The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. West).

**House of Representatives**

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**MORNING-HOUR DEBATE**

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, December 1, 2011.

I hereby appoint the Honorable Allen B. West to act as Speaker pro tempore on this day.

JOHN A. BOEHNER,
Speaker of the House of Representatives.

**MORNING-HOUR DEBATE**

The SPEAKER pro tempore. Pursuant to the order of the House of January 5, 2011, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning-hour debate.

The Chair will alternate recognition between the parties, with each party limited to 1 hour and each Member other than the majority and minority leaders and the minority whip limited to 5 minutes each, but in no event shall debate continue beyond 11:50 a.m.

**BUDGET GRIDLOCK**

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. McNerney) for 5 minutes.

Mr. McNerney. Mr. Speaker, I rise to address the budget gridlock that’s ripping Washington apart. Like every American who cares about the future of our great country, I’m upset by the rampant partisan fighting. But I also know that the responsibility is not equally shared. For proof, look no further than the collapse of the deficit supercommittee.

Washington Republicans’ refusal to ask the wealthiest people and the biggest corporations to contribute their fair share caused the supercommittee’s failure and is putting our country at risk. Middle class families are struggling, but the world’s biggest corporations make huge profits and exploit tax loopholes to send jobs overseas. And the rich keep getting richer but are contributing less.

This inequality is unacceptable, and it hurts America’s economy. For instance, the after-tax income of the top 1 percent rose 281 percent from 1979 to 2007, but their total average Federal tax rate fell by nearly 8 points. Unfortunately, Washington Republicans have made clear that they will not fix the injustices in our Tax Code.

In fact, 238 Members of the House and 41 Senators, almost all of them Republicans, have signed the infamous Americans for Tax Reform pledge. This pledge commits its signers to oppose any plan, no matter how responsible, that would ask the wealthiest people to contribute their fair share. Whether motivated by extremist ideology or commitments to greedy special interests, the facts are clear: Republicans who signed this pledge cannot take the steps our country needs to get our budget in order.

Republicans came to power on a mission to rein in the budget deficit, a goal that we all support. But instead of supporting balanced policies, Washington Republicans forced the Congress to pass a dangerous budget agreement. And thanks to them, our hands are tied. If Washington Republicans keep refusing to compromise, massive cuts will kick in that will harm the middle class.

Washington Republicans won’t negotiate and won’t come up with a fair budget plan. Instead of helping the middle class, Republicans are standing up for the megachurch.

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According to the Center on Budget and Policy Priorities, the plan put forward by Republicans on the deficit supercommittee shifts even more of the tax burden from the rich to the middle class. Their plan would change the tax tables in a way that benefits the wealthiest households more than the rest of us, which is what the chart next to me shows. As your income grows, so do your benefits. The wealthiest households will get more and more benefit, and their proposal dramatically weakens a variety of tax policies that help the middle class. I can’t support a plan like that, and the American people can’t either.

Democrats and Republicans should be working together on fair solutions, but the Republicans’ unwillingness to compromise is making this goal impossible. We can find solutions that will reduce the debt and keep taxes low for small businesses and middle class families, but only if the Republicans stop protecting tax breaks for the superrich.

When I took my oath of office, I pledged to protect and defend the Constitution, and I am committed to helping the middle class get our economy back on track.

Democrats have demonstrated a willingness to talk about difficult subjects like entitlement reform, but Republicans refuse to negotiate. So I ask my Republican colleagues, especially those who have signed the ATR pledge, a simple question: Where do your loyalties lie? With the superrich and the special interests or with the hardworking Americans?

LARRY MUNSON

The SPEAKER pro tempore. The Chair recognizes the gentleman from Georgia (Mr. Broun) for 5 minutes.

Mr. Broun of Georgia. He turned Georgia football games into larger-than-life experiences. He awakened excitement and pinpointed fear in the depths of Dawg fans’ souls and shouted out those emotions on radios statewide. His voice will go down in history.
as the soundtrack of some of the most famous play calls, highlight reels, and moments for UGA that will simply never be forgotten.

