, improve quality of care, increase participation in clinical trials, enhance cancer survivorship and palliative care services, participate in biospecimen research initiatives to support personalized medicine, expand use of electronic health records and connect to cancer research data network and enhance cancer advocacy; and

Whereas, the sixteen initial pilot hospitals have made considerable progress toward achieving the major program goals and are defining for NCI what it takes to build a national network of community hospitals that are fully engaged in cancer research and offer the latest evidence-based, multidisciplinary care to diverse populations in their home communities; and

Whereas, funding from the American Recovery and Reinvestment Act helped the NCI Community Cancer Centers Program expand from its original pilot network of sixteen to thirty hospitals in twenty-two states. Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to continue to support and invest in the National Cancer Institute Community Cancer Centers Program, a vital and innovative program that is transforming the way cancer care is delivered across the nation. Be it further

Resolved, That a copy of this Resolution be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM–135. A concurrent resolution adopted by the Legislature of the State of Louisiana urging Congress to adopt and submit to the states for ratification the Parental Rights Amendment to the Constitution of the United States; to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION NO. 38

Whereas, the right of parents to direct the upbringing and education of their children is a fundamental right protected by the Constitution of the United States and the Constitution of Louisiana; and

Whereas, our nation has historically relied first and foremost upon parents to meet the real and constant needs of children; and

Whereas, the interests of children are best served when parents are free to make child-rearing decisions about education, religion, and other areas of a child's life without state interference; and

Whereas, the United States Supreme Court, in Wisconsin v. Yoder, 406 U.S. 205 (1972), held that ''This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition''; and

Whereas, however, in Troxel v. Granville, 530 U.S. 57 (2000), six justices of the United States Supreme Court filed opinions on the nature and enforceability of parental rights under the Constitution of the United States; and

Whereas, the number of written opinions in Troxel v. Granville has created confusion and ambiguity about the fundamental nature of parental rights in the laws and society of the several states; and

Whereas, H. J. Res. 42 and S.J. Res. 16 were introduced during the First Session of the 111th Congress to provide for an amendment to the United States Constitution to prevent erosion of the enduring American tradition of treating parental rights as fundamental rights, and the legislation states:

''Section One: The liberty of parents to direct the upbringing and education of their children is a fundamental right.

Section Two: Neither the United States nor any State shall infringe upon this right without demonstrating that its governmental interest as applied to the person is of the highest order and not otherwise served.

Section Three: No treaty may be adopted nor shall any source of international law be employed to supersede, modify, interpret, or apply to the rights guaranteed by this article''; and

Whereas, this amendment would add explicit text to the Constitution of the United States to forever protect the rights of parents as they are now enjoyed, without substantive change to current state or federal laws respecting these rights; and

Whereas, the enumeration of these rights in the text of the Constitution of the United States would preserve these rights from being infringed upon by shifting ideologies and interpretations of the United States Supreme Court. Therefore, be it

Resolved, that the Legislature of Louisiana memorializes the Congress of the United States to adopt and submit to the states for ratification the Parental Rights Amendment to the Constitution of the United States. Be it further

Resolved, that a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DORGAN, from the Committee on Appropriations, without amendment:

S. 3635. An original bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2011, and for other purposes (Rept. No. 111–228).

By Ms. MIKULSKI, from the Committee on Appropriations, without amendment:

S. 3636. An original bill making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2011, and for other purposes (Rept. No. 111–229).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 258. A bill to amend the Controlled Substances Act to provide enhanced penalties for marketing controlled substances to minors.

S. 1684. A bill to establish guidelines and incentives for States to establish criminal arsonist and criminal bomber registries and to require the Attorney General to establish a national criminal arsonist and criminal bomber registry program, and for other purposes.

By Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 3638. An original bill to establish a national safety plan for public transportation, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG (for himself, Mrs. MURRAY, and Ms. CANTWELL):

S. 3629. A bill to improve the efficiency, operation, and security of the national transportation system to move freight by leveraging investments and promoting partnerships that advance interstate and foreign commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. KLOBUCHAR (for herself and Mr. LEMIEUX):

S. 3630. A bill to improve the commercialization potential of National Science Foundation grants, enhance the metrics used to assess such potential, and for other purposes; to the Committee on Finance.

By Mrs. MURRAY:

S. 3631. A bill to encourage innovation to create clean technologies, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. GILLIBRAND:

S. 3632. A bill to provide for enhanced penalties to combat Medicare and Medicaid fraud, a Medicare data-mining system, and a Beneficiary Verification Pilot Program, and for other purposes; to the Committee on Finance.

By Mr. CARPER (for himself and Ms. SNOWE):

S. 3633. A bill to amend the Solid Waste Disposal Act to improve a provision relating to Federal procurement of recycled materials to reduce greenhouse gas emissions; to the Committee on Environment and Public Works .

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. 3634. A bill to amend the Internal Revenue Code of 1986 to clarify the types of energy conservation subsidies provided by public utilities eligible for income exclusion; to the Committee on Finance.

By Mr. DORGAN:

S. 3635. An original bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2011, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Ms. MIKULSKI:

S. 3636. An original bill making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2011, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. KOHL (for himself, Ms. SNOWE, and Mr. INOUYE):

S. 3637. A bill to authorize appropriations for the Housing Assistance Council; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD:

S. 3638. An original bill to establish a national safety plan for public transportation, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. ROCKEFELLER (for himself and Mrs. HUTCHISON):

S. 3639. A bill to provide for greater maritime transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. UDALL of Colorado (for himself, Mr. CRAPO, Mr. GREGG, Mr. BENNET, and Ms. KLOBUCHAR):

S. 3640. A bill to amend the Internal Revenue Code of 1986 to increase the limitations

on the amount excluded from the gross estate with respect to land subject to a qualified conservation easement; to the Committee on Finance.

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

S. 3641. A bill to create the National Endowment for the Oceans to promote the protection and conservation of United States ocean, coastal, and Great Lakes ecosystems, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER (for herself, Mr. MERKLEY, Mrs. GILLIBRAND, and Mr. BEGICH):

S. 3642. A bill to ensure that the underwriting standards of Fannie Mae and Freddie Mac facilitate the use of property assessed clean energy programs to finance the installation of renewable energy and energy efficiency improvements; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. McCONNELL (for himself, Ms. MURKOWSKI, Mr. ALEXANDER, Mr. INHOFE, and Mr. THUNE):

S. 3643. A bill to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, to improve oil spill compensation, to terminate the moratorium on deepwater drilling, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KOHL (for himself and Mr. HATCH):

S. Res. 592. A resolution designating the week of September 13–19, 2010, as ''Polycystic Kidney Disease Awareness Week'', and supporting the goals and ideals of Polycystic Kidney Disease Awareness Week to raise awareness and understanding of polycystic kidney disease and the impact the disease has on patients now and for future generations until it can be cured; to the Committee on the Judiciary.

By Mrs. MURRAY (for herself, Mr. ISAKSON, and Mr. BEGICH):

S. Res. 593. A resolution expressing support for designation of October 7, 2010, as ''Jumpstart's Read for the Record Day''; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID:

S. Res. 594. A resolution to constitute the majority party's membership on certain committees for the One Hundred Eleventh Congress, or until their successors are chosen; considered and agreed to.

ADDITIONAL COSPONSORS

S. 28

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. FEINSTEIN) was withdrawn as a cosponsor of S. 28, a bill to ensure that the courts of the United States may provide an impartial forum for claims brought by United States citizens and others against any railroad organized as a separate legal entity, arising from the deportation of United States citizens and others to Nazi concentration camps on trains owned or operated by such railroad, and by the heirs and survivors of such persons.

At the request of Mr. SCHUMER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 28, supra.

S. 493

At the request of Mr. CASEY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 493, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of ABLE accounts for the care of family members with disabilities, and for other purposes.

S. 653

At the request of Mr. CARDIN, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from North Dakota (Mr. CONRAD), the Senator from Nebraska (Mr. NELSON), the Senator from Virginia (Mr. WEBB), the Senator from Idaho (Mr. CRAPO), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Alabama (Mr. SESSIONS), the Senator from Oregon (Mr. MERKLEY), the Senator from Florida (Mr. LEMIEUX) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 828

At the request of Mr. HARKIN, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 828, a bill to amend the Energy Policy Act of 2005 to provide loan guarantees for projects to construct renewable fuel pipelines, and for other purposes.

S. 850

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 850, a bill to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

S. 941

At the request of Mr. CRAPO, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 1112

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 1112, a bill to make effective the proposed rule of the Food and Drug Administration relating to sunscreen drug products, and for other purposes.

S. 1553

At the request of Mr. GRASSLEY, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1674

At the request of Mr. WYDEN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1674, a bill to provide for an exclusion under the Supplemental Security Income program and the Medicaid program for compensation provided to individuals who participate in clinical trials for rare diseases or conditions.

S. 1859

At the request of Mr. ROCKEFELLER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1859, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 2747

At the request of Mr. BINGAMAN, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2747, a bill to amend the Land and Water Conservation Fund Act of 1965 to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund to maximize the effectiveness of the fund for future generations, and for other purposes.

S. 3034

At the request of Mr. SCHUMER, the names of the Senator from Florida (Mr. NELSON), the Senator from California (Mrs. FEINSTEIN), the Senator from Delaware (Mr. CARPER), the Senator from Colorado (Mr. BENNET), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Hawaii (Mr. INOUYE), the Senator from Illinois (Mr. BURRIS), the Senator from Illinois (Mr. DURBIN), the Senator from Nebraska (Mr. NELSON), the Senator from Iowa (Mr. GRASSLEY) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 3034, a bill to require the Secretary of the Treasury to strike medals in commemoration of the 10th anniversary of the September 11, 2001, terrorist attacks on the United States and the establishment of the National September 11 Memorial & Museum at the World Trade Center.

S. 3079

At the request of Mr. MERKLEY, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 3079, a bill to assist in the creation of new jobs by providing financial incentives for owners of commercial buildings and multifamily residential buildings to retrofit their buildings with energy efficient building equipment and materials and for other purposes.

S. 3084

At the request of Ms. KLOBUCHAR, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 3084, a bill to increase the competitiveness of United States businesses, particularly small and medium-sized manufacturing firms, in

interstate and global commerce, foster job creation in the United States, and assist United States businesses in developing or expanding commercial activities in interstate and global commerce by expanding the ambit of the Hollings Manufacturing Extension Partnership program and the Technology Innovation Program to include projects that have potential for commercial exploitation in nondomestic markets, providing for an increase in related resources of the Department of Commerce, and for other purposes.

S. 3297

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3297, a bill to update United States policy and authorities to help advance a genuine transition to democracy and to promote recovery in Zimbabwe.

S. 3397

At the request of Ms. KLOBUCHAR, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 3397, a bill to amend the Controlled Substances Act to provide for take-back disposal of controlled substances in certain instances, and for other purposes.

S. 3434

At the request of Mr. BINGAMAN, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 3434, a bill to provide for the establishment of a Home Star Retrofit Rebate Program, and for other purposes.

S. 3508

At the request of Mr. UDALL of New Mexico, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 3508, a bill to strengthen the capacity of the United States to lead the international community in reversing renewable natural resource degradation trends around the world that threaten to undermine global prosperity and security and eliminate the diversity of life on Earth, and for other purposes.

S. 3513

At the request of Mr. GRAHAM, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 3513, a bill to amend the Internal Revenue Code of 1986 to extend for one year the special depreciation allowances for certain property.

S. 3578

At the request of Mr. JOHANNS, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 3578, a bill to repeal the expansion of information reporting requirements for payments of $600 or more to corporations, and for other purposes.

S. 3597

At the request of Mr. ROCKEFELLER, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 3597, a bill to improve the ability of the National Oceanic and Atmospheric Administration, the Coast Guard, and coastal States to sustain healthy ocean and coastal ecosystems by maintaining and sustaining their capabilities relating to oil spill preparedness, prevention, response, restoration, and research, and for other purposes.

S. 3619

At the request of Mr. TESTER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3619, a bill to amend the Energy Independence and Security Act of 2007 to improve geothermal energy technology and demonstrate the use of geothermal energy in large scale thermal applications, and for other purposes.

S. 3621

At the request of Mr. JOHNSON, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 3621, a bill to amend the Internal Revenue Code of 1986 to provide for an exclusion for assistance provided to participants in certain veterinary student loan repayment or forgiveness programs.

S. 3622

At the request of Mr. JOHANNS, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 3622, a bill to require the Administrator of the Environmental Protection Agency to finalize a proposed rule to amend the spill prevention, control, and countermeasure rule to tailor and streamline the requirements for the dairy industry, and for other purposes.

S.J. RES. 29

At the request of Mr. MCCONNELL, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. RES. 519

At the request of Mr. DEMINT, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. Res. 519, a resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that the primary safeguards for the legal rights of children in the United States are the Constitutions of the United States and the several States, and that, because the use of international treaties to govern policy in the United States on families and children is contrary to principles of self-government and federalism, and that, because the United Nations Convention on the Rights of the Child undermines traditional principles of law in the United States regarding parents and children, the President should not transmit the Convention to the Senate for its advice and consent.

S. RES. 585

At the request of Mr. INOUYE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 585, a resolution designating the week of August 2 through August 8, 2010, as ''National Convenient Care Clinic Week'', and supporting the goals and ideals of raising awareness of the need for accessible and cost-effective health care options to complement the traditional health care model.

S. RES. 586

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 586, a resolution supporting democracy, human rights, and civil liberties in Egypt.

S. RES. 591

At the request of Mr. HARKIN, the names of the Senator from Nevada (Mr. REID), the Senator from Massachusetts (Mr. KERRY), the Senator from Maryland (Mr. CARDIN), the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. DURBIN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from Pennsylvania (Mr. CASEY), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Maryland (Ms. MIKULSKI), the Senator from South Dakota (Mr. JOHNSON), the Senator from Washington (Mrs. MURRAY), the Senator from Vermont (Mr. LEAHY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Ohio (Mr. BROWN), the Senator from Indiana (Mr. BAYH), the Senator from Oregon (Mr. MERKLEY), the Senator from Illinois (Mr. BURRIS), the Senator from California (Mrs. BOXER), the Senator from California (Mrs. FEINSTEIN), the Senator from Michigan (Ms. STABENOW), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Delaware (Mr. KAUFMAN), the Senator from North Dakota (Mr. DORGAN), the Senator from New York (Mrs. GILLIBRAND), the Senator from Hawaii (Mr. AKAKA), the Senator from Arkansas (Mr. PRYOR), the Senator from Minnesota (Mr. FRANKEN), the Senator from Utah (Mr. HATCH), the Senator from Wyoming (Mr. ENZI), the Senator from Maine (Ms. SNOWE), the Senator from Wyoming (Mr. BARRASSO), the Senator from Rhode Island (Mr. REED), the Senator from Michigan (Mr. LEVIN) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. Res. 591, a resolution recognizing and honoring the 20th anniversary of the enactment of the Americans with Disabilities Act of 1990.

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. Res. 591, supra.

At the request of Ms. COLLINS, her name was added as a cosponsor of S. Res. 591, supra.

AMENDMENT NO. 4433

At the request of Mr. BOND, his name was added as a cosponsor of amendment No. 4433 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives

for small business job creation, and for other purposes.

AMENDMENT NO. 4476

At the request of Mrs. HUTCHISON, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of amendment No. 4476 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4494

At the request of Mr. WYDEN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of amendment No. 4494 intended to be proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4499

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of amendment No. 4499 proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

AMENDMENT NO. 4500

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of amendment No. 4500 proposed to H.R. 5297, an act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL (for himself, Ms. SNOWE, and Mr. INOUYE):

S. 3637. A bill to authorize appropriations for the Housing Assistance Council; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KOHL. Mr. President, I rise today to introduce the Housing Assistance Council Authorization Act. This legslation will re-authorize appropriations for the Housing Assistance Council, HAC, which has been committed to developing affordable housing in rural communities for over 35 years.

HAC was originally given a three-year authorization through the Farm Bill in 2008. During the past three years HAC made $46.1 million in grants and loans to help build 3,878 homes throughout rural America. The program has leveraged its funding with over $360 million in other financing and has provided essential technical assistance to local non-profits throughout the country in the form of capacity building grants. These critical services help local organizations, rural communities and cities develop safe and affordable housing.

Throughout the country, approximately ⅕ of the Nation's population lives in rural communities. About 7.5 million of the rural population is living in poverty and 2.5 million of them are children. Nearly 3.6 million rural households pay more than 30 percent of their income in housing costs. While housing costs are generally lower in rural counties, wages are dramatically outpaced by the cost of housing. Additionally, the housing conditions are often substandard and there are many families doubled up due to lack of housing. Rural areas lack both affordable rental units and homeownership opportunities needed to serve the population.

There are several federal programs that are aimed at developing affordable housing and economic opportunities in rural communities in both the Department of Housing and Urban Development and the Department of Agriculture. However, rural housing programs have traditionally been underfunded. The administration's fiscal year 2011 budget request zeroed two programs that were devoted to helping rural communities: Rural Innovation Fund, and the Self Help Homeownership Program, SHOP. In many regions, federal funding might be the only assistance available for housing and economic development. The Housing Assistance Council is yet another tool that rural communities can utilize when trying to develop affordable housing.

The presence of the HAC in Wisconsin has made a huge impact on rural housing development in Wisconsin and other rural communities across the country. In Wisconsin, HAC has provided close to $5.2 million in grants and loans to 17 non-profit housing organizations and helped develop 825 units of housing.

Tony Romo, the current quarterback for the Dallas Cowboys, grew up in a HAC-supported self-help home in Burlington, WI. His parents built the home as part of Southeastern Wisconsin Housing Corporation's sweat equity, self-help homeownership program. There are countless examples linking a child's future success to the stability in their childhood home. Tony Romo's story provides one such example of how a child raised in safe, stable homeownership may go on to later success.

I am very honored to work with Senators SNOWE and INOUYE on this legislation. Its passage will allow every state to better serve the needs of the people living in rural areas. I look forward to working with my colleagues to ensure the adoption of this bill.

By Mr. UDALL of Colorado (for himsel, Mr. CRAPO, Mr. GREGG, Mr. BENNET and Ms. KLOBUCHAR):

S. 3640. A bill to amend the Internal Revenue Code of 1986 to increase the limitations on the amount excluded from the gross estate with respect to land subject to a qualified conservation easement; to the Committee on Finance.

Mr. UDALL of Colorado. Mr. President, today I am introducing, along with my friend and colleague Senator CRAPO, legislation to encourage further protection of our treasured lands, ranches and family farms. The American Family Farm and Ranchland Protection Act is a bipartisan piece of legislation that rewards those who protect these lands through conservation easements by increasing their exemption from the estate tax. Put simply, we strongly support conservation efforts and believe we need to do more to give Americans a real incentive to protect our nation's land. It is a companion bill to similar bipartisan legislation in the House of Representatives introduced by Congressman BLUMENAUER.

I have long made conservation of America's natural resources a core component of my public service. In my role as chair of the National Parks Subcommittee, I am continuously focused on preserving our public lands and waters, because we owe it to future generations to leave them a sustainable environment. We did not inherit the land from our parents, we are borrowing it from our children.

However, the Government can only do so much, and many of our most important landscapes are privately owned property. If we are serious about conservation, we must acknowledge the important role that private land owners play in the overall effort to preserve our natural resources for generations to come.

Estate taxes can compromise Americans' ability to conserve private property. After the death of a loved one, families are often forced to subdivide a property and sell it for development to pay the costs of estate taxes. This situation could become more common starting in 2011 when the estate tax is set to revert back to the 2001 level of 55 percent above a $1 million per spouse exemption. Nearly 15 years ago, in an effort to provide some relief and encourage conservation of family farms and ranches, Congress created an exemption from the estate tax of up to 40 percent of the value of the land, capped at $500,000, for land permanently protected by a conservation easement.

A conservation easement is a voluntary agreement between a landowner and the government that permanently restricts certain development and future uses of the land. It often prevents future commercialization, while still permitting historic farming and ranching operations to continue in the family. I know in Colorado, our lands are best cared for when each generation knows its stewardship will reward the next.

When Congress first created the conservation easement exemption from estate taxes in 1997, a 40 percent exemption up to a total of $500,000 made sense. Now, that exclusion is simply too small. Since 1997, average farm real estate values have more than doubled and the average farm is larger, as larger farms are more likely to be economically viable. Incidentally, larger farms are also more likely to hold resources worthy of conservation. The old cap is simply no longer much of an incentive.

My legislation is a simple solution to the inadequacy of the current exemption. It raises the exemption for land under a conservation easement to 50 percent, up to a maximum exclusion of $5 million. It also encourages more robust conservation easements: less protective easements will receive a proportionally lower exemption rate. If we can support greater conservation efforts through a simple update to our existing tax code, then to me, that sounds like a deal worth taking.

This is a small change, but it has a profound effect. Those who choose to enter into a conservation easement will leave a dramatically reduced estate tax burden on their family. This, in turn, will help keep family farms and ranches whole, preserving them for future generations.

This is just a small piece of the estate tax puzzle, but it is an important one. It is critically important for Congress to address the estate tax before the end of this year to prevent it from going back to where it was a decade ago, with an exemption of only $1 million. At that level, it would affect almost every farmer and rancher in my state and in many others, as well as many, many family businesses.

We can protect the land, respect private property, ease tax burdens, and preserve our important farming and ranching heritage with the exemption my legislation proposes. I encourage the Senate to take up and approve this common-sense bill in an expeditious manner.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Family Farm and Ranchland Protection Act of 2010''.