Whether it was his describing the “sugar” falling out of the sky, or begging the fans to “hunker down” one more last time, Larry Munson had an unmatched ability to find words for feelings that just could not be spoken. To call him an iconic play-by-play announcer for the University of Georgia football team would be a vast understatement. He was a classic city treasure, an Athens legend. And for 42 years, Larry Munson breathed life into the Sanford Stadium and made the Dawgs dances.

He was different from all other sportscasters. Larry Munson was very authentic. He always told it like it was, even when he had given up on a red and black win. He didn’t care about political correctness, and he wasn’t afraid to scream about stepping on Tennessee’s face with a hobnailed boot or breaking his chair—his metal, steel chair with a five-inch cushion—when Georgia beat Florida in 1980 and then went on to win the national championship. He loved Georgia football, and Georgia football loved Larry Munson just right back.

His memory will live on forever in the body of the Bulldog Nation, in the hearts of all Dawg fans, and will live on between the hedges every game day.

On behalf of the United States Congress, here’s to you, Larry, one of the best things that Georgia has ever known. And we’ll never forget. We’ll miss you greatly, Larry. Go Dawgs.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. SHIMkus) for 5 minutes.

Mr. SHIMkus. Mr. Speaker, before we adjourn for the year, there are a number of important items that we must address. The most pressing is the expiration of unemployment benefits at the end of December.

Should Congress fail to act, millions of Americans who rely on emergency unemployment compensation will begin to see their payments disappear starting in January. 2.1 million of our fellow Americans will have lost their benefits by the middle of February, and over 6 million by the end of 2012. However, we have the power to prevent that from happening by extending those benefits.

These emergency benefits were put in place at the start of the recession in December of ’07; and with so many Americans still out of work, now is certainly not the time to let them come to an end.

The number one challenge we must address in the Congress remains job creation. Americans out of work have been doing their part to find jobs. Congress must do its part as well. Some Republicans have unfairly and incorrectly blamed those who have been laid off for their continued difficulty in finding jobs. However, there are over four people looking for every one job that is available. At the same time, there are nearly 7 million fewer jobs today than there were in 2007.

Instead of blaming the victims, we ought to work together, Democrats and Republicans, to find solutions. Congress has new emergency unemployment benefits to lapse with our jobless rate anywhere close to where it is today. If it did, over 17,000 people in my State of Maryland would see their lifeline cut off by February. In Ohio, Speaker BOEHNER’s State, 80,000 people are at risk.

Among African Americans, Latinos and other minorities, a disproportionate number have been affected by long-term unemployment and are especially vulnerable if these benefits were to end. Every State would see more Americans sliding into poverty. Local communities would be affected, too, with residual job losses. The Economic Policy Institute has estimated that allowing these benefits to expire would cost us another 500,000 jobs—a half a million.

I sincerely hope that Republicans will work to prevent the erosion of so many Americans from being left out in the cold as they continue to seek jobs but can’t find them. It’s long past the time that they start working with us to pass a real jobs plan to get Americans back to work and grow our economy.

The President put a jobs bill on our desk in September. It is now December. We’ve yet to see that bill or any other jobs bill put on this House floor by the Republican leadership. Democrats have multiple jobs plans on the table—the President’s American Jobs Act and the House Democratic jobs plan. Both will help create jobs right away and invest in long-term economic competitiveness.

If Republicans continue to be unwilling to work with us on a plan to create jobs, I hope they will at least work with us to pass a measure that will prevent further losses as a result of expiring unemployment benefits. I strongly urge my Republican friends to help us stop the looming and entirely preventable disaster of millions having no support. It is the responsibility we have to our constituents and to those looking to us for leadership during this challenging time.

Let us not go home. Let us not celebrate Christmas or other holidays without ensuring the extension of unemployment benefits for those Americans who cannot find jobs, notwithstanding their continued willingness to work. They’re counting on us. Let’s be sure that their reliance was well placed.
that's right on the Pacific Ocean. Then I went to Idaho and looked at the Idaho National Labs and the nuclear waste stored there. Today, we go to Massachusetts.

The point being, there is high-level nuclear waste stored all over this country, and a single repository at Yucca Mountain makes sense for all of the right reasons: it's over 100 miles from the largest city; it's in the desert; it would be underneath a mountain. There is no more safe, secure location.

Why are we not moving forward? Because this administration has decided not to spend the money needed to finish the final environmental study through the Nuclear Regulatory Commission.

So where are our Senators on this position? I've been bringing this down to the floor through all these States. We need 60 votes in the Senate to secure America’s nuclear waste. Right now, through the States, based upon the States we've identified, there are 20 “yeses.” We've got about seven who are relatively new. We don’t know their positions. Of course, we have established five who are “noes.” There are some in the New England States that I mentioned:

SUSAN COLLINS voted for Yucca Mountain in 2002. OLYMPIA SNNORE voted for it in 2002. Senator KERRY voted against it. Now, Pilgrim is in the State of Massachusetts. Based upon his statement, I guess Senator KERRY feels that Pilgrim is in a more safe and secure location than Yucca Mountain. SCOTT BROWN has no position yet. Senator AXOTTE has no position. Senator GRAHAM has no position. Of course, the Independent from Vermont has voted “no.”

UNEMPLOYMENT INSURANCE EXTENSION

The SPEAKER pro tempore. The Chair recognizes the gentlewoman from Wisconsin (Ms. MOORE) for 5 minutes.

Ms. MOORE. Recently and even today, we’ve heard a lot from both sides of the aisle about the extension of unemployment insurance; but I think the voices that we need to be listening to are the voices of the American people. So, if you would indulge me, Mr. Speaker, I would like to read a letter from my constituents:

"Ms. Moore, I am writing you today to request that you pass the extension for unemployment insurance benefits. I am a single mom and experienced a layoff at my job this past summer. My benefits are about to run out, and I am still looking for a job. Last week alone, I applied to over 20 jobs online, and received only one call-back for an interview. I have $600 left to claim on unemployment, but I do not know what I am going to do. I pray every day that this extension will go through before the holidays. That is all I want for Christmas.

"Being unemployed has left me with a sense of low self-worth. And I find that I cry all the time. I hope that my interview next week is successful. Nonetheless, I am trying to be proactive on the job hunt. I have a webinar scheduled today for successful interviewing skills. And I am hoping to apply those skills in my interview next week. I just can not face of mind that I will continue to receive the extension before the holiday."

Sadly, this young woman is just one of 58,000 Wisconsinites who will lose benefits if we don’t extend the unemployment insurance. Of course, there are millions of stories like this across the country, hardworking Americans, Mr. Speaker, who just want the opportunity to have an opportunity.

And as the holidays approach, the harsh realities of our failed economy become more and more prevalent. I, along with all of my Democratic colleagues, have been calling for the passage of an extension of UI benefits for what seems like an eternity. Yet some continue to turn their back on their fellow Americans during the holidays and in these most trying of economic times.

Like the Grinch who stole Christmas, the Republican majority with devilish grins are tipping through Whoville or, in this case, this country attempting to steal the holiday cheer from hardworking Americans with these tortured rationales as to why they oppose these much needed benefits, while continuing simultaneously to work to ensure that the rich get richer through maintaining tax cuts.

The Unemployment Insurance Program serves as a lifeline for millions of unemployed Americans and their families, their children, who are now at the mercy of the worst job market since the Great Depression. Millions of hardworking Americans, nearly 2 million in just January alone and over 6 million in 2012, will be cut off from the emergency life-line, unemployment insurance unless Congress acts.