SEC. 2. INCREASE IN LIMITATIONS ON THE AMOUNT EXCLUDED FROM THE GROSS ESTATE WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) INCREASE IN DOLLAR LIMITATION ON EXCLUSION.—Paragraph (3) of section 2031(c) of the Internal Revenue Code of 1986 (relating to exclusion limitation) is amended by striking ''the exclusion limitation is'' and all that follows and inserting ''the exclusion limitation is $5,000,000.''.

(b) INCREASE IN PERCENTAGE OF VALUE OF LAND WHICH IS EXCLUDABLE.—Paragraph (2) of section 2031(c) of such Code (relating to applicable percentage) is amended—

(1) by striking ''40 percent'' and inserting ''50 percent'', and

(2) by striking ''2 percentage points'' and inserting ''2.5 percentage points''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 2009.

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

S. 3641. A bill to create the National Endowment for the Oceans to promote the protection and conservation of United States ocean, coastal, and Great Lakes ecosystems, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. WHITEHOUSE. Mr. President, I rise to discuss bipartisan legislation coauthored by my friend and fellow New Englander, OLYMPIA SNOWE, to establish a national endowment for the preservation, conservation, and restoration of our Nation's oceans, our coasts, and our Great Lakes. I also wish to take a moment and say a particular thank-you to an original cosponsor of this legislation, the chairman of the Commerce Committee, Senator ROCKEFELLER of West Virginia.

The National Endowment for the Oceans, along with the President's recent Executive order establishing our country's first ever national ocean policy, represent a long overdue and badly needed commitment to our great waters. While the President's national ocean policy specifies national objectives and outlines processes and government structures to restore, protect, and maintain our ocean and coastal resources, the National Endowment for the Oceans will provide the funding to actually achieve those public purposes. The endowment would make grants available to coastal and Great Lakes States, local government agencies, regional planning bodies, academic institutions, and nonprofit organizations so these entities could embark on projects to learn more about and do a better job of protecting our precious natural resources.

Author C. Clarke once said:

How inappropriate to call this planet Earth when it is quite clearly ocean.

Oceans cover three-quarters of our planet's surface, contain 90 percent of our planet's water, and produce more than two-thirds of our planet's oxygen. For as long as mankind has lived on the lands of this planet, oceans have sustained our survival and been part of our identity.

Speaking at a dinner in Newport, RI, in 1961, President Kennedy said:

We are tied to the ocean . . . and when we go back to the sea, whether it is to sail or to watch it, we are going back from whence we came.

My State, and indeed our country, always have kept a special bond with those great waters.

As a practical matter, my State's economy, as do many others, relies on Narragansett Bay and Rhode Island Sound to provide the jobs for fishing, shipbuilding, tourism, and soon, we hope, wind farming. Across America, coastal waters generate over 50 percent of our Nation's gross domestic product and support more than 28 million jobs.

So we don't call Rhode Island the Ocean State just because of its beautiful coasts and beaches. Although as a sailor and proud ambassador for Rhode Island's tourism industry, I will tell my colleagues that Rhode Island's coast is one of the most beautiful places on Earth. We are the Ocean State because from our earliest days we have relied on the ocean and our beloved Narragansett Bay for trade, for food, for jobs, for recreation, and for solace and inspiration.

In part, it is Americans' love of the oceans that drives the need now to protect and restore them. Coastal America is experiencing a huge population boom, leading to more and more construction that puts significant pressure on our natural coastline and our wetlands. Worldwide demand for seafood grows at a pace that our fish stocks cannot keep pace with, and our demand for energy leads us deeper and deeper into the ocean in search of fuel.

For too long, we have been takers from our oceans rather than caretakers of our oceans, and the evidence of our peril is mounting.

From the Arctic Ocean, where ice sheets that have been part of Inuit lore as far back as memory and oral tradition go, are now disappearing, to the tropic seas, where coral reefs that serve as nurseries for ocean life are bleaching and dying, warnings are ringing.

From the far-off waters of the Pacific, where a garbage gyre of accumulated marine litter has grown larger than the State of Texas, to our near coasts such as Rhode Island's own Narragansett Bay where the water temperature has risen 4 degrees in the winter in the last 40 years, an ecosystem shift displacing our historic fisheries, warnings are ringing.

From the top of the oceanic food chain, where pollutants are turning our marine mammals into swimming toxic waste and major pelagic species have suffered a 90-percent population crash, to the very bottom of the food chain where greenhouse gases change the fundamental chemistry of our oceans until they may become too acidic to support the plankton base of the food chain, real warnings are ringing.

Our present day ocean is more acidic today than it has been in 8,000 centuries. A change in ocean chemistry

happening so quickly, we don't know if species will be able to adapt in time to survive. Even if we were to act immediately to curb our carbon pollution, the stress on these ecosystems will certainly worsen for some time from what we have already put into our atmosphere.

So from the far Arctic to the warm tropics, from the far ocean to the near coasts, from the top of the food chain to the bottom, real warning bells are ringing.

We can't begin to know what the total effects on our oceans will be, but what we have observed so far must be deeply troubling to any prudent, thoughtful person.

If you have been to the Biltmore Hotel in downtown Providence, you have seen a large plaque on the wall in the lobby marking the high water mark of the great hurricane of 1938 when a massive storm surge filled downtown Providence and the hotel lobby to a depth of about 5 feet. Sea level rise, another ocean threat, could mean that future storm surges crest much higher, wreaking far worse devastation.

That is a threat that is not unique to Rhode Island. Island nations around the globe are currently preparing for the possibility—really, the inevitability—that they will literally be engulfed by the ocean.

The National Intelligence Council reports that at least 30 American military installations around the world will be underwater if sea levels rise as projected. There is a dangerous feedback loop. The more ice that melts, the greater the danger. As darker ocean water traps rather than reflects the Sun's rays, melting accelerates and leaves us with less and less time to act, less and less time to spare our grandchildren the consequences of our generation's selfishness and folly.

Even seemingly modest changes in temperature, such as the 4 degree increase in Narragansett Bay, wreak havoc on marine ecosystems, causing what amounts to a full ecosystem shift. Anybody who relies on marine life for food, recreation, or a paycheck may soon find their lives changed by the disruption of the ocean's delicate ecosystem.

As a member of the Senate's Committee on Environment and Public Works, I find myself habitually frustrated that this ''tragedy of the commons'' continues to play out, while we stand idly on the sidelines and fail to intervene.

As a source of jobs and economic opportunity, a key element of our American tradition and, truly, the origin of life on our planet, our oceans, and our responsibility for them, ought to occupy a more prominent place on our national agenda.

Yet, our commitment to ocean and coastal preservation is unreliable at best—subject to the volatility of the yearly budget and appropriations process. None other than Robert Ballard, the famed ocean explorer who discovered the Titanic and is current president of the Ocean Exploration Trust, recently lamented that available funds for ocean research often fall far short of desired goals.

As we stand here and BP's oil poisons our Gulf of Mexico, it is time to ask our political system to put the stewardship of our natural resources, our ocean resources, at the forefront of our national agenda. In the past, Congress had established lasting endowments to protect other important American priorities.

Because we believe that a great society must cherish artistic expression and study closely the lessons of history, we established—through the wisdom of Senator Claiborne Pell—the National Endowment for the Arts and the National Endowment for the Humanities. Because we believe that a great society must connect communities to each other, we established a national highway trust fund. Because we believe that a great society must guarantee its elders a dignified and comfortable retirement after a lifetime of work, we established Social Security. Because we are indeed tied to our great waters, we should now act to establish a national endowment for the oceans, coasts, and Great Lakes.

This legislation, as I said, is bipartisan. I thank Senator OLYMPIA SNOWE for joining in this effort. This legislation is science based, with much of the money made available through a competitive grant program that will award funding to research undertaken by academic institutions, on-the-ground conservation by nonprofit organizations, and local governments, and protection of critical public infrastructure.

This legislation is cost effective, coordinating existing efforts of Federal, local, and private programs, reducing duplication of research efforts, and crossing political borders to ensure that every dollar is spent with the greatest possible effect.

This legislation is appropriately paid for with revenue generated from the oilspill liability trust fund, Outer Continental Shelf drilling, offshore renewable energy development, and fines collected for violations of the Federal law off our coastline. Put simply, a small portion of the revenue extracted from our oceans and great waters must be reinvested to now protect their long-term viability.

The ocean provides us with great bounty, and we will continue to take advantage of the ocean's bounty, as we should. We will fish, we will sail, and we will trade. We will dispose of waste. We will extract fuel and construct wind farms. We will put pressure on our oceans. Navies and cruise ships, sailboats and supertankers, will plow their surface. We cannot change that part of our relationship with the sea.

What we can change is what we do in return. We can, for the first time, give back. We can become stewards of our oceans—not just takers, but caretakers.

My wife, Sandra, is a marine biologist. We have watched as the University of Rhode Island, home of the Graduate School of Oceanography, has become a world leader in understanding our oceans and how to conserve them.

We are watching GSO's researchers struggle to keep up with rapid changes reshaping the ecosystems they study. This endowment will help science keep pace with change.

The National Oceanic Atmospheric Administration received $167 million for coastal restoration projects under the Recovery Act last year. More than 800 proposals for shovel-ready projects came in, totaling $3 billion. But NOAA could only fund 50. This endowment will help us move forward with those projects that protect our oceans and drive our economy.

The oceans contain the potential for new discoveries, the potential for new jobs, and the potential for new solutions to the emerging crisis off our shores.

But it is time to act. I urge my colleagues to join Senator SNOWE and myself in support of this legislation. Let ours be the generation that tips the increasingly troubling balance between mankind and the oceans, from whence we came, a little bit back toward the benefit of our oceans.

Ms. SNOWE. Mr. President, as I rise today to join Senator WHITEHOUSE in introducing the National Endowment for the Oceans Act, our Nation continues to bear the brunt of what has now become the biggest offshore oil spill in recorded history. Since April 20, 2010, when the mobile offshore drilling unit Deepwater Horizon exploded and sank 50 miles off the coast of Louisiana, claiming the lives of 11 men, as much as 180 million gallons of oil has spewed into the Gulf of Mexico. The ecosystem, environment, and the culture of the Gulf coast region will feel the effects of this spill for decades to come in the aftermath of an event that has focused National attention on one of our most productive, beautiful, and beloved resources: our oceans and coasts. I also want to acknowledge the support of the Chair of the Senate Committee on Commerce, Science, and Transportation, Senator ROCKEFELLER for his cosponsorship of this initiative.

As Ranking Member on the Commerce Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard, and as a Senator from a state which relies heavily on our marine and coastal resources, I have long appreciated the tremendous value of America's oceans, coasts, and Great Lakes. Throughout my time in this body I have pursued policies that would enhance our stewardship of these treasured regions, and permit sustainable use of the bounty they provide. This legislation would ensure a brighter future for these areas that heal our souls and drive our economy.

Investment in our oceans is investment in our future. The United States' exclusive economic zone, encompassing

the area 200 miles out from our shores, covers more of the earth's surface than our land area, and ultimately what affects our coastal economy drives our Nation's economy. More than 75 percent of growth in this country from 1997 to 2007, whether measured in population, jobs, or gross domestic product, occurred in coastal States. Coastal counties, covering just 18 percent of our land area, contributed 42 percent of U.S. economic output in 2007 according to a report published last year by the National Ocean Economics Program. Tourism, inherently reliant on pristine beaches, healthy habitat to foster fish, shellfish, and marine mammals, and fishable, swimmable waters, contributed over half a trillion dollars to our national GDP.

This is why in the 2004 report of the U.S. Commission on Ocean Policy, one of that body's fundamental priorities was the creation of an ocean policy trust fund to supplement existing appropriations for ocean and coastal programs. The Joint Ocean Commission Initiative, comprised of members of that body and the Pew Oceans Commission, has consistently listed establishment of an ocean trust fund among its highest priorities. The National Endowment for the Oceans will at long last meet this demand and provide a consistent stream of supplemental funding to enhance our commitment to protecting and sustaining these most fragile resources.

The fact is, our oceans and coastal regions face more challenges today than at any time in our history. Global climate change is already being felt more pressingly off our shores than our scientists yet understand. In the past few years alone, ocean acidification, a threat so new it was not even mentioned in the Ocean Commission's report, has begun to change the fundamental makeup of the ocean food web and destroy coral reef structures that have for eons girded our shores and provided nursery grounds for countless species of fish. Scientists believe increasing ocean temperatures are to blame for a steep and sudden decline in the southern New England and Long Island Sound lobster populations. This problem is so grave that fishery managers are considering closing the entire fishery in this area that has been rich with lobster throughout the duration of recorded human history. Hypoxic areas known as ''dead zones'' are cropping up off our shores in areas where they never before existed, and the annual hypoxic zone in the Gulf of Mexico regularly encompasses an area the size of the state of New Jersey. I could go on and on, but my point is abundantly clear—our oceans need our help.

This vital legislation would set aside a portion of revenues from offshore oil and gas and renewable energy development on the outer continental shelf and would apply interest generated by the oil spill liability trust fund to a dedicated National Endowment for the Oceans. This endowment would fund three targeted grant programs—one to coastal states, a second to support regional ocean partnerships, and a third to fund the activities of additional ocean research not covered by the other two programs. This money would be available at the discretion of State and Federal resource managers for activities proven to restore, protect, maintain, or understand living marine resources and their habitats and ecosystems.

Funding will supplement, not replace, annual appropriations for the National Oceanic and Atmospheric Administrations, NOAA, and other Federal agencies already carrying out critical work in our ocean, coastal, and Great Lakes regions. In the past I have pressed the Administration and others in this body to increase Federal support for these agencies. I will continue to call for increases in NOAA's base funding until our investment in the agency meets the requirements of its missions. In the meantime, this program would provide a significant boost to our efforts to protect, conserve, restore, and understand the oceans, coasts and Great Lakes so vital to our national heritage, culture, economy, and identity.

I would like once again to thank Senator WHITEHOUSE for his tireless ocean advocacy and his invaluable work to introduce the National Endowment for the Oceans Act, and Senator ROCKEFELLER for his cosponsorship of this initiative, and I look forward to working with them on this and many more ocean issues in the future.

By Mrs. BOXER (for herself, Mr. MERKLEY, Mrs. GILLIBRAND, and Mr. BEGICH):

S. 3642. A bill to ensure that the underwriting standards of Fannie Mae and Freddie Mac facilitate the use of property assessed clean energy programs to finance the installation of renewable energy and energy efficiency improvements; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. BOXER. Mr. President, I rise today to introduce the PACE Assessment Protection Act of 2010. I am pleased to be joined in this effort by my colleagues, Senators MERKLEY, GILLIBRAND, and BEGICH.

Property Assessed Clean Energy or PACE programs allow homeowners and building owners to finance an energy efficiency upgrade to their property through a tax assessment on that property. In this way, property owners are able to spread the cost of the upgrades over several years, lower their energy costs, contribute to a cleaner environment, and create jobs.

In California, nearly half of the State's 58 counties, as well as individual cities, have developed PACE programs or plan to start one, and 23 states as well as the District of Columbia have enacted PACE legislation. The program has the strong support of the White House and the Department of Energy, and many States and cities dedicated Recovery Act funding for their PACE programs.

Despite the promise of this program, the Federal Housing Finance Agency recently ordered Fannie Mae and Freddie Mac to take actions that limit the use of PACE programs in conjunction with their home mortgages, effectively killing the program. FHFA objected that PACE assessments carry a priority lien, ahead of the lenders, on participating properties.

The right of States and localities to secure property tax assessments with a senior position is well established, and in the past, Fannie and Freddie have always respected this right—such as with assessments to finance sidewalks, bridges, or parks and other projects that provide a public benefit—without raising any concerns over the impact of such priority liens. In addition, the Department of Energy issued guidance for municipalities intending to use Recovery Act funding for PACE programs that calls for strong underwriting standards. These guidelines require that the savings a property owner would see as a result of any upgrade must be greater than the cost of the assessment, leaving homeowners in a more financially secure position.

To allow PACE programs to continue, as well as protect homeowners and taxpayers, we must take immediate action to address the overreach by the FHFA. My legislation would require Fannie Mae and Freddie Mac to: adopt sound underwriting standards for financing clean-energy upgrades, consistent with Department of Energy guidelines; treat a PACE assessment as any other property tax assessment and respect States' authority to secure such assessments with a first lien; allow homeowners to finance, refinance, or sell their home without having to repay any PACE assessment first; prohibit discrimination against communities implementing or participating in a PACE program.

The legislation also limits the assessment amount subject to foreclosure to only the unpaid delinquent amount, along with applicable penalties, interest and costs, and not the entire amount.

The current uncertainty surrounding PACE programs is jeopardizing $110 million in Federal investments for California communities, and millions more in other States, which is simply unacceptable. We must take action to protect these initiatives because they create jobs, save homeowners money on their energy bills and help our environment. I urge my colleagues to join me and to support this legislation.

By Mr. MCCONNELL (for himself, Ms. MURKOWSKI, Mr. ALEXANDER, Mr. INHOFE, and Mr. THUNE):

S. 3643. A bill to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, to improve oil spill compensation, to terminate the moratorium on

deepwater drilling, and for other purposes; read the first time.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3643

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Oil Spill Response Improvement Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—OUTER CONTINENTAL SHELF REFORM

SEC. 101. PURPOSES.

The purposes of this title are—

(1) to rationalize and reform the responsibilities of the Secretary of the Interior with respect to the management of the outer Continental Shelf in order to improve the management, oversight, accountability, safety, and environmental protection of all the resources on the outer Continental Shelf;

(2) to provide independent development and enforcement of safety and environmental laws (including regulations) governing—

(A) energy development and mineral extraction activities on the outer Continental Shelf; and

(B) related offshore activities; and

(3) to ensure a fair return to the taxpayer from, and independent management of, royalty and revenue collection and disbursement activities from mineral and energy resources.

SEC. 102. DEFINITIONS.

In this title:

(1) DEPARTMENT.—The term ''Department'' means the Department of the Interior.

(2) OUTER CONTINENTAL SHELF.—The term ''outer Continental Shelf'' has the meaning given the term in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 103. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.

Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be managed in a manner that—

''(A) recognizes the need of the United States for competitive domestic sources of energy, food, minerals, and other resources;

''(B) minimizes the potential impacts of development of those resources on the marine and coastal environment and on human health and safety; and

''(C) acknowledges the long-term economic value to the United States of the balanced, expeditious, and orderly management and production of those resources that safeguards the environment and respects the multiple values and uses of the outer Continental Shelf;'';

(2) in paragraph (4)(C), by striking the period at the end and inserting a semicolon;

(3) in paragraph (5), by striking ''; and'' and inserting a semicolon;

(4) by redesignating paragraph (6) as paragraph (7);

(5) by inserting after paragraph (5) the following:

''(6) exploration, development, and production of energy and minerals on the outer Continental Shelf should be allowed only when those activities can be accomplished in a manner that provides reasonable assurance of adequate protection against harm to life, health, the environment, property, or other users of the waters, seabed, or subsoil; and''; and

(6) in paragraph (7) (as so redesignated)—

(A) by striking ''should be'' and inserting ''shall be''; and

(B) by adding ''best available commercial'' after ''using''.

SEC. 104. STRUCTURAL REFORM OF OUTER CONTINENTAL SHELF PROGRAM MANAGEMENT.

(a) IN GENERAL.—The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding to the end the following:

''SEC. 32. STRUCTURAL REFORM OF OUTER CONTINENTAL SHELF PROGRAM MANAGEMENT.

''(a) LEASING, PERMITTING, AND REGULATION BUREAUS.—

''(1) ESTABLISHMENT OF BUREAUS.—

''(A) IN GENERAL.—Subject to the discretion granted by Reorganization Plan Number 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), the Secretary shall establish in the Department of the Interior not more than 2 bureaus to carry out the leasing, permitting, and safety and environmental regulatory functions vested in the Secretary by this Act and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) related to the outer Continental Shelf.

''(B) CONFLICTS OF INTEREST.—In establishing the bureaus under subparagraph (A), the Secretary shall ensure, to the maximum extent practicable, that any potential organizational conflicts of interest related to leasing, revenue creation, environmental protection, and safety are eliminated.

''(2) DIRECTOR.—Each bureau shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(3) COMPENSATION.—Each Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(4) QUALIFICATIONS.—Each Director shall be a person who, by reason of professional background and demonstrated ability and experience, is specially qualified to carry out the duties of the office.

''(b) ROYALTY AND REVENUE OFFICE.—

''(1) ESTABLISHMENT OF OFFICE.—Subject to the discretion granted by Reorganization Plan Number 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), the Secretary shall establish in the Department of the Interior an office to carry out the royalty and revenue management functions vested in the Secretary by this Act and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.).

''(2) DIRECTOR.—The office established under paragraph (1) shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

''(3) COMPENSATION.—The Director shall be compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

''(4) QUALIFICATIONS.—The Director shall be a person who, by reason of professional background and demonstrated ability and experience, is specially qualified to carry out the duties of the office.

''(c) OCS SAFETY AND ENVIRONMENTAL ADVISORY BOARD.—

''(1) ESTABLISHMENT.—The Secretary shall establish, under the Federal Advisory Committee Act (5 U.S.C. App.), an Outer Continental Shelf Safety and Environmental Advisory Board (referred to in this subsection as the 'Board'), to provide the Secretary and the Directors of the bureaus established under this section with independent peer-reviewed scientific and technical advice on safe and environmentally compliant energy and mineral resource exploration, development, and production activities.

''(2) MEMBERSHIP.—

''(A) SIZE.—

''(i) IN GENERAL.—The Board shall consist of not more than 12 members, chosen to reflect a range of expertise in scientific, engineering, management, and other disciplines related to safe and environmentally compliant energy and mineral resource exploration, development, and production activities.

''(ii) CONSULTATION.—The Secretary shall consult with the National Academy of Sciences and the National Academy of Engineering to identify potential candidates for membership on the Board.

''(B) TERM.—The Secretary shall appoint Board members to staggered terms of not more than 4 years, and shall not appoint a member for more than 2 consecutive terms.

''(C) CHAIR.—The Secretary shall appoint the Chair for the Board.

''(3) MEETINGS.—The Board shall—

''(A) meet not less than 3 times per year; and

''(B) at least once per year, shall host a public forum to review and assess the overall safety and environmental performance of outer Continental Shelf energy and mineral resource activities.

''(4) REPORTS.—Reports of the Board shall—

''(A) be submitted to Congress; and

''(B) made available to the public in an electronically accessible form.

''(5) TRAVEL EXPENSES.—Members of the Board, other than full-time employees of the Federal Government, while attending a meeting of the Board or while otherwise serving at the request of the Secretary or the Director while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Federal Government serving without pay.

''(d) SPECIAL PERSONNEL AUTHORITIES.—

''(1) DIRECT HIRING AUTHORITY FOR CRITICAL PERSONNEL.—

''(A) IN GENERAL.—Notwithstanding sections 3104, 3304, and 3309 through 3318 of title 5, United States Code, the Secretary may, upon a determination that there is a severe shortage of candidates or a critical hiring need for particular positions, recruit and directly appoint highly qualified accountants, scientists, engineers, or critical technical personnel into the competitive service, as officers or employees of any of the organizational units established under this section.

''(B) REQUIREMENTS.—In exercising the authority granted under subparagraph (A), the Secretary shall ensure that any action taken by the Secretary—

''(i) is consistent with the merit principles of chapter 23 of title 5, United States Code; and

''(ii) complies with the public notice requirements of section 3327 of title 5, United States Code.

''(2) CRITICAL PAY AUTHORITY.—

''(A) IN GENERAL.—Notwithstanding section 5377 of title 5, United States Code, and without regard to the provisions of that title governing appointments in the competitive service or the Senior Executive Service and chapters 51 and 53 of that title (relating to classification and pay rates), the Secretary may establish, fix the compensation of, and appoint individuals to critical positions needed to carry out the functions of any of the organizational units established under this section, if the Secretary certifies that—

''(i) the positions—

''(I) require expertise of an extremely high level in a scientific or technical field; and

''(II) any of the organizational units established in this section would not successfully accomplish an important mission without such an individual; and

''(ii) exercise of the authority is necessary to recruit an individual exceptionally well qualified for the position.

''(B) LIMITATIONS.—The authority granted under subparagraph (A) shall be subject to the following conditions:

''(i) The number of critical positions authorized by subparagraph (A) may not exceed 40 at any 1 time in either of the bureaus established under this section.

''(ii) The term of an appointment under subparagraph (A) may not exceed 4 years.

''(iii) An individual appointed under subparagraph (A) may not have been an employee of the Department of the Interior during the 2-year period prior to the date of appointment.

''(iv) Total annual compensation for any individual appointed under subparagraph (A) may not exceed the highest total annual compensation payable at the rate determined under section 104 of title 3, United States Code.

''(v) An individual appointed under subparagraph (A) may not be considered to be an employee for purposes of subchapter II of chapter 75 of title 5, United States Code.

''(C) NOTIFICATION.—Each year, the Secretary shall submit to Congress a notification that lists each individual appointed under this paragraph.

''(3) REEMPLOYMENT OF CIVILIAN RETIREES.—

''(A) IN GENERAL.—Notwithstanding part 553 of title 5, Code of Federal Regulations (relating to reemployment of civilian retirees to meet exceptional employment needs), or successor regulations, the Secretary may approve the reemployment of an individual to a particular position without reduction or termination of annuity if the hiring of the individual is necessary to carry out a critical function of any of the organizational units established under this section for which suitably qualified candidates do not exist.

''(B) LIMITATIONS.—An annuitant hired with full salary and annuities under the authority granted by subparagraph (A)—

''(i) shall not be considered an employee for purposes of subchapter III of chapter 83 and chapter 84 of title 5, United States Code;

''(ii) may not elect to have retirement contributions withheld from the pay of the annuitant;

''(iii) may not use any employment under this paragraph as a basis for a supplemental or recomputed annuity; and

''(iv) may not participate in the Thrift Savings Plan under subchapter III of chapter 84 of title 5, United States Code.

''(C) LIMITATION ON TERM.—The term of employment of any individual hired under subparagraph (A) may not exceed an initial term of 2 years, with an additional 2-year appointment under exceptional circumstances.

''(e) CONTINUITY OF AUTHORITY.—Subject to the discretion granted by Reorganization Plan Number 3 of 1950 (64 Stat. 1262; 43 U.S.C. 1451 note), any reference in any law, rule, regulation, directive, or instruction, or certificate or other official document, in force immediately prior to the date of enactment of this section—

''(1) to the Minerals Management Service that pertains to any of the duties and authorities described in this section shall be deemed to refer and apply to the appropriate bureaus and offices established under this section;

''(2) to the Director of the Minerals Management Service that pertains to any of the duties and authorities described in this section shall be deemed to refer and apply to the Director of the bureau or office under this section to whom the Secretary has assigned the respective duty or authority; and

''(3) to any other position in the Minerals Management Service that pertains to any of the duties and authorities described in this section shall be deemed to refer and apply to that same or equivalent position in the appropriate bureau or office established under this section.''.

(b) CONFORMING AMENDMENT.—Section 5316 of title 5, United States Code, is amended by striking ''Director, Bureau of Mines, Department of the Interior'' and inserting the following:

''Bureau Directors, Department of the Interior (2).

''Director, Royalty and Revenue Office, Department of the Interior.''.

SEC. 105. SAFETY, ENVIRONMENTAL, AND FINANCIAL REFORM OF THE OUTER CONTINENTAL SHELF LANDS ACT.

(a) DEFINITIONS.—Section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended by adding at the end the following:

''(r) SAFETY CASE.—The term 'safety case' means a complete set of safety documentation that provides a basis for determining whether a system is adequately safe for a given application in a given environment.''.

(b) ADMINISTRATION OF LEASING.—Section 5(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)) is amended in the second sentence—

(1) by striking ''The Secretary may at any time'' and inserting ''The Secretary shall''; and

(2) by inserting after ''provide for'' the following: ''operational safety, the protection of the marine and coastal environment,''.

(c) MAINTENANCE OF LEASES.—Section 6 of the Outer Continental Shelf Lands Act (43 U.S.C. 1335) is amended by adding at the end the following:

''(f) REVIEW OF BOND AND SURETY AMOUNTS.—Not later than May 1, 2011, and every 5 years thereafter, the Secretary shall—

''(1) review the minimum financial responsibility requirements for mineral leases under subsection (a)(11); and

''(2) adjust for inflation based on the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor, and recommend to Congress any further changes to existing financial responsibility requirements necessary to permit lessees to fulfill all obligations under this Act or the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.).

''(g) PERIODIC FISCAL REVIEWS AND REPORTS.—

''(1) ROYALTY RATES.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection and every 4 years thereafter, the Secretary shall carry out a review of, and prepare a report that describes—

''(i) the royalty and rental rates included in new offshore oil and gas leases and the rationale for the rates;

''(ii) whether, in the view of the Secretary, the royalty and rental rates described in subparagraph (A) would yield a fair return to the public while promoting the production of oil and gas resources in a timely manner; and

''(iii) whether, based on the review, the Secretary intends to modify the royalty or rental rates.

''(B) PUBLIC PARTICIPATION.—In carrying out a review and preparing a report under subparagraph (A), the Secretary shall provide to the public an opportunity to participate.

''(2) COMPARATIVE REVIEW OF FISCAL SYSTEM.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection and every 4 years thereafter, the Secretary in consultation with the Secretary of the Treasury, shall carry out a comprehensive review of all components of the Federal

offshore oil and gas fiscal system, including requirements and trends for bonus bids, rental rates, royalties, oil and gas taxes, income taxes, wage requirements, regulatory compliance costs, oil and gas fees, and other significant financial elements.

''(B) INCLUSIONS.—The review shall include—

''(i) information and analyses comparing the offshore bonus bids, rents, royalties, taxes, and fees of the Federal Government to the offshore bonus bids, rents, royalties, taxes, and fees of other resource owners (including States and foreign countries); and

''(ii) an assessment of the overall offshore oil and gas fiscal system in the United States, as compared to foreign countries.

''(C) INDEPENDENT ADVISORY COMMITTEE.—In carrying out a review under this paragraph, the Secretary shall convene and seek the advice of an independent advisory committee comprised of oil and gas and fiscal experts from States, Indian tribes, academia, the energy industry, and appropriate nongovernmental organizations.

''(D) REPORT.—The Secretary shall prepare a report that contains—

''(i) the contents and results of the review carried out under this paragraph for the period covered by the report; and

''(ii) any recommendations of the Secretary and the Secretary of the Treasury based on the contents and results of the review.

''(E) COMBINED REPORT.—The Secretary may combine the reports required by paragraphs (1) and (2)(D) into 1 report.

''(3) REPORT DEADLINE.—Not later than 30 days after the date on which the Secretary completes each report under this subsection, the Secretary shall submit copies of the report to—

''(A) the Committee on Energy and Natural Resources of the Senate;

''(B) the Committee on Finance of the Senate;

''(C) the Committee on Natural Resources of the House of Representatives; and

''(D) the Committee on Ways and Means of the House of Representatives.''.

(d) LEASES, EASEMENTS, AND RIGHTS-OF-WAY.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by striking subsection (d) and inserting the following:

''(d) DISQUALIFICATION FROM BIDDING.—No bid for a lease may be submitted by any entity that the Secretary finds, after prior public notice and opportunity for a hearing—

''(1) is not meeting due diligence, safety, or environmental requirements, constituting significant infractions, on other leases; or

''(2)(A) is a responsible party for a vessel or a facility from which oil is discharged, for purposes of section 1002 of the Oil Pollution Act of 1990 (33 U.S.C. 2702); and

''(B) has failed to meet the obligations of the responsible party under that Act to provide compensation for covered removal costs and damages.''.

(e) EXPLORATION PLANS.—Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended—

(1) in subsection (c)—

(A) in the fourth sentence of paragraph (1), by striking ''within thirty days of its submission'' and inserting ''by the deadline described in paragraph (5)'';

(B) by striking paragraph (3) and inserting the following:

''(3) MINIMUM REQUIREMENTS.—

''(A) IN GENERAL.—An exploration plan submitted under this subsection shall include, in such degree of detail as the Secretary by regulation may require—

''(i) a complete description and schedule of the exploration activities to be undertaken;

''(ii) a description of the equipment to be used for the exploration activities, including—

''(I) a description of the drilling unit;

''(II) a statement of the design and condition of major safety-related pieces of equipment;

''(III) a description of any new technology to be used; and

''(IV) a statement demonstrating that the equipment to be used meets the best available commercial technology requirements under section 21(b);

''(iii) a map showing the location of each well to be drilled;

''(iv)(I) a scenario for the potential blowout of the well involving the highest expected volume of liquid hydrocarbons; and

''(II) a complete description of a response plan to control the blowout and manage the accompanying discharge of hydrocarbons, including—

''(aa) the technology and estimated timeline for regaining control of the well; and

''(bb) the strategy, organization, and resources to be used to avoid harm to the environment and human health from hydrocarbons; and

''(v) any other information determined to be relevant by the Secretary.

''(B) DEEPWATER WELLS.—

''(i) IN GENERAL.—Before conducting exploration activities in water depths greater than 500 feet, the holder of a lease shall submit to the Secretary for approval a deepwater operations plan prepared by the lessee in accordance with this subparagraph.

''(ii) TECHNOLOGY REQUIREMENTS.—A deepwater operations plan under this subparagraph shall be based on the best available commercial technology to ensure safety in carrying out the exploration activity and the blowout response plan.

''(iii) SYSTEMS ANALYSIS REQUIRED.—The Secretary shall not approve a deepwater operations plan under this subparagraph unless the plan includes a technical systems analysis of—

''(I) the safety of the proposed exploration activity;

''(II) the blowout prevention technology; and

''(III) the blowout and spill response plans.''; and

(C) by adding at the end the following:

''(5) DEADLINE FOR APPROVAL.—

''(A) IN GENERAL.—In the case of a lease issued under a sale held after March 17, 2010, the deadline for approval of an exploration plan referred to in the fourth sentence of paragraph (1) is—

''(i) the date that is 90 days after the date on which the plan or the modifications to the plan are submitted; or

''(ii) the date that is not later than an additional 180 days after the deadline described in clause (i), if the Secretary makes a finding that additional time is necessary to complete any environmental, safety, or other reviews.

''(B) EXISTING LEASES.—In the case of a lease issued under a sale held on or before March 17, 2010, the Secretary, with the consent of the holder of the lease, may extend the deadline applicable to the lease for such additional time as the Secretary determines is necessary to complete any environmental, safety, or other reviews.

''(C) EFFECT ON TERM OF LEASE.—In the case of any extension of the deadline for approval of an exploration plan under this Act, the additional time taken by the Secretary shall not be assessed against the term of the associated lease.'';

(2) by redesignating subsections (e) through (h) as subsections (f) through (i), respectively; and

(3) by striking subsection (d) and inserting the following:

''(d) DRILLING PERMITS.—

''(1) IN GENERAL.—The Secretary shall, by regulation, require that any lessee operating under an approved exploration plan obtain a permit—

''(A) before the lessee drills a well in accordance with the plan; and

''(B) before the lessee significantly modifies the well design originally approved by the Secretary.

''(2) ENGINEERING REVIEW REQUIRED.—The Secretary may not grant any drilling permit until the date of completion of a full review of the well system by not less than 2 agency engineers, including a written determination that—

''(A) critical safety systems (including blowout prevention) will use best available commercial technology; and

''(B) blowout prevention systems will include redundancy and remote triggering capability.

''(3) MODIFICATION REVIEW REQUIRED.—The Secretary may not approve any modification of a permit without a determination, after an additional engineering review, that the modification will not compromise the safety of the well system previously approved.

''(4) OPERATOR SAFETY AND ENVIRONMENTAL MANAGEMENT REQUIRED.—The Secretary may not grant any drilling permit or modification of the permit until the date of completion and approval of a safety and environmental management plan that—

''(A) is to be used by the operator during all well operations; and

''(B) includes—

''(i) a description of the expertise and experience requirements of crew members who will be present on the rig; and

''(ii) designation of at least 2 environmental and safety managers that—

''(I) are or will be employees of the operator;

''(II) would be present on the rig at all times; and

''(III) have overall responsibility for the safety and environmental management of the well system and spill response plan; and

''(C) not later than May 1, 2012, requires that all employees on the rig meet the training and experience requirements under section 21(b)(4).

''(e) DISAPPROVAL OF EXPLORATION PLAN.—

''(1) IN GENERAL.—The Secretary shall disapprove an exploration plan submitted under this section if the Secretary determines that, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that—

''(A) implementation of the exploration plan would probably cause serious harm or damage to life (including fish and other aquatic life), property, mineral deposits, national security or defense, or the marine, coastal or human environments;

''(B) the threat of harm or damage would not disappear or decrease to an acceptable extent within a reasonable period of time; and

''(C) the advantages of disapproving the exploration plan outweigh the advantages of exploration.

''(2) COMPENSATION.—If an exploration plan is disapproved under this subsection, the provisions of subparagraphs (B) and (C) of section 25(h)(2) shall apply to the lease and the plan or any modified plan, except that the reference in section 25(h)(2) to a development and production plan shall be considered to be a reference to an exploration plan.''.

(f) OUTER CONTINENTAL SHELF LEASING PROGRAM.—Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended—

(1) in subsection (a)—

(A) in the second sentence, by inserting after ''national energy needs'' the following: ''and the need for the protection of the marine and coastal environment and resources'';

(B) in paragraph (1), by striking ''considers'' and inserting ''gives equal consideration to''; and

(C) in paragraph (3), by striking '', to the maximum extent practicable,'';

(2) in subsection (b)—

(A) in paragraph (3), by striking ''and'' at the end;

(B) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(5) provide technical review and oversight of the exploration plan and a systems review of the safety of the well design and other operational decisions;

''(6) conduct regular and thorough safety reviews and inspections, and;

''(7) enforce all applicable laws (including regulations).'';

(3) in the second sentence of subsection (d)(2), by inserting '', the head of an interested Federal agency,'' after ''Attorney General'';

(4) in the first sentence of subsection (g), by inserting before the period at the end the following: '', including existing inventories and mapping of marine resources previously undertaken by the Department of the Interior and the National Oceanic and Atmospheric Administration, information provided by the Department of Defense, and other available data regarding energy or mineral resource potential, navigation uses, fisheries, aquaculture uses, recreational uses, habitat, conservation, and military uses on the outer Continental Shelf''; and

(5) by adding at the end the following:

''(i) RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary shall carry out a program of research and development to ensure the continued improvement of methodologies for characterizing resources of the outer Continental Shelf and conditions that may affect the ability to develop and use those resources in a safe, sound, and environmentally responsible manner.

''(2) INCLUSIONS.—Research and development activities carried out under paragraph (1) may include activities to provide accurate estimates of energy and mineral reserves and potential on the outer Continental Shelf and any activities that may assist in filling gaps in environmental data needed to develop each leasing program under this section.

''(3) LEASING ACTIVITIES.—Research and development activities carried out under paragraph (1) shall not be considered to be leasing or pre-leasing activities for purposes of this Act.''.

(g) ENVIRONMENTAL STUDIES.—Section 20 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346) is amended—

(1) by redesignating subsections (a) through (f) as subsections (b) through (g), respectively;

(2) by inserting before subsection (b) (as so redesignated) the following:

''(a) COMPREHENSIVE AND INDEPENDENT STUDIES.—

''(1) IN GENERAL.—The Secretary shall develop and carry out programs for the collection, evaluation, assembly, analysis, and dissemination of environmental and other resource data that are relevant to carrying out the purposes of this Act.

''(2) SCOPE OF RESEARCH.—The programs under this subsection shall include—

''(A) the gathering of baseline data in areas before energy or mineral resource development activities occur;

''(B) ecosystem research and monitoring studies to support integrated resource management decisions; and

''(C) the improvement of scientific understanding of the fate, transport, and effects of discharges and spilled materials, including deep water hydrocarbon spills, in the marine environment.

''(3) USE OF DATA.—The Secretary shall ensure that information from the studies carried out under this section—

''(A) informs the management of energy and mineral resources on the outer Continental Shelf including any areas under consideration for oil and gas leasing; and

''(B) contributes to a broader coordination of energy and mineral resource development activities within the context of best available science.

''(4) INDEPENDENCE.—The Secretary shall create a program within the appropriate bureau established under section 32 that shall—

''(A) be programmatically separate and distinct from the leasing program;

''(B) carry out the environmental studies under this section;

''(C) conduct additional environmental studies relevant to the sound management of energy and mineral resources on the outer Continental Shelf;

''(D) provide for external scientific review of studies under this section, including through appropriate arrangements with the National Academy of Sciences; and

''(E) subject to the restrictions of subsections (g) and (h) of section 18, make available to the public studies conducted and data gathered under this section.''; and

(3) in the first sentence of subsection (b)(1) (as so redesignated), by inserting ''every 3 years'' after ''shall conduct''.

(h) SAFETY RESEARCH AND REGULATIONS.—Section 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1347) is amended—

(1) in the first sentence of subsection (a), by striking ''Upon the date of enactment of this section,'' and inserting ''Not later than May 1, 2011, and every 3 years thereafter,'';

(2) by striking subsection (b) and inserting the following:

''(b) BEST AVAILABLE TECHNOLOGIES AND PRACTICES.—

''(1) IN GENERAL.—In exercising respective responsibilities under this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, to the maximum extent practicable, on existing operations, the use of the best available and safest commercial technologies and practices, if the failure of equipment would have a significant effect on safety, health, or the environment.

''(2) IDENTIFICATION OF BEST AVAILABLE TECHNOLOGIES.—Not later than May 1, 2011, the Secretary shall identify and publish a list, to be updated and maintained to reflect technological advances, of best available commercial technologies for key areas of well design and operation, including blowout prevention and blowout and oil spill response.

''(3) SAFETY CASE.—Not later than May 1, 2011, the Secretary shall promulgate regulations requiring a safety case be submitted along with each new application for a permit to drill on the outer Continental Shelf.

''(4) EMPLOYEE TRAINING.—

''(A) IN GENERAL.—Not later than May 1, 2011, the Secretary shall promulgate regulations setting standards for training for all workers on offshore facilities (including mobile offshore drilling units) conducting energy and mineral resource exploration, development, and production operations on the outer Continental Shelf.

''(B) REQUIREMENTS.—The training standards under this paragraph shall require that employers of workers described in subparagraph (A)—

''(i) establish training programs approved by the Secretary; and

''(ii) demonstrate that employees involved in the offshore operations meet standards that demonstrate the aptitude of the employees in critical technical skills.

''(C) EXPERIENCE.—The training standards under this section shall require that any offshore worker with less than 5 years of applied experience in offshore facilities operations pass a certification requirement after receiving the appropriate training.

''(D) MONITORING TRAINING COURSES.—The Secretary shall ensure that Department employees responsible for inspecting offshore facilities monitor, observe, and report on training courses established under this paragraph, including attending a representative number of the training sessions, as determined by the Secretary.''; and

(3) by adding at the end the following:

''(g) TECHNOLOGY RESEARCH AND RISK ASSESSMENT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a program of research, development, and risk assessment to address technology and development issues associated with outer Continental Shelf energy and mineral resource activities, with the primary purpose of informing the role of research, development, and risk assessment relating to safety, environmental protection, and spill response.