Mr. Speaker, these are Americans who have been laid off and are desperately searching for work. But the jobs just are not there. That is why we must pass the Doggett-Levin Emergency Unemployment Compensation Extension Act. The Emergency Unemployment Compensation Extension Act is just common sense, and it will continue the current Federal unemployment programs through next year. The extension of benefits will not only strengthen the safety net for the unemployed, but it will, most importantly, promote economic recovery by preventing the loss of a half-million jobs.

Additionally relieving insolvent States from interest payments on Federal loans for 1 year will help the States, including Wisconsin, which were forced to borrow funds from the Federal Government in order to pay for unemployment benefits for the thousands of unemployed or laid off.

Never, never before now has this been more critical. After 9/11 Tom served as a lead counsel on a number of high-profile cases in Brooklyn, New York. He is a litigator with a different view of the law, and a record of success against the rich and powerful. His cases are taken not necessarily because he knows he can win, but because morally they are the right thing to do.

Today he continues his representation of the less fortunate, proudly serving as a trial attorney in Doylestown, Pennsylvania.

After 9/11 Tom served as a lead counsel among a national consortium of attorneys who were retained by the families of the victims of the terrorist attacks in order to pursue investigation into the involvement of Iran and al Qaeda. In 1999 Tom arranged for the first group of American lawyers to
visit Havana, Cuba, in order to better understand the culture of the land and the inner struggles of the Cuban people.

Currently Tom also serves on the board of directors of the Bucks Mont Katrina Relief Project and has raised millions of dollars for the victims of Hurricane Katrina in Hancock County, Mississippi. As part of this mission, Tom has led over 100 attorneys and their family members on multiple trips to Hancock County to clean up the devastation caused by the storm and assist in the construction of new community buildings like a food pantry and an animal shelter.

Tom’s morals and decorum permeate every aspect of his life. His loyalty is unwavering and unparalleled, whether it be to family, friends, employees, or clients. His dedication to the community speaks volumes about who Tom is as a person. He is a kind, giving, unique individual, and I’m truly blessed to have called him a friend for so many years and to honor him today as he will be honored tonight at the Bucks County Bar Association.

WALL STREET VERSUS MAIN STREET

The Speaker pro tempore. The Chair recognizes the gentlewoman from Ohio (Ms. KAPTUR) for 5 minutes.

Ms. KAPTUR. Mr. Speaker, it’s no secret that Wall Street is rampant with cases of outright fraud, backroom deals and very, very special political access. Meanwhile, Main Street is pushing back hard against this tide by investing in our communities and struggling to create jobs so our economy can grow.

A steady series of probing news stories have begun to expose the depth of corruption that precipitated the Wall Street meltdown and why it is so hard for Washington to recover. Bloomberg just released a story detailing how the former Secretary of the Treasury, Hank Paulson, provided special insider information to well-connected Wall Street executives in July of 2008, just before the meltdown. According to Bloomberg, on the very same day the former Secretary told The New York Times that he expected the examinations of the Federal Reserve and the Office of the Comptroller of the Currency into Fannie Mae and Freddie Mac would “give a signal of confidence to the markets,” he informed a select group of his friends on Wall Street later in the day that in reality, there was a plan for placing “Fannie and Freddie into conservatorship,” which amounts to a government seizure. Those firms got insider information, and one can ask, did they then play by the markets, or did they play by the rules?

The SEC’s response to this fraud was a $285 million settlement, slightly more than a third of the reported losses incurred by the victims of this fraud, which required that Citigroup admit to any wrongdoing. The federal judge was absolutely correct to throw this case out. The SEC’s policy of allowing large Wall Street firms to walk away from fraud cases without so much as admitting any wrongdoing is completely inappropriate and invites more corruption.

Growing reports of fraud are staggering, and they underlie the Wall Street dealing that has so harmed our Nation. Throughout November, we saw headline after headline of how MF Global took money from its own private customer accounts as it tried to stay afloat in the days before it filed one of the largest bankruptcies in American history. There may be as much as $1.2 billion unaccounted for. We used to call that stealing.