''(2) SPECIFIC AREAS OF FOCUS.—The program under this subsection shall include research, development, and other activities related to—

''(A) risk assessment, using all available data from safety and compliance records both within the United States and internationally;

''(B) analysis of industry trends in technology, investment, and interest in frontier areas;

''(C) analysis of incidents investigated under section 22;

''(D) reviews of best available commercial technologies, including technologies associated with pipelines, blowout preventer mechanisms, casing, well design, and other associated infrastructure related to offshore energy development;

''(E) oil spill response and mitigation;

''(F) risks associated with human factors; and

''(G) renewable energy operations.

''(3) INFORMATION SHARING ACTIVITIES.—

''(A) DOMESTIC ACTIVITIES.—The Secretary shall carry out programs to facilitate the exchange and dissemination of scientific and technical information and best practices related to the management of safety and environmental issues associated with energy and mineral resource exploration, development, and production.

''(B) INTERNATIONAL COOPERATION.—The Secretary shall carry out programs to cooperate with international organizations and foreign governments to share information and best practices related to the management of safety and environmental issues associated with energy and mineral resource exploration, development, and production.

''(4) REPORTS.—The program under this subsection shall provide to the Secretary, each Bureau Director under section 32, and the public quarterly reports that address—

''(A) developments in each of the areas under paragraph (2); and

''(B)(i) any accidents that have occurred in the past quarter; and

''(ii) appropriate responses to the accidents.

''(5) INDEPENDENCE.—The Secretary shall create a program within the appropriate bureau established under section 32 that shall—

''(A) be programmatically separate and distinct from the leasing program;

''(B) carry out the studies, analyses, and other activities under this subsection;

''(C) provide for external scientific review of studies under this section, including through appropriate arrangements with the National Academy of Sciences; and

''(D) make available to the public studies conducted and data gathered under this section.

''(6) USE OF DATA.—The Secretary shall ensure that the information from the studies and research carried out under this section inform the development of safety practices and regulations as required by this Act and other applicable laws.''.

(i) ENFORCEMENT.—Section 22 of the Outer Continental Shelf Lands Act (43 U.S.C. 1348) is amended—

(1) in subsection (d)—

(A) in paragraph (1)—

(i) in the first sentence, by inserting '', each loss of well control, blowout, activation of the shear rams, and other accident that presented a serious risk to human or environmental safety,'' after ''fire''; and

(ii) in the last sentence, by inserting ''as a condition of the lease'' before the period at the end;

(B) in the last sentence of paragraph (2), by inserting ''as a condition of lease'' before the period at the end;

(2) in subsection (e)—

(A) by striking ''(e) The'' and inserting the following:

''(e) REVIEW OF ALLEGED SAFETY VIOLATIONS.—

''(1) IN GENERAL.—The''; and

(B) by adding at the end the following:

''(2) INVESTIGATION.—The Secretary shall investigate any allegation from any employee of the lessee or any subcontractor of the lessee made under paragraph (1).''; and

(3) by adding at the end of the section the following:

''(g) INDEPENDENT INVESTIGATION.—

''(1) IN GENERAL.—At the request of the Secretary, the National Transportation Safety Board may conduct an independent investigation of any accident, occurring in the outer Continental Shelf and involving activities under this Act, that does not otherwise fall within the definition of an accident or major marine casualty, as those terms are used in chapter 11 of title 49, United States Code.

''(2) TRANSPORTATION ACCIDENT.—For purposes of an investigation under this subsection, the accident that is the subject of the request by the Secretary shall be determined to be a transportation accident within the meaning of that term in chapter 11 of title 49, United States Code.

''(h) INFORMATION ON CAUSES AND CORRECTIVE ACTIONS.—

''(1) IN GENERAL.—For each incident investigated under this section, the Secretary shall promptly make available to all lessees and the public technical information about the causes and corrective actions taken.

''(2) PUBLIC DATABASE.—All data and reports related to an incident described in paragraph (1) shall be maintained in a database that is available to the public.

''(i) INSPECTION FEE.—

''(1) IN GENERAL.—To the extent necessary to fund the inspections described in this paragraph, the Secretary shall collect a nonrefundable inspection fee, which shall be deposited in the Ocean Energy Enforcement Fund established under paragraph (3), from the designated operator for facilities subject to inspection under subsection (c).

''(2) ESTABLISHMENT.—The Secretary shall establish, by rule, inspection fees—

''(A) at an aggregate level equal to the amount necessary to offset the annual expenses of inspections of outer Continental Shelf facilities (including mobile offshore drilling units) by the Department of the Interior; and

''(B) using a schedule that reflects the differences in complexity among the classes of facilities to be inspected.

''(3) OCEAN ENERGY ENFORCEMENT FUND.—There is established in the Treasury a fund, to be known as the 'Ocean Energy Enforcement Fund' (referred to in this subsection as the 'Fund'), into which shall be deposited amounts collected under paragraph (1) and which shall be available as provided under paragraph (4).

''(4) AVAILABILITY OF FEES.—Notwithstanding section 3302 of title 31, United States Code, all amounts collected by the Secretary under this section—

''(A) shall be credited as offsetting collections;

''(B) shall be available for expenditure only for purposes of carrying out inspections of outer Continental Shelf facilities (including mobile offshore drilling units) and the administration of the inspection program;

''(C) shall be available only to the extent provided for in advance in an appropriations Act; and

''(D) shall remain available until expended.

''(5) ANNUAL REPORTS.—

''(A) IN GENERAL.—Not later than 60 days after the end of each fiscal year beginning with fiscal year 2011, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report on the operation of the Fund during the fiscal year.

''(B) CONTENTS.—Each report shall include, for the fiscal year covered by the report, the following:

''(i) A statement of the amounts deposited into the Fund.

''(ii) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures.

''(iii) Recommendations for additional authorities to fulfill the purpose of the Fund.

''(iv) A statement of the balance remaining in the Fund at the end of the fiscal year.''.

(j) REMEDIES AND PENALTIES.—Section 24 of the Outer Continental Shelf Lands Act (43 U.S.C. 1350) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) CIVIL PENALTY.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (3), if any person fails to comply with this Act, any term of a lease or permit issued under this Act, or any regulation or order issued under this Act, the person shall be liable for a civil administrative penalty of not more than $75,000 for each day of continuance of each failure.

''(2) ADMINISTRATION.—The Secretary may assess, collect, and compromise any penalty under paragraph (1).

''(3) HEARING.—No penalty shall be assessed under this subsection until the person charged with a violation has been given the opportunity for a hearing.

''(4) ADJUSTMENT.—The penalty amount specified in this subsection shall increase each year to reflect any increases in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.'';

(2) in subsection (c)—

(A) in the first sentence, by striking ''$100,000'' and inserting ''$10,000,000''; and

(B) by adding at the end the following: ''The penalty amount specified in this subsection shall increase each year to reflect any increases in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.''; and

(3) in subsection (d), by inserting '', or with reckless disregard,'' after ''knowingly and willfully''.

(k) OIL AND GAS DEVELOPMENT AND PRODUCTION.—Section 25 of the Outer Continental Shelf Lands Act (43 U.S.C. 1351) is amended by striking '', other than the Gulf of Mexico,'' each place it appears in subsections (a)(1), (b), and (e)(1).

(l) CONFLICTS OF INTEREST.—Section 29 of the Outer Continental Shelf Lands Act (43 U.S.C. 1355) is amended to read as follows:

''SEC. 29. CONFLICTS OF INTEREST.

''(a) RESTRICTIONS ON EMPLOYMENT.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall—

''(1) within 2 years after his employment with the Department has ceased—

''(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

''(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to; or

''(C) knowingly aid, advise, or assist in—

''(i) representing any other person (except the United States in any formal or informal appearance before; or

''(ii) making, with the intent to influence, any oral or written communication on behalf of any other person (except the United States) to,

any department, agency, or court of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, regulation, order lease, permit, rulemaking, inspection, enforcement action, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee;

''(2) within 1 year after his employment with the Department has ceased—

''(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

''(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to; or

''(C) knowingly aid , advise, or assist in —

''(i) representing any other person (except the United States in any formal or informal appearance before, or

''(ii) making, with the intent to influence, any oral or written communication on behalf of any other person (except the United States) to,

the Department of the Interior, or any officer or employee thereof, in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, inspection, enforcement action, or other particular matter which is pending before the Department of the Interior or in which the Department has a direct and substantial interest; or

''(3) accept employment or compensation, during the 1-year period beginning on the

date on which employment with the Department has ceased, from any person (other than the United States) that has a direct and substantial interest—

''(A) that was pending under the official responsibility of the employee as an officer or employee of the Department during the 1-year period preceding the termination of the responsibility; or

''(B) in which the employee participated personally and substantially as an officer or employee.

''(b) PRIOR EMPLOYMENT RELATIONSHIPS.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall participate personally and substantially as a Federal officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, inspection, enforcement action, or other particular matter in which, to the knowledge of the officer or employee—

''(1) the officer or employee or the spouse, minor child, or general partner of the officer or employee has a financial interest;

''(2) any organization in which the officer or employee is serving as an officer, director, trustee, general partner, or employee has a financial interest;

''(3) any person or organization with whom the officer or employee is negotiating or has any arrangement concerning prospective employment has a financial interest; or

''(4) any person or organization in which the officer or employee has, within the preceding 1-year period, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee has a financial interest.

''(c) GIFTS FROM OUTSIDE SOURCES.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharges duties or responsibilities under this Act shall, directly or indirectly, solicit or accept any gift in violation of subpart B of part 2635 of title V, Code of Federal Regulations (or successor regulations).

''(d) EXEMPTIONS.—The Secretary may, by rule, exempt from this section clerical and support personnel who do not conduct inspections, perform audits, or otherwise exercise regulatory or policy making authority under this Act.

''(e) PENALTIES.—

''(1) CRIMINAL PENALTIES.—Any person who violates paragraph (1) or (2) of subsection (a) or subsection (b) shall be punished in accordance with section 216 of title 18, United States Code.

''(2) CIVIL PENALTIES.—Any person who violates subsection (a)(3) or (c) shall be punished in accordance with subsection (b) of section 216 of title 18, United States Code.''.

SEC. 106. STUDY ON THE EFFECT OF THE MORATORIA ON NEW DEEPWATER DRILLING IN THE GULF OF MEXICO ON EMPLOYMENT AND SMALL BUSINESSES.

(a) IN GENERAL.—The Secretary of Energy, acting through the Energy Information Administration, shall publish a monthly study evaluating the effect of the moratoria which followed from the blowout and explosion of the mobile offshore drilling unit *Deepwater Horizon* that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment, on employment and small businesses.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act and at the beginning of each month thereafter during the effective period of the moratoria described in subsection (a), the Secretary of Energy, acting through the Energy Information Administration, shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report regarding the results of the study conducted under subsection (a), including—

(1) a survey of the effect of the moratoria on deepwater drilling on employment in the industries directly involved in oil and natural gas exploration in the outer Continental Shelf;

(2) a survey of the effect of the moratoria on employment in the industries indirectly involved in oil and natural gas exploration in the outer Continental Shelf, including suppliers of supplies or services and customers of industries directly involved in oil and natural gas exploration;

(3) an estimate of the effect of the moratoria on the revenues of small business located near the Gulf of Mexico and, to the maximum extent practicable, throughout the United States; and

(4) any recommendations to mitigate possible negative effects on small business concerns resulting from the moratoria.

SEC. 107. REFORM OF OTHER LAW.

Section 388(b) of the Energy Policy Act of 2005 (43 U.S.C. 1337 note; Public Law 109–58) is amended by adding at the end the following:

''(4) FEDERAL AGENCIES.—Any head of a Federal department or agency shall, on request of the Secretary, provide to the Secretary all data and information that the Secretary determines to be necessary for the purpose of including the data and information in the mapping initiative, except that no Federal department or agency shall be required to provide any data or information that is privileged or proprietary.''.

SEC. 108. SAFER OIL AND GAS PRODUCTION.

(a) PROGRAM AUTHORITY.—Section 999A of the Energy Policy Act of 2005 (42 U.S.C. 16371) is amended—

(1) in subsection (a)—

(A) by striking ''ultra-deepwater'' and inserting ''deepwater''; and

(B) by inserting ''well control and accident prevention,'' after ''safe operations,'';

(2) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

''(1) Deepwater architecture, well control and accident prevention, and deepwater technology, including drilling to deep formations in waters greater than 500 feet.''; and

(B) by striking paragraph (4) and inserting the following:

''(4) Safety technology research and development for drilling activities aimed at well control and accident prevention performed by the Office of Fossil Energy of the Department.''; and

(3) in subsection (d)—

(A) in the subsection heading, by striking ''NATIONAL ENERGY TECHNOLOGY LABORATORY'' and inserting ''OFFICE OF FOSSIL ENERGY OF THE DEPARTMENT''; and

(B) by striking ''National Energy Technology Laboratory'' and inserting ''Office of Fossil Energy of the Department''.

(b) DEEPWATER AND UNCONVENTIONAL ONSHORE NATURAL GAS AND OTHER PETROLEUM RESEARCH AND DEVELOPMENT PROGRAM.—Section 999B of the Energy Policy Act of 2005 (42 U.S.C. 16372) is amended—

(1) in the section heading, by striking ''**ULTRA-DEEPWATER AND UNCONVENTIONAL ONSHORE NATURAL GAS AND OTHER PETROLEUM**'' and inserting ''**SAFE OIL AND GAS PRODUCTION AND ACCIDENT PREVENTION**'';

(2) in subsection (a), by striking '', by increasing'' and all that follows through the period at the end and inserting ''and the safe and environmentally responsible exploration, development, and production of hydrocarbon resources.'';

(3) in subsection (c)(1)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following:

''(D) projects will be selected on a competitive, peer-reviewed basis.''; and

(4) in subsection (d)—

(A) in paragraph (6), by striking ''ultra-deepwater'' and inserting ''deepwater'';

(B) in paragraph (7)—

(i) in subparagraph (A)—

(I) in the subparagraph heading, by striking ''ULTRA-DEEPWATER'' and inserting ''DEEPWATER'';

(II) by striking ''development and'' and inserting ''research, development, and''; and

(III) by striking ''as well as'' and all that follows through the period at the end and inserting ''aimed at improving operational safety of drilling activities, including well integrity systems, well control, blowout prevention, the use of non-toxic materials, and integrated systems approach-based management for exploration and production in deepwater.'';

(ii) in subparagraph (B), by striking ''and environmental mitigation'' and inserting ''use of non-toxic materials, drilling safety, and environmental mitigation and accident prevention'';

(iii) in subparagraph (C), by inserting ''safety and accident prevention, well control and systems integrity,'' after ''including''; and

(iv) by adding at the end the following:

''(D) SAFETY AND ACCIDENT PREVENTION TECHNOLOGY RESEARCH AND DEVELOPMENT.—Awards from allocations under section 999H(d)(4) shall be expended on areas including—

''(i) development of improved cementing and casing technologies;

''(ii) best management practices for cementing, casing, and other well control activities and technologies;

''(iii) development of integrity and stewardship guidelines for—

''(I) well-plugging and abandonment;

''(II) development of wellbore sealant technologies; and

''(III) improvement and standardization of blowout prevention devices.''; and

(C) by adding at the end the following:

''(8) STUDY; REPORT.—

''(A) STUDY.—As soon as practicable after the date of enactment of this paragraph, the Secretary shall enter into an arrangement with the National Academy of Sciences under which the Academy shall conduct a study to determine—

''(i) whether the benefits provided through each award under this subsection during calendar year 2011 have been maximized; and

''(ii) the new areas of research that could be carried out to meet the overall objectives of the program.

''(B) REPORT.—Not later than January 1, 2012, the Secretary shall submit to the appropriate committees of Congress a report that contains a description of the results of the study conducted under subparagraph (A).

''(C) OPTIONAL UPDATES.—The Secretary may update the report described in subparagraph (B) for the 5-year period beginning on the date described in that subparagraph and each 5-year period thereafter.'';

(5) in subsection (e)—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by inserting ''to the Secretary for review'' after ''submit''; and

(ii) in the first sentence of subparagraph (B), by striking ''Ultra-Deepwater'' and all that follows through ''and such Advisory

Committees'' and inserting ''Program Advisory Committee established under section 999D(a), and the Advisory Committee''; and

(B) by adding at the end the following:

''(6) RESEARCH FINDINGS AND RECOMMENDATIONS FOR IMPLEMENTATION.—The Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register an annual report on the research findings of the program carried out under this section and any recommendations for implementation that the Secretary, in consultation with the Secretary of the Interior and the Administrator of the Environmental Protection Agency, determines to be necessary.'';

(6) in subsection (i)—

(A) in the subsection heading, by striking ''UNITED STATES GEOLOGICAL SURVEY'' and inserting ''DEPARTMENT OF THE INTERIOR''; and

(B) by striking '', through the United States Geological Survey,''; and

(7) in the first sentence of subsection (j), by striking ''National Energy Technology Laboratory'' and inserting ''Office of Fossil Energy of the Department''.

(c) ADDITIONAL REQUIREMENTS FOR AWARDS.—Section 999C(b) of the Energy Policy Act of 2005 (42 U.S.C. 16373(b)) is amended by striking ''an ultra-deepwater technology or an ultra-deepwater architecture'' and inserting ''a deepwater technology''.

(d) PROGRAM ADVISORY COMMITTEE.—Section 999D of the Energy Policy Act of 2005 (42 U.S.C. 16374) is amended to read as follows:

''SEC. 999D. PROGRAM ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—Not later than 270 days after the date of enactment of the Oil Spill Response Improvement Act of 2010, the Secretary shall establish an advisory committee to be known as the 'Program Advisory Committee' (referred to in this section as the 'Advisory Committee').

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Advisory Committee shall be composed of members appointed by the Secretary, including—

''(A) individuals with extensive research experience or operational knowledge of hydrocarbon exploration and production;

''(B) individuals broadly representative of the affected interests in hydrocarbon production, including interests in environmental protection and safety operations;

''(C) representatives of Federal agencies, including the Environmental Protection Agency and the Department of the Interior;

''(D) State regulatory agency representatives; and

''(E) other individuals, as determined by the Secretary.

''(2) LIMITATIONS.—

''(A) IN GENERAL.—The Advisory Committee shall not include individuals who are board members, officers, or employees of the program consortium.

''(B) CATEGORICAL REPRESENTATION.—In appointing members of the Advisory Committee, the Secretary shall ensure that no class of individuals described in any of subparagraphs (A), (B), (D), or (E) of paragraph (1) comprises more than ⅓ of the membership of the Advisory Committee.

''(c) SUBCOMMITTEES.—The Advisory Committee may establish subcommittees for separate research programs carried out under this subtitle.

''(d) DUTIES.—The Advisory Committee shall—

''(1) advise the Secretary on the development and implementation of programs under this subtitle; and

''(2) carry out section 999B(e)(2)(B).

''(e) COMPENSATION.—A member of the Advisory Committee shall serve without compensation but shall be entitled to receive travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

''(f) PROHIBITION.—The Advisory Committee shall not make recommendations on funding awards to particular consortia or other entities, or for specific projects.''.

(e) DEFINITIONS.—Section 999G of the Energy Policy Act of 2005 (42 U.S.C. 16377) is amended—

(1) in paragraph (1), by striking ''200 but less than 1,500 meters'' and inserting ''500 feet'';

(2) by striking paragraphs (8), (9), and (10);

(3) by redesignating paragraphs (2) through (7) and (11) as paragraphs (4) through (9) and (10), respectively;

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

''(2) DEEPWATER ARCHITECTURE.—The term 'deepwater architecture' means the integration of technologies for the exploration for, or production of, natural gas or other petroleum resources located at deepwater depths.

''(3) DEEPWATER TECHNOLOGY.—The term 'deepwater technology' means a discrete technology that is specially suited to address 1 or more challenges associated with the exploration for, or production of, natural gas or other petroleum resources located at deepwater depths.''; and

(5) in paragraph (10) (as redesignated by paragraph (3)), by striking ''in an economically inaccessible geological formation, including resources of small producers''.

(f) FUNDING.—Section 999H of the Energy Policy Act of 2005 (42 U.S.C. 16378) is amended—

(1) in the first sentence of subsection (a) by striking ''Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund'' and inserting ''Safe and Responsible Energy Production Research Fund'';

(2) in subsection (d)—

(A) in paragraph (1), by striking ''35 percent'' and inserting ''21.5 percent'';

(B) in paragraph (2), by striking ''32.5 percent'' and inserting ''21 percent'';

(C) in paragraph (4)—

(i) by striking ''25 percent'' and inserting ''30 percent'';

(ii) by striking ''complementary research'' and inserting ''safety technology research and development''; and

(iii) by striking ''contract management,'' and all that follows through the period at the end and inserting ''and contract management.''; and

(D) by adding at the end the following:

''(5) 20 percent shall be used for research activities required under sections 20 and 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1346, 1347).''.

(3) in subsection (f), by striking ''Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Research Fund'' and inserting ''Safer Oil and Gas Production and Accident Prevention Research Fund''.

(g) CONFORMING AMENDMENT.—Subtitle J of title IX of the Energy Policy Act of 2005 (42 U.S.C. 16371 et seq.) is amended in the subtitle heading by striking ''**Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources**'' and inserting ''**Safer Oil and Gas Production and Accident Prevention**''.

SEC. 109. NATIONAL COMMISSION ON OUTER CONTINENTAL SHELF OIL SPILL PREVENTION.

(a) ESTABLISHMENT.—There is established in the Legislative branch the National Commission on Outer Continental Shelf Oil Spill Prevention (referred to in this section as the ''Commission'').

(b) PURPOSES.—The purposes of the Commission are—

(1) to examine and report on the facts and causes relating to the Deepwater Horizon explosion and oil spill of 2010;

(2) to ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the incident;

(3) to build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Committees on Energy and Natural Resources and Commerce, Science, and Transportation of the Senate;

(B) the Committee on Natural Resources and the Subcommittee on Oversight and Investigations of the House of Representatives; and

(C) other Executive branch, congressional, or independent commission investigations into the Deepwater Horizon incident of 2010, other fatal oil platform accidents and major spills, and major oil spills generally;

(4) to make a full and complete accounting of the circumstances surrounding the incident, and the extent of the preparedness of the United States for, and immediate response of the United States to, the incident; and

(5) to investigate and report to the President and Congress findings, conclusions, and recommendations for corrective measures that may be taken to prevent similar incidents.

(c) COMPOSITION OF COMMISSION.—

(1) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(A) 1 member shall be appointed by the President, who shall serve as Chairperson of the Commission;

(B) 1 member shall be appointed by the majority or minority (as the case may be) leader of the Senate from the Republican Party and the majority or minority (as the case may be) leader of the House of Representatives from the Republican Party, who shall serve as Vice Chairperson of the Commission;

(C) 2 members shall be appointed by the senior member of the leadership of the Senate from the Democratic Party;

(D) 2 members shall be appointed by the senior member of the leadership of the House of Representatives from the Republican Party;

(E) 2 members shall be appointed by the senior member of the leadership of the Senate from the Republican Party; and

(F) 2 members shall be appointed by the senior member of the leadership of the House of Representatives from the Democratic Party.

(2) QUALIFICATIONS; INITIAL MEETING.—

(A) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(B) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be a current officer or employee of the Federal Government or any State or local government.

(C) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience and expertise in such areas as—

(i) engineering;

(ii) environmental compliance;

(iii) health and safety law (particularly oil spill legislation);

(iv) oil spill insurance policies;

(v) public administration;

(vi) oil and gas exploration and production;

(vii) environmental cleanup; and

(viii) fisheries and wildlife management.

(D) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed on or before September 15, 2010.

(E) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable after the date of enactment of this Act.

(3) QUORUM; VACANCIES.—

(A) IN GENERAL.—After the initial meeting of the Commission, the Commission shall meet upon the call of the Chairperson or a majority of the members of the Commission.

(B) QUORUM.—6 members of the Commission shall constitute a quorum.

(C) VACANCIES.—Any vacancy in the Commission shall not affect the powers of the Commission, but shall be filled in the same manner in which the original appointment was made.

(d) FUNCTIONS OF COMMISSION.—

(1) IN GENERAL.—The functions of the Commission are—

(A) to conduct an investigation that—

(i) investigates relevant facts and circumstances relating to the Deepwater Horizon incident of April 20, 2010, and the associated oil spill thereafter, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(ii) may include relevant facts and circumstances relating to—

(I) permitting agencies;

(II) environmental and worker safety law enforcement agencies;

(III) national energy requirements;

(IV) deepwater and ultradeepwater oil and gas exploration and development;

(V) regulatory specifications, testing, and requirements for offshore oil and gas well explosion prevention;

(VI) regulatory specifications, testing, and requirements offshore oil and gas well casing and cementing regulation;

(VII) the role of congressional oversight and resource allocation; and

(VIII) other areas of the public and private sectors determined to be relevant to the Deepwater Horizon incident by the Commission;

(B) to identify, review, and evaluate the lessons learned from the Deepwater Horizon incident of April 20, 2010, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, and the private sector, relative to detecting, preventing, and responding to those incidents; and

(C) to submit to the President and Congress such reports as are required under this section containing such findings, conclusions, and recommendations as the Commission determines to be appropriate, including proposals for organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(2) RELATIONSHIP TO INQUIRY BY CONGRESSIONAL COMMITTEES.—In investigating facts and circumstances relating to energy policy, the Commission shall—

(A) first review the information compiled by, and any findings, conclusions, and recommendations of, the committees identified in subparagraphs (A) and (B) of subsection (b)(3); and

(B) after completion of that review, pursue any appropriate area of inquiry, if the Commission determines that—

(i) those committees have not investigated that area;

(ii) the investigation of that area by those committees has not been completed; or

(iii) new information not reviewed by the committees has become available with respect to that area.

(e) POWERS OF COMMISSION.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member of the Commission, may, for the purpose of carrying out this section—

(A) hold such hearings, meet and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials;

as the Commission or such subcommittee or member considers to be advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this paragraph only—

(I) by the agreement of the Chairperson and the Vice Chairperson; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), a subpoena issued under this paragraph—

(I) shall bear the signature of the Chairperson or any member designated by a majority of the Commission;

(II) and may be served by any person or class of persons designated by the Chairperson or by a member designated by a majority of the Commission for that purpose.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subparagraph (A), the United States district court for the district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence.

(ii) JUDICIAL ACTION FOR NONCOMPLIANCE.—Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(iii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes (2 U.S.C. 192 through 194).

(3) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge the duties of the Commission under this section.

(4) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly from any Executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purposes of this section.

(B) COOPERATION.—Each Federal department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairperson, the Chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(C) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall be received, handled, stored, and disseminated only by members of the Commission and the staff of the Commission in accordance with all applicable laws (including regulations and Executive orders).

(5) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the functions of the Commission.

(B) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in subparagraph (A), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as are determined to be advisable and authorized by law.

(6) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property, including travel, for the direct advancement of the functions of the Commission.

(7) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(f) PUBLIC MEETINGS AND HEARINGS.—

(1) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(A) hold public hearings and meetings, to the extent appropriate; and

(B) release public versions of the reports required under paragraphs (1) and (2) of subsection (j).

(2) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of proprietary or sensitive information provided to or developed for or by the Commission as required by any applicable law (including a regulation or Executive order).

(g) STAFF OF COMMISSION.—

(1) IN GENERAL.—

(A) APPOINTMENT AND COMPENSATION.—

(i) IN GENERAL.—The Chairperson, in consultation with the Vice Chairperson and in accordance with rules agreed upon by the Commission, may, without regard to the civil service laws (including regulations), appoint and fix the compensation of a staff director and such other personnel as are necessary to enable the Commission to carry out the functions of the Commission.

(ii) MAXIMUM RATE OF PAY.—No rate of pay fixed under this subparagraph may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(B) PERSONNEL AS FEDERAL EMPLOYEES.—

(i) IN GENERAL.—The staff director and any personnel of the Commission who are employees shall be considered to be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(ii) MEMBERS OF COMMISSION.—Clause (i) shall not apply to members of the Commission.

(2) DETAILEES.—

(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(h) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION OF MEMBERS.—

(A) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(B) FEDERAL EMPLOYEES.—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(2) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(i) SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.—

(1) IN GENERAL.—Subject to paragraph (2), the appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the members and staff of the Commission appropriate security clearances, to the maximum extent practicable, pursuant to existing procedures and requirements.

(2) PROPRIETARY INFORMATION.—No person shall be provided with access to proprietary information under this section without the appropriate security clearances.

(j) REPORTS OF COMMISSION; ADJOURNMENT.—

(1) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of members of the Commission.

(2) FINAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of members of the Commission.

(3) TEMPORARY ADJOURNMENT.—

(A) IN GENERAL.—The Commission, and all the authority provided under this section, shall adjourn and be suspended, respectively, on the date that is 60 days after the date on which the final report is submitted under paragraph (2).

(B) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in subparagraph (A) for the purpose of concluding activities of the Commission, including—

(i) providing testimony to committees of Congress concerning reports of the Commission; and

(ii) disseminating the final report submitted under paragraph (2).

(C) RECONVENING OF COMMISSION.—The Commission shall stand adjourned until such time as the President or the Secretary of Homeland Security declares an oil spill of national significance to have occurred, at which time—

(i) the Commission shall reconvene in accordance with subsection (c)(3); and

(ii) the authority of the Commission under this section shall be of full force and effect.

(k) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(A) $10,000,000 for the first fiscal year in which the Commission convenes; and

(B) $3,000,000 for each fiscal year thereafter in which the Commission convenes.

(2) AVAILABILITY.—Amounts made available to carry out this section shall be available—

(A) for transfer to the Commission for use in carrying out the functions and activities of the Commission under this section; and

(B) until the date on which the Commission adjourns for the fiscal year under subsection (j)(3).

(l) NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(m) CONFLICTS OF INTEREST FOR CERTAIN COMMISSION MEMBERS.—Notwithstanding any other provision of law, any member of a federally sponsored presidential commission that is a senior official in an organization that is engaged in legal action that is materially relevant to the work of the Commission shall be excluded from making recommendations to the President.

SEC. 110. CLASSIFICATION OF OFFSHORE SYSTEMS.

(a) REGULATIONS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall jointly issue regulations requiring systems (including existing systems) used in the offshore exploration, development, and production of oil and gas in the outer Continental Shelf to be constructed, maintained, and operated so as to meet classification, certification, rating, and inspection standards that are necessary—

(A) to protect the health and safety of affiliated workers; and

(B) to prevent environmental degradation.

(2) THIRD-PARTY VERIFICATION.—The standards established by regulation under paragraph (1) shall be verified through certification and classification by independent third parties that—

(A) have been preapproved by both the Secretary and the Secretary of the Department in which the Coast Guard is operating; and

(B) have no financial conflict of interest in conducting the duties of the third parties.

(3) MINIMUM SYSTEMS COVERED.—At a minimum, the regulations issued under paragraph (1) shall require the certification and classification by an independent third party who meets the requirements of paragraph (2) of—

(A) mobile offshore drilling units;

(B) fixed and floating drilling or production facilities;

(C) drilling systems, including risers and blowout preventers; and

(D) any other equipment dedicated to the safety systems relating to offshore extraction and production of oil and gas.

(4) EXCEPTIONS.—The Secretary and the Secretary of the Department in which the Coast Guard is operating may waive the standards established by regulation under paragraph (1) for an existing system only if—

(A) the system is of an age or type where meeting such requirements is impractical; and

(B) the system poses an acceptably low level of risk to the environment and to human safety.

(b) AUTHORITY OF COAST GUARD.—Nothing in this section preempts or interferes with the authority of the Coast Guard.

SEC. 111. SAVINGS PROVISIONS.

(a) EXISTING LAW.—All regulations, rules, standards, determinations, contracts and agreements, memoranda of understanding, certifications, authorizations, appointments, delegations, results and findings of investigations, or any other actions issued, made, or taken by, or pursuant to or under, the authority of any law (including regulations) that resulted in the assignment of functions or activities to the Secretary, the Director of the Minerals Management Service (including by delegation from the Secretary), or the Department (as related to the implementation of the purposes referenced in this title) that were in effect on the date of enactment of this Act shall continue in full force and effect after the date of enactment of this Act unless previously scheduled to expire or until otherwise modified or rescinded by this title or any other Act.

(b) EFFECT ON OTHER AUTHORITIES.—This title does not amend or alter the provisions of other applicable laws, unless otherwise noted.

SEC. 112. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

TITLE II—OIL SPILL COMPENSATION

Subtitle A—Oil Spill Liability

PART I—OIL POLLUTION ACT OF 1990

SEC. 201. LIABILITY LIMITS.

(a) PRESIDENTIAL ESTABLISHMENT OF LIMITS.—Section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704) is amended by adding at the end the following:

''(e) LIMITS FOR STRICT LIABILITY.—

''(1) IN GENERAL.—For the purpose of subsection (a)(3), after a 60-day period of public notice and comment beginning on the date of enactment of this subsection, and from time to time thereafter, the President shall establish a set of limits for strict liability for damages for incidents occurring from offshore facilities (other than deepwater ports) covered by Outer Continental Shelf leases issued after the date of enactment of the Oil Spill Response Improvement Act of 2010.

''(2) REQUIREMENTS.—The limits for strict liability established under paragraph (1) shall—

''(A) take into account the availability of insurance products for offshore facilities; and

''(B) be otherwise based equally on and categorized by—

''(i) the water depth of the lease;

''(ii) the minimum projected well depth of the lease;

''(iii) the proximity of the lease to oil and gas emergency response equipment and infrastructure;

''(iv) the likelihood of the offshore facility covered by the lease to encounter broken sea ice;

''(v) the record and historical number of regulatory violations of the leaseholder under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (or the absence of such a record or violations);

''(vi) the estimated hydrocarbon reserves of the lease;

''(vii) the estimated well pressure, expressed in pounds per square inch, of the reservoir associated with the lease;

''(viii) the availability and projected availability, including through borrowing authority, of funds in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986;

''(ix) other available remedies under law;

''(x) the estimated economic value of non-energy coastal resources that may be impacted by a spill of national significance involving the offshore facility covered by the lease;

''(xi) whether the offshore facility covered by the lease employs a subsea or surface blowout preventer stack; and

''(xii) the availability of industry payments under subsection (f).

''(3) PUBLIC LIABILITY INSURANCE.—In no case shall the strict liability limits under this subsection for the applicable offshore facility be less than the maximum amount of public liability insurance that is broadly available for related offshore environmental incidents.

''(f) LIABILITY OF INDUSTRY.—

''(1) IN GENERAL.—If an incident on the Outer Continental Shelf results in economic damages claims exceeding the maximum amount for strict liability for economic damages to be paid by the responsible party under subsection (a)(3), the claims in excess of the maximum amount for strict liability for economic damages under subsection (a)(3) shall be paid initially, in an amount not to exceed a total of $20,000,000,000, by all other entities operating offshore facilities on the Outer Continental Shelf on the date of the incident, as determined by the Secretary of the Interior, in accordance with paragraph (2).

''(2) PROPORTIONAL PAYMENT.—The amount of liability claims to be paid under paragraph (1) by an entity described in that paragraph shall be determined by the Secretary of the Interior based on the proportion that—

''(A) the number of offshore facilities operated by the entity on the Outer Continental Shelf; bears to

''(B) the total number of offshore facilities operated by all entities on the Outer Continental Shelf.

''(3) OIL SPILL LIABILITY TRUST FUND.—Economic damages that exceed the amounts available under subsection (a)(3) and paragraph (1) shall be paid from the Oil Spill Liability Trust Fund and amounts made available to the Fund under part II of the Oil Spill Response Improvement Act of 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) LIMIT FOR OFFSHORE FACILITIES.—Section 1004(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)) is amended—

(A) in paragraph (2), by striking '',,'' and inserting a comma; and

(B) by striking paragraph (3) and inserting the following:

''(3) for an offshore facility (except a deepwater port) covered by an Outer Continental Shelf lease—

''(A) if the lease was issued prior to the date of enactment of the Oil Spill Response Improvement Act of 2010, the total of all removal costs plus $75,000,000; and

''(B) if the lease was issued on or after the date of enactment of the Oil Spill Response Improvement Act of 2010, the total of all removal costs plus the limit for strict liability for damages for that offshore facility established by the President under subsection (e); and''.

(2) EXCEPTIONS.—Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended in the first sentence by inserting ''1004(f),'' after ''sections''.

SEC. 202. ADVANCE PAYMENT.

Section 1012 of the Oil Pollution Act of 1990 (33 U.S.C. 2712) is amended by adding at the end the following:

''(l) ADVANCE PAYMENTS.—The President shall promulgate regulations that allow advance payments to be made from the Fund to States and political subdivisions of States for actions taken to prepare for and mitigate substantial threats from the discharge of oil.''.

PART II—OIL SPILL LIABILITY TRUST FUND

SEC. 211. RATE OF TAX FOR OIL SPILL LIABILITY TRUST FUND.

(a) IN GENERAL.—Section 4611 of the Internal Revenue Code of 1986 (relating to the imposition of tax) is amended—

(1) in subsection (c), by adding at the end the following new paragraph:

''(3) ADJUSTMENTS TO TEMPORARY SUSPENSION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—In the case of any calendar quarter in which the Secretary estimates that, as of the close of the previous quarter, the unobligated balance in the Oil Spill Liability Trust Fund is greater than $10,000,000,000, the Oil Spill Liability Trust Fund financing shall be 0 cents a barrel.''; and

(2) by striking subsection (f).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply on and after the first day of the first calendar quarter after the date of enactment of this Act.

(c) NEW REVENUES TO THE OIL SPILL LIABILITY TRUST FUND.—Notwithstanding section 3302 of title 31, United States Code, the revenue resulting from any increase in the Oil Spill Liability Trust Fund financing rate under this section or the amendments made by this section shall—

(1) be credited only as offsetting collections for the Oil Spill Liability Trust Fund;

(2) be available for expenditure only for purposes of the Oil Spill Liability Trust Fund; and

(3) remain available until expended.

SEC. 212. LIMITATIONS ON EXPENDITURES AND BORROWING AUTHORITY.

(a) LIMITATIONS ON EXPENDITURES.—Section 9509(c) of the Internal Revenue Code of 1986 (relating to expenditures from the Oil Spill Liability Trust Fund) is amended—

(1) by striking paragraph (2);

(2) by striking ''EXPENDITURES'' in the subsection heading and all that follows through ''Amounts in'' in paragraph (1) and inserting ''EXPENDITURES.—Amounts in''; and

(3) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively, and indenting appropriately.

(b) AUTHORITY TO BORROW.—Section 9509(d) of the Internal Revenue Code of 1986 (relating to authority to borrow from the Oil Spill Liability Trust Fund) is amended—

(1) in paragraph (2), by striking ''$1,000,000,000'' and inserting ''$10,000,000,000''; and

(2) in paragraph (3)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

Subtitle B—Federal Oil Spill Research

SEC. 221. DEFINITIONS.

In this subtitle:

(1) COMMANDANT.—The term ''Commandant'' means the Commandant of the Coast Guard.

(2) PROGRAM.—The term ''program'' means the program for oil spill response established pursuant to section 230.

SEC. 222. FEDERAL OIL SPILL RESEARCH.

(a) IN GENERAL.—Title VII of the Oil Pollution Act of 1990 is amended—

(1) by inserting before section 7001 (33 U.S.C. 2761) the following:

''SEC. 7000. DEFINITIONS.

''In this title:

''(1) ASSESSMENT.—The term 'assessment' means the research assessment on the status of the oil spill prevention and response capabilities conducted under section 7004.

''(2) COMMITTEE.—The term 'Committee' means the Interagency Committee established under section 7001.

''(3) PLAN.—The term 'plan' means the Federal oil spill research plan developed under section 7005.

''(4) PROGRAM.—The term 'program' means the Federal oil spill research program established under section 7003.'';

(2) by redesignating section 7002 (33 U.S.C. 2762) as section 7009;

(3) in section 7001 (33 U.S.C. 2761), by striking subsections (b) through (e) and inserting the following:

''(b) REGIONAL SUBCOMMITTEES.—

''(1) IN GENERAL.—The Committee shall establish—

''(A) a regional subcommittee for each of the Gulf of Mexico and Arctic regions of the United States; and

''(B) such other regional subcommittees as the Committee determines to be necessary.

''(2) COORDINATION.—In accordance with the program, each regional subcommittee established under this subsection shall coordinate with the Committee and other relevant State, national, and international bodies with expertise in the region to research and develop technologies for use in the prevention, detection, recovery, mitigation, and evaluation of effects of incidents in the regional environment.''; and

(4) by inserting after section 7001 (33 U.S.C. 2761) the following:

''SEC. 7002. FUNCTIONS OF THE COMMITTEE.

''The Committee shall—

''(1) coordinate a comprehensive Federal oil spill research and development program in accordance with section 7003 to coordinate oil pollution research, technology development, and demonstration among the Federal agencies, in cooperation and coordination with industry, institutions of higher education, research institutions, State and tribal governments, and other relevant stakeholders;

''(2) conduct a research assessment on the status of the oil spill prevention and response capabilities in accordance with section 7004; and

''(3) develop a Federal oil spill research plan in accordance with section 7005.

''SEC. 7003. FEDERAL OIL SPILL RESEARCH PROGRAM.

''(a) IN GENERAL.—The Committee shall establish a program for conducting oil pollution research, development, and demonstration.

''(b) PROGRAM ELEMENTS.—The program established under subsection (a) shall provide for research, development, and demonstration technologies, practices, and procedures that provide for effective and direct response to prevent, detect, recover, or mitigate oil discharges, including—

''(1) new technologies to detect accidental or intentional overboard oil discharges;

''(2) models and monitoring capabilities to predict the transport and fate of oil, including trajectory and behavior predictions due to location, weather patterns, hydrographic data, and water conditions, including Arctic sea ice environments;

''(3) containment and well-control capabilities, including drilling of relief wells, containment structures, and injection technologies;

''(4) response capabilities, such as improved dispersants, biological treatment methods, booms, oil skimmers, containment vessels, and offshore and onshore storage capacity;

''(5) research and training, in coordination with the National Response Team, to improve the removal of oil discharge quickly and effectively;

''(6) decision support systems for contingency planning and response;

''(7) improvement of options for oily or oiled waste dispersal;

''(8) technologies, methods, and standards for use in protecting personnel and for volunteers that may participate in incident responses, including—

''(A) training;

''(B) adequate supervision;

''(C) protective equipment;

''(D) maximum exposure limits; and

''(E) decontamination procedures; and

''(9) technologies and methods to prevent, detect, recover, and mitigate oil discharges in polar environments.

''(c) STUDY OF ENVIRONMENTAL EFFECTS OF RESPONSE TECHNIQUES.—Notwithstanding any other provision of law, the Coast Guard shall conduct reasonable environmental studies of oil discharge prevention or mitigation technologies, including the use of small quantities of oil for testing of in situ burning, chemical dispersants, and herding agents, upon and within navigable waters of the United States, if the Coast Guard, in consultation with the Committee, determines that the information to be obtained cannot be adequately obtained through a laboratory or simulated experiment.

''SEC. 7004. FEDERAL RESEARCH ASSESSMENT.

''Not later than 1 year after the date of enactment of Oil Spill Response Improvement Act of 2010, the Committee shall submit to Congress an assessment of the status of oil spill prevention and response capabilities that—

''(1) identifies research programs conducted and technologies developed by governments, institutions of higher education, and industry;

''(2) assesses the status of knowledge on oil pollution prevention, response, and mitigation technologies;

''(3) identifies regional oil pollution research needs and priorities for a coordinated program of research at the regional level developed in consultation with State, local, and tribal governments;

''(4) assesses the status of spill response equipment and determines areas in need of improvement, including quantity, age, quality, effectiveness, or necessary technological improvements;

''(5) assesses the status of real-time data available to mariners, researchers, and responders, including weather, hydrographic, and water condition data, and the impact of incomplete and inaccessible data on preventing, detecting, or mitigating oil discharges; and

''(6) is subject to a 90-day public comment period and addresses suggestions received and incorporates public input received, as appropriate.

''SEC. 7005. FEDERAL INTERAGENCY RESEARCH PLAN.

''(a) IN GENERAL.—

''(1) PLAN.—Not later than 60 days after the date on which the President submits to Congress, pursuant to section 1105 of title 31, United States Code, a budget for fiscal year 2012, and for each fiscal year thereafter, the Committee shall submit to Congress a plan that establishes the priorities for Federal oil spill research and development.

''(2) RECOMMENDATIONS.—In the development of the plan, the Committee shall consider recommendations by the National Academy of Sciences and information from State, local, and tribal governments.

''(b) PLAN REQUIREMENTS.—The plan shall—

''(1) make recommendations to improve technologies and practices to prevent oil spills;

''(2) suggest changes to the program to improve the rates of oil recovery and spill mitigation;

''(3) make recommendations to improve technologies, practices, and procedures to provide for effective and direct response to oil spills;

''(4) make recommendations to improve the quality of real-time data available to mariners, researchers, and responders; and

''(5) be subject to a 90-day public comment period and address suggestions received and incorporate public input received, as appropriate.

''SEC. 7006. EXTRAMURAL GRANTS.

''(a) IN GENERAL.—In carrying out the program, the Committee shall—

''(1) award competitive grants to institutions of higher education or other research institutions to carry out projects—

''(A) to advance research and development; and

''(B) to demonstrate technologies for preventing, detecting, or mitigating oil discharges that are relevant to the goals and priorities of the plan; and

''(2) incorporate a competitive, merit-based process for awarding grants that may be conducted jointly with other participating agencies.

''(b) REGIONAL RESEARCH PROGRAM.—

''(1) DEFINITION OF REGION.—In this subsection, the term 'region' means a Coast Guard district as described in part 3 of subchapter A of chapter I of title 33, Code of Federal Regulations (1989).

''(2) PROGRAM.—Consistent with the program, the Committee shall coordinate the provision of competitive grants to institutions of higher education or other research institutions (or groups of those institutions) for the purpose of conducting a coordinated research program relating to the aspects of oil pollution with respect to each region, including research on such matters as—

''(A) prevention;

''(B) removal mitigation; and

''(C) the effects of discharged oil on regional environments.

''(3) PUBLICATION.—

''(A) IN GENERAL.—The Committee shall coordinate the publication by the agencies represented on the Committee of a solicitation for grants under this subsection.

''(B) FORM AND CONTENT.—The application for a grant under this subsection shall be in such form and contain such information as shall be required in the published solicitation.

''(C) REVIEW OF APPLICATIONS.—Each application for a grant under this subsection shall be—

''(i) reviewed by the Committee; and

''(ii) at the option of the Committee, included among applications recommended by the Committee for approval in accordance with paragraph (5).

''(D) PROVISION OF GRANTS.—

''(i) IN GENERAL.—A granting agency represented on the Committee shall provide the grants recommended by the Committee unless the granting agency—

''(I) decides not to provide the grant due to budgetary or other compelling considerations; and

''(II) publishes in the Federal Register the reasons for such a determination.

''(ii) FUNDS FOR GRANTS.—No grants may be provided by any agency under this subsection from any funds authorized to carry out this paragraph unless the grant award has first been recommended by the Committee under subparagraph (C)(ii).

''(4) ELIGIBLE APPLICANTS.—

''(A) IN GENERAL.—Any institution of higher education or other research institution (or a group of those institutions) may apply for a grant for the regional research program established under this subsection.

''(B) LOCATION OF APPLICANT.—An applicant described in subparagraph (A) shall be located in the region, or in a State a part of which is in the region, for which the project covered by the grant application is proposed to be carried out as part of the regional research program.

''(C) GROUP APPLICATIONS.—With respect to an application described in subparagraph (A) from a group of institutions referred to in that subparagraph, the 1 or more entities that will carry out the substantial portion of the proposed project covered by the grant shall be located in the region, or in a State a part of which is in the region, for which the project is proposed as part of the regional research program.

''(5) RECOMMENDATIONS.—

''(A) IN GENERAL.—The Committee shall make recommendations on grants in such a manner as to ensure an appropriate balance within a region among the various aspects of oil pollution research, including—

''(i) prevention;

''(ii) removal;

''(iii) mitigation; and

''(iv) the effects of discharged oil on regional environments.

''(B) ADDITIONAL CRITERIA.—In addition to the requirements described in subparagraph (A), the Committee shall make recommendations for the approval of grants based on whether—

''(i) there are available to the applicant for use in carrying out this paragraph demonstrated research resources;

''(ii) the applicant demonstrates the capability of making a significant contribution to regional research needs; and

''(iii) the projects that the applicant proposes to carry out under the grant—

''(I) are consistent with the plan under section 7005; and

''(II) would further the objectives of the program established under section 7003.

''(6) TERM OF GRANTS; REVIEW; COST-SHARING.—A grant provided under this subsection shall—

''(A) be for a period of up to 3 years;

''(B) be subject to annual review by the granting agency; and

''(C) provide not more than 80 percent of the costs of the research activities carried out in connection with the grant.

''(7) PROHIBITION ON USE OF GRANT FUNDS.—No funds made available to carry out this subsection may be used for—

''(A) the acquisition of real property (including buildings); or

''(B) the construction of any building.

''(8) EFFECT ON OTHER AUTHORITY.—Nothing in this paragraph alters or abridges the authority under existing law of any Federal agency to provide grants, or enter into contracts or cooperative agreements, using funds other than those authorized in this Act for the purpose of carrying out this subsection.

''(9) FUNDING.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for each of fiscal years 2011 through 2015, not less than $32,000,000 of amounts in the Fund shall be available to carry out the regional research program under this subsection, to be available in equal amounts for the regional research program in each region.

''(B) ADDITIONAL GRANTS.—If the agencies represented on the Committee determine that regional research needs exist that cannot be addressed by the amount of funds made available under subparagraph (A), the agencies may use authority under subsection (a) to make additional grants to meet those needs.

''SEC. 7007. ANNUAL REPORT.

''Concurrent with the submission of the Federal interagency research plan pursuant to section 7005, the Committee shall submit to Congress an annual report that describes

the activities and results of the program during the previous fiscal year and described the objectives of the program for the next fiscal year.

''SEC. 7008. FUNDING.

''(a) IN GENERAL.—Of the amounts in the Fund for each fiscal year, not more than $50,000,000 shall be available to carry out this section (other than section 7006(b)) for the fiscal year.

''(b) APPROPRIATIONS.—All activities authorized under this title, including under section 7006(b), shall be subject to the availability of appropriations.''.

SEC. 223. NATIONAL ACADEMY OF SCIENCE PARTICIPATION.

The Commandant shall enter into an arrangement with the National Academy of Sciences under which the Academy shall—

(1) not later than 1 year after the date of enactment of this Act, assess and evaluate the status of Federal oil spill research and development as of the day before the date of enactment of this Act;

(2) submit to Congress and the Federal Oil Spill Research Committee established under section 7002 of the Oil Pollution Act of 1990 a report evaluating the conclusions and recommendations from the Federal research assessment under section 7004 of that Act to be used in the development of the Federal oil spill research plan under section 7005 of that Act; and

(3) not later than 1 year after the Federal interagency research plan is submitted to Congress under section 7005 of that Act, evaluate, and report to Congress on, the plan.

SEC. 224. TECHNICAL AND CONFORMING AMENDMENTS.

(a) USE OF FUNDS.—Section 1012(a)(5)(A) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)(A)) is amended by striking ''$25,000,000'' and inserting ''$50,000,000''.

(b) TABLE OF CONTENTS.—The table of contents in section 2 of the Oil Pollution Act of 1990 (33 U.S.C. prec. 2701) is amended by striking the items relating to sections 7001 and 7002 and inserting the following:

''Sec. 7000. Definitions.
''Sec. 7001. Oil pollution research and development program.
''Sec. 7002. Functions of the Committee.
''Sec. 7003. Federal oil spill research program.
''Sec. 7004. Federal research assessment.
''Sec. 7005. Federal interagency research plan.
''Sec. 7006. Extramural grants.
''Sec. 7007. Annual report.
''Sec. 7008. Funding.
''Sec. 7009. Submerged oil program.''.

SEC. 225. OIL SPILL RESPONSE AUTHORITY.

Notwithstanding any other provision of law, the Incident Commander of the Coast Guard may authorize the use of dispersants in response to a spill of oil from—

(1) any facility or vessel located in, on, or under any of the navigable waters of the United States; and

(2) any facility of any kind that is subject to the jurisdiction of the United States and that is located in, on, or under any other waters.

SEC. 226. MARITIME CENTER OF EXPERTISE.

(a) IN GENERAL.—The Commandant shall establish a Maritime Center of Expertise for Maritime Oil Spill and Hazardous Substance Release Response.

(b) DUTIES.—The Center shall—

(1) serve as the primary Federal facility for Coast Guard personnel to obtain qualifications to perform the duties of a regional response team cochair, a Federal on-scene coordinator, or a Federal on-scene coordinator representative;

(2) train Federal, State, and local first responders in the incident command system structure, maritime oil spill and hazardous substance release response techniques and strategies, and public affairs;

(3) work with academic and private sector response training centers to develop and standardize maritime oil spill and hazardous substance release response training and techniques;

(4) conduct research, development, testing, and demonstration for maritime oil spill and hazardous substance release response equipment, technologies, and techniques to prevent or mitigate maritime oil discharges and hazardous substance releases;

(5) maintain not less than 2 incident management and assistance teams, 1of which shall be ready to deploy anywhere in the continental United States within 24 hours after an incident or event;

(6) conduct marine environmental response standardization visits with Coast Guard Federal on-scene coordinators;

(7) administer and coordinate Coast Guard participation in the National Preparedness for Response Exercise Program; and

(8) establish and maintain Coast Guard marine environmental response doctrine.

SEC. 227. NATIONAL STRIKE FORCE.

(a) IN GENERAL.—The Commandant shall maintain a National Strike Force to facilitate preparedness for and response to maritime oil spill and hazardous substance release incidents.

(b) COMPOSITION.—The National Strike Force—

(1) shall consist of—

(A) a National Strike Force Coordination Center;

(B) strike force teams, including—

(i) 1 team for the Atlantic Ocean;

(ii) 1 team for the Pacific Ocean; and

(iii) 1 team for the Gulf of Mexico; and

(C) a public information assist team; and

(2) may include, on the direction of the Commandant, 1 or more teams for the northwest Pacific Ocean and the Arctic Ocean.

(c) NATIONAL STRIKE FORCE COORDINATION CENTER DUTIES.—The National Strike Force Coordination Center shall—

(1) provide support and standardization guidance to the regional strike teams;

(2) maintain a response resource inventory of maritime oil spill and hazardous substance release response, marine salvage, and marine firefighting equipment maintained by certified oil spill response organizations as well as equipment listed in a vessel or facility oil spill response plan, as required by section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j));

(3) oversee the maintenance and adequacy of Coast Guard environmental response equipment;

(4) certify and inspect maritime oil spill response organizations; and

(5) maintain the National Area Contingency Plan library.

(d) STRIKE FORCE TEAM DUTIES.—The Strike Force Response Teams shall—

(1) provide rapid response support in incident management, site safety, contractor performance monitoring, resource documentation, response strategies, hazard assessment, oil spill dispersant, in situ burn and other technologies, prefabrication of containment technology, operational effectiveness monitoring, and high-capacity lightering and offshore skimming capabilities;

(2) train Coast Guard units in environmental pollution response and incident command systems, test and evaluate pollution response equipment, and operate as liaisons with response agencies within the areas of responsibility of the respective units;

(3) maintain sufficient maritime oil spill and hazardous substance release assets to ensure the protection of human health and the environment in the event of an oil spill or hazardous substance release, including the prefabrication of oil spill containment equipment; and

(4) maintain the capability to mobilize personnel and equipment to respond to an oil spill or hazardous substance release anywhere in the continental United States within 24 hours of such an event.

(e) PUBLIC INFORMATION ASSIST TEAM DUTIES.—The Public Information Assist Team shall maintain the capability—

(1) to provide crisis communication during oil spills, hazardous material releases, marine accidents, and other disasters, including staffing and managing public affairs and intergovernmental communication;

(2) provide public information and communications training to Federal, State, and local agencies and industry personnel; and

(3) maintain the capability to mobilize personnel and equipment to respond to an oil spill or hazardous substance release anywhere in the continental United States within 24 hours after such an event.

SEC. 228. DISTRICT PREPAREDNESS AND RESPONSE TEAMS.

The Commandant shall maintain district preparedness response teams—

(1) to maintain Coast Guard environmental response equipment;

(2) to administer area contingency plans;

(3) to administer the National Preparedness for Response Exercise Program;

(4) to conduct responder incident command system training and health and safety training;

(5) to provide Federal on-scene coordinator technical advice;

(6) to coordinate district pollution response operations;

(7) to support regional response team cochairs;

(8) to coordinate district participation with the regional interagency steering committee of the Federal Emergency Management Agency; and

(9) to conduct response public affairs and joint information center training.

SEC. 229. OIL SPILL RESPONSE ORGANIZATIONS.

(a) REQUIREMENT.—Each maritime oil spill response organization that is listed under an oil spill response plan of a vessel or facility regulated by the Coast Guard, as required by section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) shall be—

(1) certified by the Coast Guard; and

(2) inspected at least once each year to ensure that the organization has the capabilities to meet the requirements delegated to the organization under applicable oil spill response plans.

(b) CERTIFICATION CRITERIA AND REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act, the Commandant shall develop criteria and requirements for certifying and classifying maritime oil spill response organizations.

(c) INVENTORY OF MARITIME OIL SPILL RESPONSE EQUIPMENT.—Each certified maritime oil spill response organization and any facility regulated by the Coast Guard that is not using a maritime oil spill response organization to meet the facility oil spill response plan requirements of section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) shall—

(1) maintain a current list of the maritime oil spill response equipment of the organization or facility; and

(2) submit a copy of that list to the National Strike Force Coordination Center.

(d) DECREASED CAPACITY REPORTS.—If a maritime oil spill response organization experiences a decrease in the maritime oil spill

response assets of the organization, the organization shall report the decrease to the National Strike Force Coordination Center and the Captain of the Port in which that organization operates.

SEC. 230. PROGRAM FOR OIL SPILL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE.

(a) REQUIREMENT TO ESTABLISH PROGRAM.—The Commandant shall establish a program for oil spill and hazardous substance release response, within the Maritime Center of Expertise for Oil Spill Response, to conduct research, development, testing, and demonstration for oil spill and hazardous substance release response equipment, technologies, and techniques to prevent or mitigate oil discharges and hazardous substance releases.

(b) PROGRAM ELEMENTS.—The program under subsection (a) shall include—

(1) research, development, testing, and demonstration of new or improved methods (including the use of dispersants and biological treatment methods) for the containment, recovery, removal, and disposal of oil and hazardous substances;

(2) assistance for—

(A) the development of improved designs for vessel operations (including vessel operations in Arctic waters) and facilities that are regulated by the Coast Guard; and

(B) improved operational practices;

(3) research and training, in consultation with the National Response Team, to improve the ability of private industry and the Federal Government to respond to an oil discharge or a hazardous substance release;

(4) a list of oil spill and hazardous substance containment, recovery, removal, and disposal technology that is approved for use by the Commandant and is made publicly available, in such manner as is determined to be appropriate by the Commandant; and

(5) a process for the Federal Government, State and local governments, private industry, academic institutions, and nongovernmental organizations to submit systems, equipment, and technologies for testing and evaluation.

(c) GRANTS FOR OIL SPILL RESPONSE.—The Commandant shall have the authority to make grants to or enter into cooperative agreements with academic institutions to conduct research and development for oil spill response equipment, technology, and techniques.

(d) COORDINATION.—The Commandant shall carry out the program in coordination with the Interagency Coordinating Committee on Oil Pollution Research established pursuant to section 7001(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(a)).

(e) FUNDING.—The Commandant shall use such sums as are necessary to carry out this section for fiscal years 2010 through 2015 from funds appropriated to the research, development, and testing program account of the Coast Guard for those years.

SEC. 230a. OIL AND HAZARDOUS SUBSTANCE LIABILITY.

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (c)(2)(B)—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iii) immediately deploy cleanup and mitigation assets owned by the Federal Government, or provided by private individuals or entities or foreign countries, to the location of discharge.''; and

(2) in subsection (d)(2), by adding at the end the following:

''(N) Establishment of a clear, accountable chain of command throughout the jurisdictions impacted by the discharge.

''(O) Establishment of a system and procedures that ensure coordination with, and prompt response to, State and local officials.''.

Subtitle C—Oil and Gas Leasing

SEC. 231. REVENUE SHARING FROM OUTER CONTINENTAL SHELF AREAS IN CERTAIN COASTAL STATES.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended by adding at the end the following:

''(i) REVENUE SHARING FROM OUTER CONTINENTAL SHELF AREAS IN CERTAIN COASTAL STATES.—

''(1) DEFINITIONS.—In this subsection through subsection (j):

''(A) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' of a coastal State means a county-equivalent subdivision of a coastal State all or part of which—

''(i) lies within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)); and

''(ii) the closest point of which is not more than 300 statute miles from the geographic center of any leased tract.

''(B) COASTAL STATE.—The term 'coastal State' means a State with a coastal seaward boundary within 300 statute miles distance of the geographic center of a leased tract in an outer Continental Shelf planning area that—

''(i) as of January 1, 2000, had no oil or natural gas production; and

''(ii) is not a Gulf producing State (as defined in section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432)).

''(C) DISTANCE.—The terms 'distance' and 'distances' mean minimum great circle distance and distances, respectively.

''(D) LEASED TRACT.—The term 'leased tract' means a tract leased under this Act for the purpose of drilling for, developing, and producing oil or natural gas resources.

''(E) OUTER CONTINENTAL SHELF AREA.—The term 'outer Continental Shelf area' means—

''(i) any area withdrawn from disposition by leasing by the 'Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition', from 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998; or

''(ii) any area of the outer Continental Shelf as to which Congress has denied the use of appropriated funds or other means for preleasing, leasing, or related activities.

''(2) POST LEASING REVENUES.—If the Governor or the Legislature of a coastal State requests the Secretary to allow leasing in an outer Continental Shelf area and the Secretary allows the leasing, in addition to any bonus bids, the coastal State shall, without further appropriation or action, receive, from leasing of the area, 37.5 percent of—

''(A) any lease rental payments;

''(B) any lease royalty payments;

''(C) any royalty proceeds from a sale of royalties taken in kind by the Secretary; and

''(D) any other revenues from a bidding system under section 8.

''(3) ALLOCATION AMONG COASTAL POLITICAL SUBDIVISIONS OF STATES.—

''(A) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each coastal State, as determined under this subsection, directly to certain coastal political subdivisions of the coastal State.

''(B) ALLOCATION.—

''(i) IN GENERAL.—For each leased tract used to calculate the allocation of a coastal State, the Secretary shall pay the coastal political subdivisions within 300 miles of the geographic center of the leased tract based on the relative distance of such coastal political subdivisions from the leased tract in accordance with this subparagraph.

''(ii) DISTANCES.—For each coastal political subdivision described in clause (i), the Secretary shall determine the distance between the point on the coastal political subdivision coastline closest to the geographic center of the leased tract and the geographic center of the tract.

''(iii) PAYMENTS.—The Secretary shall divide and allocate the qualified outer Continental Shelf revenues derived from the leased tract among coastal political subdivisions described in clause (i) in amounts that are inversely proportional to the applicable distances determined under clause (ii).

''(4) CONSERVATION ROYALTY.—After making distributions under paragraphs (1) and (2) and section 31, the Secretary shall, without further appropriation or action, distribute a conservation royalty equal to 12.5 percent of Federal royalty revenues derived from an area leased under this section from all areas leased under this section for any year, into the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–5) to provide financial assistance to States under section 6 of that Act (16 U.S.C. 460l–8).

''(5) DEFICIT REDUCTION.—

''(A) IN GENERAL.—After making distributions in accordance with paragraphs (1) and (2) and in accordance with section 31, the Secretary shall, without further appropriation or action, distribute an amount equal to 50 percent of Federal royalty revenues derived from all areas leased under this section for any year, into direct Federal deficit reduction.

''(B) BUDGETARY TREATMENT.—Any amounts distributed into direct Federal deficit reduction under this paragraph shall not be included for purposes determining budget levels under section 201 of S. Con. Res. 21 (110th Congress).''.

SEC. 232. REVENUE SHARING FROM AREAS IN ALASKA ADJACENT ZONE.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) (as amended by section 231) is amended by adding at the end the following:

''(j) REVENUE SHARING FROM AREAS IN ALASKA ADJACENT ZONE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), effective beginning on the date that is 5 years after the date of enactment of this subsection, revenues from production that derives from an area in the Alaska Adjacent Zone shall be distributed in the same proportion and for the same uses as provided in subsection (i).

''(2) ALLOCATION AMONG REGIONAL CORPORATIONS.—

''(A) IN GENERAL.—The Secretary shall pay 33 percent of any allocable share of the State of Alaska, as determined under this section, directly to certain Regional Corporations established under section 7(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(a)).

''(B) ALLOCATION.—

''(i) IN GENERAL.—For each leased tract used to calculate the allocation of the State of Alaska, the Secretary shall pay the Regional Corporations, after determining those Native villages within the region of the Regional Corporation which are within 300 miles of the geographic center of the leased tract based on the relative distance of such villages from the leased tract, in accordance with this paragraph.

''(ii) DISTANCES.—For each such village, the Secretary shall determine the distance between the point in the village closest to the geographic center of the leased tract and the geographic center of the tract.

''(iii) PAYMENTS.—The Secretary shall divide and allocate the qualified outer Continental Shelf revenues derived from the leased tract among the qualifying Regional Corporations in amounts that are inversely proportional to the distances of all of the Native villages within each qualifying region.

''(iv) REVENUES.—All revenues received by each Regional Corporation shall be—

''(I) treated by the Regional Corporation as revenue subject to the distribution requirements of section 7(i)(1)(A) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)(1)(A)); and

''(II) divided annually by the Regional Corporation among all 12 Regional Corporations in accordance with section 7(i) of that Act.

''(v) FURTHER DISTRIBUTION.—A Regional Corporation receiving revenues under clause (iv)(II) shall further distribute 50 percent of the revenues received in accordance with section 7(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(j)).''.

SEC. 233. ACCELERATED REVENUE SHARING TO PROMOTE COASTAL RESILIENCY AMONG GULF PRODUCING STATES.

Section 105 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) ALLOCATION AMONG GULF PRODUCING STATES FOR FISCAL YEARS 2010 AND THEREAFTER.—

''(1) IN GENERAL.—Subject to the provisions of this subsection, for fiscal year 2010 and each fiscal year thereafter, the amount made available under subsection (a)(2)(A) from a covered lease described in paragraph (2) shall be allocated to each Gulf producing State in amounts that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of each historical lease site and the geographic center of the historical lease site, as determined by the Secretary.

''(2) COVERED LEASE.—A covered lease referred to in paragraph (1) means a lease entered into for—

''(A) the 2002–2007 planning area;

''(B) the 181 Area; or

''(C) the 180 South Area.

''(3) MINIMUM ALLOCATION.—The amount allocated to a Gulf producing State each fiscal year under paragraph (1) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

''(4) HISTORICAL LEASE SITES.—

''(A) IN GENERAL.—Subject to subparagraph (B), for purposes of this subsection, the historical lease sites in the 2002–2007 planning area shall include all leases entered into by the Secretary for an area in the Gulf of Mexico during the period beginning on October 1, 1982 (or an earlier date if practicable, as determined by the Secretary), and ending on December 31, 2015.

''(B) ADJUSTMENT.—Effective January 1, 2022, and every 5 years thereafter, the ending date described in subparagraph (A) shall be extended for an additional 5 calendar years.

''(5) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(A) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each Gulf producing State, as determined under paragraphs (1) and (3), to the coastal political subdivisions of the Gulf producing State.

''(B) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B), (C), and (E) of section 31(b)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(b)(4)).''; and

(2) by striking subsection (f).

SEC. 234. COASTAL IMPACT ASSISTANCE PROGRAM AMENDMENTS.

Section 31(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(c)) is amended by adding at the end the following:

''(5) APPLICATION REQUIREMENTS; AVAILABILITY OF FUNDING.—On approval of a State plan under this section, the Secretary shall—

''(A) immediately disburse payments allocated under this section to the State or political subdivision; and

''(B) other than requiring notification to the Secretary of the projects being carried out under the State plan, not subject a State or political subdivision to any additional requirements, including application requirements, to receive payments under this section.''.

SEC. 235. PRODUCTION OF OIL FROM CERTAIN ARCTIC OFFSHORE LEASES.

Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended by adding at the end the following:

''(k) OIL TRANSPORTATION IN ARCTIC WATERS.—The Secretary shall—

''(1) require that oil produced from Federal leases in Arctic waters in the Chukchi Sea planning area, Beaufort Sea planning area, or Hope Basin planning area be transported by pipeline to the Trans-Alaska Pipeline System; and

''(2) provide for, and issue appropriate permits for, the transportation of oil from Federal leases in Arctic waters in preproduction phases (including exploration) by means other than pipeline.''.

SEC. 236. USE OF STIMULUS FUNDS TO OFFSET SPENDING.

(a) IN GENERAL.—The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 115) (other than under title X of division A of that Act) is rescinded, on a pro rata basis, by an aggregate amount that equals the amounts necessary to offset any net increase in spending or foregone revenues resulting from this subtitle and the amendments made by this subtitle.

(b) REPORT.—The Director of the Office of Management and Budget shall submit to each congressional committee the amounts rescinded under subsection (a) that are within the jurisdiction of the committee.

TITLE III—GUIDANCE ON MORATORIUM ON OUTER CONTINENTAL SHELF DRILLING

SEC. 301. LIMITATION OF MORATORIUM ON CERTAIN PERMITTING AND DRILLING ACTIVITIES.

(a) IN GENERAL.—The moratorium set forth in the decision memorandum of the Secretary of the Interior entitled ''Decision memorandum regarding the suspension of certain offshore permitting and drilling activities on the Outer Continental Shelf'' and dated July 12, 2010, and any suspension of operations issued in connection with the moratorium, shall not apply to an applicant for a permit to drill if the Secretary determines that the applicant—

(1) has complied with the notice entitled ''National Notice to Lessees and Operators of Federal Oil and Gas Leases, Outer Continental Shelf (OCS)'' dated June 8, 2010 (NTL No. 2010–N05) and the notice entitled ''National Notice to Lessees and Operators of Federal Oil and Gas Leases, Outer Continental Shelf (OCS)'' dated June 18, 2010 (NTL No. 2010–N06); and

(2) has completed all required safety inspections.

(b) DETERMINATION ON PERMIT.—Not later than 30 days after the date on which the Secretary makes a determination that an applicant has complied with paragraphs (1) and (2) of subsection (a), the Secretary shall make a determination on whether to issue the permit.

(c) NO SUSPENSION OF CONSIDERATION.—No Federal entity shall suspend the active consideration of, or preparatory work for, permits required to resume or advance activities suspended in connection with the moratorium.

SEC. 302. DEEPWATER HORIZON INCIDENT.

Not later than 60 days after the date of enactment of this Act, the Secretary shall develop, and expeditiously begin implementation of, a plan to ensure that onshore oil and natural gas development on Federal land would provide full energy resource compensation for offshore oil and natural gas resources not being developed and Federal revenues not being generated for the benefit of the United States Treasury during such time as any offshore moratorium is in place in response to the incident involving the mobile offshore drilling unit *Deepwater Horizon*.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 592—DESIGNATING THE WEEK OF SEPTEMBER 13–19, 2010, AS ''POLYCYSTIC KIDNEY DISEASE AWARENESS WEEK'', AND SUPPORTING THE GOALS AND IDEALS OF POLYCYSTIC KIDNEY DISEASE AWARENESS WEEK TO RAISE AWARENESS AND UNDERSTANDING OF POLYCYSTIC KIDNEY DISEASE AND THE IMPACT THE DISEASE HAS ON PATIENTS NOW AND FOR FUTURE GENERATIONS UNTIL IT CAN BE CURED

Mr. KOHL (for himself and Mr. HATCH) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 592

Whereas polycystic kidney disease (known as ''PKD'') is one of the most prevalent life-threatening genetic diseases in the world, affecting an estimated 600,000 people in the United States, including newborn babies, children, and adults, regardless of sex, age, race, geography, income, or ethnicity;

Whereas polycystic kidney disease comes in 2 forms, autosomal dominant, which affects 1 in 500 people worldwide, and autosomal recessive, a rare form that affects 1 in 20,000 live births and frequently leads to early death;

Whereas polycystic kidney disease causes multiple cysts to form on both kidneys, leading to an increase in kidney size and weight;

Whereas the cysts caused by polycystic kidney disease can be as small as the head of a pin or as large as a grapefruit;

Whereas polycystic kidney disease is a systemic disease that damages the kidneys and the cardiovascular, endocrine, hepatic, and gastrointestinal systems;

Whereas patients with polycystic kidney disease often experience no symptoms during the early stages of the disease, and many patients do not realize they have PKD until the disease affects other organs;

Whereas the symptoms of polycystic kidney disease can include high blood pressure, chronic pain in the back, sides or abdomen, blood in the urine, urinary tract infections, heart disease, and kidney stones;

Whereas polycystic kidney disease is the leading genetic cause of kidney failure in the United States;

Whereas more than half of patients suffering from polycystic kidney disease will

reach kidney failure, requiring dialysis or a kidney transplant to survive, thus placing an extra strain on dialysis and kidney transplantation resources;

Whereas polycystic kidney disease has no treatment or cure;

Whereas polycystic kidney disease instills in patients the fear of an unknown future with a life-threatening genetic disease, and of possible genetic discrimination;

Whereas polycystic kidney disease is an example of how collaboration, technological innovation, scientific momentum, and public-private partnerships can—

(1) generate therapeutic interventions that directly benefit the people suffering from polycystic kidney disease;

(2) save billions of Federal dollars paid by Medicare, Medicaid, and other programs for dialysis, kidney transplants, immunosuppressant drugs, and related therapies; and

(3) open several thousand spots on the kidney transplant waiting list;

Whereas improvements in diagnostic technology and the expansion of scientific knowledge about polycystic kidney disease have led to—

(1) the discovery of the 3 primary genes that cause polycystic kidney disease and the 3 primary protein products of the genes; and

(2) the understanding of cell structures and signaling pathways that cause cyst growth, which has produced multiple polycystic kidney disease clinical drug trials; and

Whereas thousands of volunteers throughout the United States are dedicated to expanding essential research, fostering public awareness and understanding, educating patients and their families about polycystic kidney disease to improve treatment and care, providing appropriate moral support, and encouraging people to become organ donors: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of September 13–19, 2010, as ''Polycystic Kidney Disease Awareness Week'';

(2) supports the goals and ideals of a national week to raise public awareness and understanding of polycystic kidney disease;

(3) recognizes the need for additional research into a treatment and a cure for polycystic kidney disease; and

(4) encourages the people of the United States and interested groups to—

(A) support Polycystic Kidney Disease Awareness Week through appropriate ceremonies and activities;

(B) promote public awareness of polycystic kidney disease; and

(C) foster understanding of the impact of the disease on patients and their families.

Mr. KOHL. Mr. President, I rise today along with Senator HATCH to introduce a resolution to increase awareness of Polycystic Kidney Disease, PKD, a common and life threatening genetic illness.

Over 600,000 people have been diagnosed with PKD nationwide. There is no treatment or cure for this devastating disease. Families and friends struggle to fight PKD and provide unwavering support to their suffering loved ones.

But there is hope. The PKD Foundation has led the fight for increased research and patient education. Recent studies have led to the discovery of the genes that cause PKD as well as promising clinical drug trials for treatment. More needs to be done, however, and the government wants to help.

In order to increase public awareness of this fatal disease, I propose that September 13th through the 19th be designated as National Polycystic Kidney Disease Awareness Week. This week coincides with the annual walk for PKD which takes place every September. In Wisconsin, where over 10,000 patients are living with the disease, residents gather across the state to take part in this very special walk.

Increasing awareness will help all those affected by Polycystic Kidney Disease, and I hope my colleagues will support this important resolution.

Mr. HATCH. Mr. President, I rise today to join my colleague from Wisconsin, Senator HERB KOHL, in introducing a resolution to designate September 13–19, 2010, as National Polycystic Kidney Disease Awareness Week.

Polycystic kidney disease, also known as PKD, is a life-threatening, genetic disease which affects more than 12.5 million adults and children worldwide. PKD is of significant interest to me because many Utahns suffer from this illness. The PKD Foundation estimates that roughly 5,000 Utahns have PKD; and ESRD instances in Utah are almost three times the national average.

A kidney affected by PKD will develop cysts ranging in size from that of a pinhead to the size of a grapefruit. These fluid-filled cysts increase the size and weight of the kidney from what is normally the size of a human fist to as large as a football. This condition causes great pain and is extremely dangerous to kidney function. As PKD progresses a person may acquire other diseases and disorders such as urinary tract infections, hypertension, and kidney stones. In its most progressive stage, PKD results in kidney failure, or end-stage renal disease, ESRD, for which the only help available is dialysis or a kidney transplant.

Autosomal dominant PKD is the most common form of the disease and affects one in every 500 people. This type of PKD is commonly diagnosed in adulthood. Children born to an affected parent have a 50 percent chance of inheriting the disease themselves. In less prevalent cases, a child may be diagnosed with autosomal recessive polycystic kidney disease, ARPKD. ARPKD kills approximately 30 percent of infants diagnosed within the first month of life—and of the 70 percent who survive infancy, one-third will require a kidney transplant by the age of 10.

There is no cure for PKD. Although minimal treatments can alleviate pain, and a healthy lifestyle can delay kidney failure, currently the only way to truly stop the symptoms is by transplantation. Yet, there is hope in science, awareness, and education.

To cure PKD could mean billions of dollars in savings to Medicare and Medicaid. Greater yet, it would offer relief to the suffering endured by the millions of people living with this dreadful disease.

With improved awareness and education comes a greater ability to find a cure. That is why Senator KOHL and I have introduced this resolution every year since 2007 to designate a National Polycystic Kidney Disease Awareness Week. I encourage my colleagues to lend their support to this important measure.

SENATE RESOLUTION 593—EXPRESSING SUPPORT FOR DESIGNATION OF OCTOBER 7, 2010, AS ''JUMPSTART'S READ FOR THE RECORD DAY''

Mrs. MURRAY (for herself, Mr. ISAKSON, and Mr. BEGICH) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 593

Whereas Jumpstart, a national early education organization, is working to ensure that all children in the United States enter school prepared to succeed;

Whereas Jumpstart recruits and trains college students and community volunteers year-round to work with preschool children in low-income communities, helping the children to develop the key language and literacy skills they need to succeed in school and in life;

Whereas, since 1993, Jumpstart has engaged more than 20,000 adults in service to more than 70,000 young children in communities across the United States;

Whereas Jumpstart's Read for the Record, presented in partnership with Pearson, is a world record-breaking campaign, now in its fifth year, that harnesses the power of reading by bringing adults and children together to read the same book on the same day;

Whereas the goals of the campaign are to raise national awareness of the early literacy crisis, provide books to children in low-income households through donations and sponsorship, celebrate the commencement of Jumpstart's program year, and raise money to support Jumpstart's year-long work with preschool children;

Whereas October 7, 2010, would be an appropriate date to designate as ''Jumpstart's Read for the Record Day'' because Jumpstart aims to set the world record for the largest shared reading experience on that date; and

Whereas Jumpstart hopes to engage 2,500,000 children to read Ezra Jack Keats' ''The Snowy Day'' during this record-breaking celebration of reading, service, and fun, all in support of the preschool children of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of October 7, 2010, as ''Jumpstart's Read for the Record Day'';

(2) recognizes the fifth year of Jumpstart's Read for the Record; and

(3) encourages adults, including grandparents, parents, teachers, and college students, to join children in creating the largest shared reading experience in the world and to show their support for early literacy and Jumpstart's early education programming for young children in low-income communities.

Mrs. MURRAY. Mr. President, as many of my colleagues know, I began my career as a preschool teacher back in my home State of Washington. My experience as a preschool teacher allowed me to see just how important early education is in shaping a person's life. As we all know, research illustrates that children who begin learning at an early age are more likely to be

successful in their secondary education career—and to graduate from high school.

During my time in the classroom, I could easily distinguish those 4-year-olds who were read to at home. Their skills were more advanced because they had been introduced to sounds and words prior to beginning school. This is why I believe it is important for all of us to understand that reading to children at home fosters a sense of curiosity and a passion for learning that drives students throughout their academic careers.

This is why I rise today to commend Jumpstart, a successful, national nonprofit organization that focuses on developing the critical language and literacy skills of our young children in low-income communities.

Beginning in 1993, Jumpstart has recruited and trained thousands of students and community volunteers to deliver a research-based and results-driven curriculum to over 70,000 preschool children across our country. During the 2009–2010 school year, Jumpstart partnered with over 250 preschools across 15 States and the District of Columbia to provide early education to 13,000 preschool children. Additionally, Jumpstart promotes reading at home through Read for the Record, an event that engages adults and children in the world's largest shared reading experience.

In my home State of Washington, Jumpstart has played an important role in providing quality literacy skill development in the city of Seattle. During the 2009–2010 school year, over 150 volunteers served nearly 500 children in 9 preschools. I appreciate Jumpstart's commitment to Washington State and its continued dedication to providing essential skill development to prekindergarten children while stimulating our next generation by involving many student volunteers.

SENATE RESOLUTION 594—TO CONSTITUTE THE MAJORITY PARTY'S MEMBERSHIP ON CERTAIN COMMITTEES FOR THE ONE HUNDRED ELEVENTH CONGRESS, OR UNTIL THEIR SUCCESSORS ARE CHOSEN

Mr. REID submitted the following resolution; which was considered and agreed to:

S. RES. 594

Resolved, That the following shall constitute the majority party's membership on the following committees for the One Hundred Eleventh Congress, or until their successors are chosen:

COMMITTEE ON APPROPRIATIONS: Mr. Inouye (Chairman), Mr. Leahy, Mr. Harkin, Ms. Mikulski, Mr. Kohl, Mrs. Murray, Mr. Dorgan, Mrs. Feinstein, Mr. Durbin, Mr. Johnson, Ms. Landrieu, Mr. Reed, Mr. Lautenberg, Mr. Nelson (Nebraska), Mr. Pryor, Mr. Tester, Mr. Specter, Mr. Brown (Ohio).

COMMITTEE ON ARMED SERVICES: Mr. Levin (Chairman), Mr. Lieberman, Mr. Reed, Mr. Akaka, Mr. Nelson (Florida), Mr. Nelson (Nebraska), Mr. Bayh, Mr. Webb, Mrs. McCaskill, Mr. Udall (Colorado), Mrs. Hagan, Mr. Begich, Mr. Burris, Mr. Bingaman, Mr. Kaufman, Mr. Goodwin.

COMMITTEE ON THE BUDGET: Mr. Conrad (Chairman), Mrs. Murray, Mr. Wyden, Mr. Feingold, Mr. Nelson (Florida), Ms. Stabenow, Mr. Cardin, Mr. Sanders, Mr. Whitehouse, Mr. Warner, Mr. Merkley, Mr. Begich, Mr. Goodwin.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS: Mr. Harkin (Chairman), Mr. Dodd, Ms. Mikulski, Mr. Bingaman, Mrs. Murray, Mr. Reed, Mr. Sanders, Mr. Casey, Mrs. Hagan, Mr. Merkley, Mr. Franken, Mr. Bennet, Mr. Goodwin.

COMMITTEE ON RULES AND ADMINISTRATION: Mr. Schumer (Chairman), Mr. Inouye, Mr. Dodd, Mrs. Feinstein, Mr. Durbin, Mr. Nelson (Nebraska), Mrs. Murray, Mr. Pryor, Mr. Udall (New Mexico), Mr. Warner, Mr. Goodwin.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4508. Mr. BOND submitted an amendment intended to be proposed to amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table.

SA 4509. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4510. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4511. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4512. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4513. Mr. JOHANNS submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4508. Mr. BOND submitted an amendment intended to be proposed to amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, after line 25, add the following:

SEC. 1137. HUBZONES.

(a) DEFINITIONS.—In this section—

(1) the terms ''HUBZone'' and ''HUBZone small business concern'' and ''HUBZone map'' have the meanings given those terms in section 3(p) of the Small Business Act (15 U.S.C. 632(p)), as amended by this Act; and

(2) the term ''recertification'' means a determination by the Administrator that a business concern that was previously determined to be a qualified HUBZone small business concern is a qualified HUBZone small business concern under section 3(p)(5) of the Small Business Act (15 U.S.C. 632(p)(5)).

(b) PURPOSE; FINDINGS.—

(1) PURPOSE.—The purpose of this section is to reform and improve the HUBZone program of the Administration.

(2) FINDINGS.—Congress finds that—

(A) the HUBZone program was established under the HUBZone Act of 1997 (Public Law 105–135; 111 Stat. 2627) to stimulate economic development through increased employment and capital investment by providing Federal contracting preferences to small business concerns in those areas, including inner cities and rural counties, that have low household incomes, high unemployment, and suffered from a lack of investment; and

(B) according to the Government Accountability Office, the weakness in the oversight of the HUBZone program by the Administration has exposed the Government to fraud and abuse.

(c) HUBZONE IMPROVEMENTS.—The Administrator shall—

(1) ensure the HUBZone map—

(A) is accurate and up-to date; and

(B) revised as new data is made available to maintain the accuracy and currency of the HUBZone map;

(2) implement policies for ensuring that only HUBZone small business concerns determined to be qualified under section 3(p)(5) of the Small Business Act (15 U.S.C. 632(p)(5)) are participating in the HUBZone program, including through the appropriate use of technology to control costs and maximize, among other benefits, uniformity, completeness, simplicity, and efficiency;

(3) submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding any application to be designated as a HUBZone small business concern or for recertification for which the Administrator has not made a determination as of the date that is 60 days after the date on which the application was submitted or initiated, which shall include a plan and timetable for ensuring the timely processing of the applications; and

(4) develop measures and implement plans to assess the effectiveness of the HUBZone program that—

(A) require the identification of a baseline point in time to allow the assessment of economic development under the HUBZone program, including creating additional jobs; and

(B) take into account—

(i) the economic characteristics of the HUBZone; and

(ii) contracts being counted under multiple socioeconomic subcategories.

(d) EMPLOYMENT PERCENTAGE.—Section 3(p) of the Small Business Act (15 U.S.C. 632(p)) is amended—

(1) in paragraph (5), by adding at the end the following:

''(E) EMPLOYMENT PERCENTAGE DURING INTERIM PERIOD.—

''(i) DEFINITION.—In this subparagraph, the term 'interim period' means the period beginning on the date on which the Administrator determines that a HUBZone small business concern is qualified under subparagraph (A) and ending on the day before the date on which a contract under the HUBZone program for which the HUBZone small business concern submits a bid is awarded.

''(ii) INTERIM PERIOD.—During the interim period, the Administrator may not determine that a HUBZone small business is not qualified under subparagraph (A) based on a failure to meet the applicable employment percentage under subparagraph (A)(i)(I), unless the HUBZone small business concern—

''(I) has not attempted to maintain the applicable employment percentage under subparagraph (A)(i)(I); or

''(II) does not meet the applicable employment percentage—

''(aa) on the date on which the HUBZone small business concern submits a bid for a contract under the HUBZone program; or

''(bb) on the date on which the HUBZone small business concern is awarded a contract under the HUBZone program.''; and

(2) by adding at the end the following:

''(8) HUBZONE PROGRAM.—The term 'HUBZone program' means the program established under section 31.

''(9) HUBZONE MAP.—The term 'HUBZone map' means the map used by the Administration to identify HUBZones.''.

(e) REDESIGNATED AREAS.—Section 3(p)(4)(C)(i) of the Small Business Act (15 U.S.C. 632(p)(4)(C)(i)) is amended to read as follows:

''(i) 3 years after the first date on which the Administrator publishes a HUBZone map that is based on the results from the 2010 decennial census; or''.

SA 4509. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. REDUCTION IN SOCIAL SECURITY PAYROLL TAXES.

(a) IN GENERAL.—

(1) EMPLOYER TAXES.—The table in section 3101(a) of the Internal Revenue Code of 1986 is amended to read as follows:

''In the case of wages received during:	The rate shall be:
2010 and 2011	3.1 percent
2012 or thereafter	6.2 percent''.

(2) SELF-EMPLOYMENT TAXES.—

(A) IN GENERAL.—The table in section 1401(a) of such Code is amended to read as follows:

''In the case of a taxable year beginning after:	And before:	Percent
December 31, 2009	January 1, 2012.	9.3
December 31, 2011	.....	12.40''.

(B) CONFORMING AMENDMENTS.—

(i) Section 164(f) of such Code is amended adding at the end the following new paragraph:

''(3) SPECIAL RULE FOR 2010 AND 2011.—In the case of taxable years beginning after December 31, 2009, and before January 1, 2012, the deduction allowed under paragraph (1) with respect to taxes imposed by section 1401(a) shall equal to two-thirds of the taxes so paid.''.

(ii) Section 1402(a)(12)(B) of such Code is amended by inserting ''(in the case of taxable years beginning after December 31, 2009, and before January 1, 2012, two-thirds of the taxes of the rate imposed by section 1401(a) and one-half of the rate imposed by section 1401(b))'' after ''year''.

(b) FUNDING FROM GENERAL FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the amendments made by paragraphs (1) and (2)(A) of subsection (a) . Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendments not been enacted.

(c) USE OF STIMULUS FUNDS TO OFFSET LOSS IN REVENUES.—The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) (other than under title X of division A of such Act) is rescinded pro rata such that the aggregate amount of such rescissions equals the reduction in revenues to the Treasury by reason of the amendments made by paragraphs (1) and (2)(A) of subsection (a). The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

SA 4510. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 45C(b) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

(d) USE OF STIMULUS FUNDS TO OFFSET LOSS IN REVENUES.—The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) (other than under title X of division A of such Act) is rescinded pro rata such that the aggregate amount of such rescissions equals the reduction in revenues to the Treasury by reason of the amendments made by this section. The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

SA 4511. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, insert the following:

PART V—OTHER PROVISIONS

SEC. _____. RESEARCH CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 41(h)(1) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) of such Code is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.

SA 4512. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

PART __—MISCELLANEOUS

SEC. _____. SENSE OF THE SENATE REGARDING THE RECESS APPOINTMENT OF DR. DONALD BERWICK.

(a) FINDINGS.—The Senate makes the following findings:

(1) On April 19, 2010, the President nominated Dr. Donald Berwick to serve as the Administrator of the Centers for Medicare & Medicaid Services (in this section referred to as ''CMS'') in the Department of Health and Human Services. As of that date, the position was vacant for the first 16 months of the Obama Administration.

(2) Since that date, Dr. Berwick has been undergoing the bipartisan nomination investigation review process of the Committee on Finance of the Senate (in this section referred to as the ''Senate Finance Committee'') and there has been ongoing activity as the Senate Finance Committee continues

to gather and review information from Dr. Berwick.

(3) The Senate Finance Committee review process for the Berwick nomination was proceeding normally. A hearing on the nomination of Dr. Berwick had been requested and no objections had been raised to having the hearing.

(4) On July 7, 2010, less than 3 months after the nomination and without a Senate Finance Committee hearing taking place, the President recess-appointed Dr. Berwick to serve as the Administrator of CMS. Dr. Berwick was sworn in on July 12, 2010.

(5) The appointment of the Administrator of CMS is subject to Senate confirmation under article II, section 2, clause 2 of the Constitution. Dr. Berwick's nomination was referred to the Senate Finance Committee which has jurisdiction over health programs under the Social Security Act and the responsibility to examine Presidential nominees related to these programs.

(6) It is especially true that Dr. Berwick's nomination should have undergone the Senate Finance Committee nomination review process in light of the significant responsibilities of the Administrator of CMS.

(7) CMS is responsible for the health care of more than 100,000,000 Americans, and is one of the largest agencies in the Federal Government.

(8) The recently enacted Patient Protection and Affordable Care Act (commonly referred to as the ''health care reform law'') significantly increases the responsibilities of CMS, including half a trillion dollars in Medicare provider cuts and the largest expansion of the Medicaid program since its inception.

(9) The manner in which an individual nominated to serve as the Administrator of CMS intends to carry out these responsibilities is a serious matter and warrants a thorough review. A thorough review is especially needed for Dr. Berwick's appointment in light of statements he has made in the past about health care rationing as well as the role of government in health care.

(10) By recess-appointing Dr. Berwick, the President has attempted to short circuit the requirement of article II, section 2, clause 2 of the Constitution that he appoint officers of the United States ''by and with the Advice and Consent of the Senate''.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the recess appointment of Dr. Donald Berwick, while consideration of his nomination to serve as Administrator of CMS was proceeding normally through the Senate Finance Committee nomination review process, constitutes an abuse of power by the President; and

(2) notwithstanding his recess appointment to that position, Dr. Donald Berwick should appear before the Senate Finance Committee and respond to questions by members about his qualifications to serve as Administrator of CMS.

SA 4513. Mr. JOHANNS submitted an amendment intended to be proposed to amendment SA 4500 proposed by Mr. REID (for Mr. LEMIEUX (for himself, Ms. LANDRIEU, Mr. MERKLEY, Mrs. BOXER, Ms. CANTWELL, Ms. KLOBUCHAR, and Mrs. MURRAY)) to the amendment SA 4499 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

PART IV—ADDITIONAL PROVISIONS

SEC. _____. REPEAL OF EXPANSION OF INFORMATION REPORTING REQUIREMENTS.

Section 9006 of the Patient Protection and Affordable Care Act, and the amendments made thereby, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such section, and amendments, had never been enacted.

SEC. _____. EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.

Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986 is amended by striking ''8 percent'' and inserting ''5 percent''.

SEC. _____. USE OF PREVENTION AND PUBLIC HEALTH FUND.

(a) USE OF FUNDS AS OFFSET THROUGH FISCAL YEAR 2017.—Section 4002(b) of the Patient Protection and Affordable Care Act is amended by striking ''appropriated—'' and all that follows and inserting ''appropriated, for fiscal year 2018, and each fiscal year thereafter, $2,000,000,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the enactment of section 4002 of the Patient Protection and Affordable Care Act.

SEC. _____. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 4.25 percentage points.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on July 22, 2010, in room 253 of the Russell Senate Office Building.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on July 22, 2010, at 11 a.m., in room SD–366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on July 22, 2010, at 10 a.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate, to conduct a hearing entitled ''Workplace Safety and Worker Protections at BP'' on July 22, 2010. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on July 22, 2010, at 10:30 a.m. in room 628 of the Dirksen Senate Office Building.

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

AD HOC SUBCOMMITTEE ON STATE, LOCAL, AND PRIVATE SECTOR PREPAREDNESS AND INTEGRATION

Mr. HARKIN. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on State, Local, and Private Sector Preparedness and Integration of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on July 22, 2010, at 10 a.m. to conduct a hearing entitled, ''A Review of Disaster Medical Preparedness: Improving Coordination and Collaboration in the Delivery of Medical Assistance during Disasters.''

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

SUBCOMMITTEE ON CLEAN AIR AND NUCLEAR SAFETY

Mr. HARKIN. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air and Nuclear Safety of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on July 22, 2010, at 9:15 a.m. in room 406 of the Dirksen Office Building.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. HARKIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on July 22, 2010, at 2:30 p.m. to conduct a hearing entitled, ''The Gulf of Mexico Oil Spill: Ensuring a Financially Responsible Recovery Part II.''

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

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Katie Meehan, Johanna Lucas, Abby Richardson, Kevin O'Brien, and Stephanie Rapp of my staff be granted floor privileges for the rest of today's session.

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

NATIONAL SEPTEMBER 11 MEMORIAL & MUSEUM COMMEMORATIVE MEDAL ACT

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4684, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4684) to require the Secretary of the Treasury to strike medals in commemoration of the 10th anniversary of the September 11, 2001, terrorist attacks on the United States and the establishment of the National September 11 Memorial & Museum at the World Trade Center.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 4684) was ordered to a third reading, was read the third time, and passed.

NATIONAL MUSEUM OF AMERICAN JEWISH HISTORY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of S. Res. 546, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 546) recognizing the National Museum of American Jewish History, an affiliate of the Smithsonian Institution, as the only museum in the United States dedicated exclusively to exploring and preserving the American Jewish experience.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 546) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 546

Whereas the National Museum of American Jewish History serves to illustrate how the freedom present in the United States and its associated choices, challenges, and responsibilities fostered an environment in which Jewish Americans have made and continue to make extraordinary contributions in all facets of American life;

Whereas the mission of the National Museum of American Jewish History, an affiliate of the Smithsonian Institution, is to connect Jewish people more closely to their heritage and to inspire in individuals of all backgrounds a greater appreciation for the diversity of the American experience and the freedoms to which all Americans aspire;

Whereas the National Museum of American Jewish History was founded in 1976 by members of the historic Congregation Mikveh Israel, which was itself established in 1740 and known as the ''Synagogue of the American Revolution'';

Whereas the National Museum of American Jewish History has attracted a broad audience to its public programs, which explore American Jewish identity through lectures, panel discussions, authors' talks, films, activities for children, theater, and music;

Whereas the National Museum of American Jewish History is the repository of the largest collection of Jewish Americana in the world, with more than 25,000 objects; and

Whereas the National Museum of American Jewish History will soon be relocated to a 100,000-square-foot, 5-story, state-of-the-art facility on Independence Mall in Philadelphia, Pennsylvania, standing just steps from the Liberty Bell and Independence Hall, which shall serve as a cornerstone of the American Jewish community and a source of national pride: Now, therefore, be it

Resolved, That the Senate—

(1) acknowledges the importance of the continuing study and preservation of the unique American Jewish experience; and

(2) recognizes the National Museum of American Jewish History, an affiliate of the Smithsonian Institution, as the only museum in the United States dedicated exclusively to exploring and preserving the American Jewish experience and, as such, designates it as the national museum of American Jewish history.

NATIONAL CONVENIENT CARE CLINIC WEEK

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 585, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 585) designating the week of August 2 through August 8, 2010, as ''National Convenient Care Clinic Week,'' and supporting the goals and ideals of raising awareness of the need for accessible and cost-effective health care options to complement the traditional health care model.

There being no objection, the Senate proceeded to consider the resolution.

Mr. INOUYE. Mr. President, today I rise to recognize all of the providers who work in retail-based convenient care clinics in a resolution to designate August 2 through August 8, 2010, as National Convenient Care Clinic Week. National Convenient Care Clinic Week will provide a national platform from which to promote the pivotal services offered by the more than 1,100 retail-based convenient care clinics in the United States.

Today, thousands of nurse practitioners, physician assistants, and physicians provide care in convenient care clinics. At a time when Americans are more and more challenged by the inaccessibility and high costs of health care, convenient care offers a vital, high-quality primary care alternative.

A resolution will help pave the way for this effort. I ask my colleagues to join me in supporting this tribute to convenient care clinics.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 585) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 585

Whereas convenient care clinics are health care facilities located in high-traffic retail outlets that provide affordable and accessible care to patients who might otherwise be delayed or unable to schedule an appointment with a traditional primary care provider;

Whereas millions of people in the United States do not have a primary care provider, and there is a worsening primary care shortage that will prevent many people from obtaining one in the future;

Whereas convenient care clinics have provided an accessible alternative for more than 15,000,000 people in the United States since the first clinic opened in 2000, continue to expand rapidly, and as of June 2010 consist of approximately 1,100 clinics in 35 States;

Whereas convenient care clinics follow rigid industry-wide quality of care and safety standards;

Whereas convenient care clinics are staffed by highly qualified health care providers, including advanced practice nurses, physician assistants, and physicians;

Whereas convenient care clinicians all have advanced education in providing quality health care for common episodic ailments including cold and flu, skin irritation, and muscle strains or sprains, and can also provide immunizations, physicals, and preventive health screening;

Whereas convenient care clinics are proven to be a cost-effective alternative to similar treatment obtained in physician offices, urgent care, or emergency departments; and

Whereas convenient care clinics complement traditional medical service providers by providing extended weekday and weekend hours without the need for an appointment, short wait times, and visits that generally last only 15 to 20 minutes: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of August 2 through August 8, 2010, as ''National Convenient Care Clinic Week'';

(2) supports the goals and ideals of National Convenient Care Clinic Week to raise awareness of the need for accessible and cost-effective health care options to complement the traditional health care model;

(3) recognizes the obstacles many people in the United States face in accessing the traditional medical home model of health care;

(4) encourages the use of convenient care clinics as a complementary alternative to the medical home model of health care; and

(5) calls on the States to support the establishment of convenient care clinics so that more people in the United States will have access to the cost-effective and necessary emergent and preventive services provided in the clinics.

MONTFORD POINT MARINES DAY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of and the Senate now proceed to S. Res. 587.

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

The clerk will report resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 587) designating August 26, 2010, as ''Montford Point Marines Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 587) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 587

Whereas, on June 25, 1941, President Franklin D. Roosevelt issued Executive Order 8802, which established the fair employment practices that began to erase discrimination in the Armed Forces;

Whereas in 1942, President Franklin D. Roosevelt issued a Presidential Directive that integrated the United States Marine Corps;

Whereas approximately 20,000 African-American Marines received basic training at Montford Point in the State of North Carolina between 1942 and 1949;

Whereas the African-American Marines trained at Montford Point became known as the Montford Point Marines;

Whereas the African-American volunteers who enlisted in the United States Marine Corps during World War II—

(1) joined the United States Marine Corps to demonstrate their commitment to the United States, despite the practice of segregation;

(2) served the United States in a most honorable fashion;

(3) defied unwarranted stereotypes; and

(4) achieved distinction through brave and honorable service;

Whereas, during World War II, African-American Marine Corps units fought and served in the Pacific theatre, participating in the liberation of the Ellice Islands, the Eniwetok Atoll, the Marshall Islands, the Kwajalein Atoll, Iwo Jima, Peleliu, the Marianas Islands, Saipan, Tinian, Guam, and Okinawa;

Whereas Robert Sherrod, a correspondent for Time magazine in the central Pacific during World War II, wrote that the African-American Marines that entered combat for the first time in Saipan were worthy of a 4.0 combat performance rating, the highest performance rating given by the Navy;

Whereas the heroism, commitment, and valor demonstrated by the Montford Point Marines—

(1) changed the negative attitudes of the military leadership toward African-Americans; and

(2) inspired the untiring service of future generations of African-Americans in the United States Marine Corps;

Whereas in July 1948, President Harry S. Truman issued Executive Order 9981, which ended segregation in the military;

Whereas in September 1949, the Montford Marine Camp was deactivated, ending 7 years of segregation in the Marine Corps;

Whereas in September 1965, over 400 former and active duty Marines met in Philadelphia, Pennsylvania at a reunion to honor the Montford Point Marines, leading to the establishment of the Montford Point Marine Association;

Whereas 2010 marks the 45th anniversary of the establishment of the Montford Point Marine Association; and

Whereas the sacrifices, dedication to country, and perseverance of the African-American Marines trained at Montford Point Camp are duly honored and should never be forgotten: Now, therefore be it

Resolved, That the Senate—

(1) designates August 26, 2010, as ''Montford Point Marines Day'';

(2) honors the 68th anniversary of the first day African-American recruits began training at Montford Point;

(3) recognizes the work of the members of the Montford Point Marine Association—

(A) in honoring the legacy and history of the United States Marine Corps; and

(B) in ensuring that the sense of duty shared by the Montford Point Marines is passed along to future generations;

(4) recognizes that—

(A) the example set by the Montford Point Marines who served during World War II helped to shape the United States Marine Corps; and

(B) the United States Marine Corps provides an excellent opportunity for the advancement for persons of all races; and

(5) expresses the gratitude of the Senate to the Montford Point Marines for fighting for the freedom of the United States and the liberation of people of the Pacific, despite the practices of segregation and discrimination.

MEASURE READ THE FIRST TIME—S. 3643

Mr. DURBIN. Mr. President, I understand S. 3643, introduced earlier today by Senator MCCONNELL, is at the desk, and I ask for its first reading.

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

The assistant legislative clerk read as follows:

A bill (S. 3643) to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, to improve oil spill compensation, to terminate the moratorium on deepwater drilling, and for other purposes.

Mr. DURBIN. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

MAKING COMMITTEE ASSIGNMENTS

Mr. DURBIN. Mr. President, there is a resolution at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report the title of the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 594) to constitute the majority party's membership on certain committees for the One Hundred Eleventh Congress, or until their successors are chosen.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 594) was agreed to, as follows:

S. RES. 594

Resolved, That the following shall constitute the majority party's membership on the following committees for the One Hundred Eleventh Congress, or until their successors are chosen:

COMMITTEE ON APPROPRIATIONS: Mr. Inouye (Chairman), Mr. Leahy, Mr. Harkin, Ms. Mikulski, Mr. Kohl, Mrs. Murray, Mr. Dorgan, Mrs. Feinstein, Mr. Durbin, Mr. Johnson, Ms. Landrieu, Mr. Reed, Mr. Lautenberg, Mr. Nelson (Nebraska), Mr. Pryor, Mr. Tester, Mr. Specter, Mr. Brown (Ohio).

COMMITTEE ON ARMED SERVICES: Mr. Levin (Chairman), Mr. Lieberman, Mr. Reed, Mr. Akaka, Mr. Nelson (Florida), Mr. Nelson (Nebraska), Mr. Bayh, Mr. Webb, Mrs. McCaskill, Mr. Udall (Colorado), Mrs. Hagan, Mr. Begich, Mr. Burris, Mr. Bingaman, Mr. Kaufman, Mr. Goodwin.

COMMITTEE ON THE BUDGET: Mr. Conrad (Chairman), Mrs. Murray, Mr. Wyden, Mr. Feingold, Mr. Nelson (Florida), Ms. Stabenow, Mr. Cardin, Mr. Sanders, Mr. Whitehouse, Mr. Warner, Mr. Merkley, Mr. Begich, Mr. Goodwin.

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS: Mr. Harkin (Chairman), Mr. Dodd, Ms. Mikulski, Mr. Bingaman, Mrs. Murray, Mr. Reed, Mr. Sanders, Mr. Casey, Mrs. Hagan, Mr. Merkley, Mr. Franken, Mr. Bennet, Mr. Goodwin.

COMMITTEE ON RULES AND ADMINISTRATION: Mr. Schumer (Chairman), Mr. Inouye, Mr. Dodd, Mrs. Feinstein, Mr. Durbin, Mr. Nelson (Nebraska), Mrs. Murray, Mr. Pryor, Mr. Udall (New Mexico), Mr. Warner, Mr. Goodwin.

ORDERS FOR MONDAY, JULY 26, 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 3 p.m. on Monday, July 26; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and following any leader remarks the Senate resume consideration of the motion to proceed to S. 3628, the DISCLOSE Act.

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

PROGRAM

Mr. DURBIN. Mr. President, there will be no rollcall votes during Monday's session of the Senate. The next vote will occur at 2:45 p.m. on Tuesday, July 27. That vote will be on the motion to invoke cloture on the motion to proceed to the DISCLOSE Act.

ADJOURNMENT UNTIL MONDAY, JULY 26, 2010, AT 3 P.M.

Mr. DURBIN. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 11:05 p.m., adjourned until Monday, July 26, 2010, at 3 p.m.