The fact is our Justice Department has only a handful of FBI agents to properly investigate the volume of corruption infecting our markets. After reviewing MF Global’s books, I introduced H.R. 1350, the Financial Crisis Criminal Investigation Act, to authorize an additional 1,000 FBI agents and forensic experts to prosecute white collar crime, especially Wall Street.

Back in the 1990s when we had the S&L crisis, we had a thousand agents. When this crisis started, there were but a handful because they had all been switched to terrorism investigations.

When you look at these cases, what is astounding is just how well connected some of these institutions on Wall Street are to the corridors of power in Washington. It now appears even former Speaker Newt Gingrich was paid millions of dollars by Freddie Mac before it went bankrupt.

At a minimum, our Nation needs an independent commission to investigate what actions led to the eventual collapse of Fannie Mae and Freddie Mac by which Wall Street turned over all of this which is America’s toxic mortgage paper to the taxpayers of the United States for the next three generations.

I have a bill to do just that, H.R. 2039. I ask other Members of the House to sponsor the Fannie Mae and Freddie Mac Criminal Investigative Commission Act.

So while real justice for Wall Street languishes in places from Cleveland to Toledo, Main Street America is trying to create jobs. It’s over time for Washington to get its House in order to restore accountability to Wall Street so that full confidence can be restored to our economy. Enacting justice for Wall Street wrongdoing is long overdue. That task remains fundamental to economic recovery and job growth.

[From the Bloomberg Markets Magazine, Nov. 29, 2011]

HOW PAULSON GAVE HEDGE FUNDS ADVANCE WORD OF FANNIE MAE RESCUE

(By Richard Teitelbaum)

Treasury Secretary Henry Paulson stepped off the elevator into the Third Avenue offices of hedge fund Eton Park Capital Management LP in Manhattan. It was July 21, 2008, and market fears were mounting. Four months earlier, Bear Stearns Cos. had sold itself for just $10 a share to JPMorgan Chase & Co. (JPM).

Now, amid tumbling home prices and near-record foreclosures, attention was focused on a new source of contagion: Fannie Mae (FNMA) and Freddie Mac, which together had more than $5 trillion in mortgage-backed securities and other debt outstanding. Bloomberg Markets reports in its January issue.

Paulson had been pushing a plan in Congress to open lines of credit to the two struggling firms and to grant authority for the Treasury Department to buy equity in them. Yet he had told reporters on July 13 that the firms must remain shareholder owned and had testified at a Senate hearing two days later that giving the government new power to intervene made actual intervention improbable.

“If you have a bazooka, and people know you have it, you’re not likely to take it out,” he said.

On the morning of July 21, before the Eton Park meeting, Paulson had spoken to New York Times reporters and editors, according to a Treasury Department schedule. A Times article the next day said the Federal Reserve and the Office of the Comptroller of the Currency were inspecting Fannie and Freddie’s books and cited Paulson as saying he expected their examination would give a signal of confidence to the markets.

A DIFFERENT MESSAGE

At the Eton Park meeting, he sent a different message, internal to a fund manager who attended. Over sandwiches and pasta salad, he delivered that information to a group of men capable of protecting from any disclosure.

Around the conference room table were a dozen or so hedge-fund managers and other Wall Street executives—at least five of them alumni of Goldman Sachs (GS), of which Paulson was chief executive officer and chairman from 1999 to 2006. In addition
to Eton Park founder Eric Mindich they included such boldface names as Lone Pine Capital LLC founder Stephen Mandel, Dinakar Singh of TPG-Axon Capital Management and chief of Och-Ziff Capital Management Group LLC.

After a perfunctory discussion of the market turmoil, the fund manager says, the discussion turned to Michael and Freddie Mac. Paulson said he had heard by not punishing Bear Stearns shareholders more severely. The secretary, then 62, went on to describe the Michael and Freddie into ‘‘conservatorship’’—a government seizure designed to allow the firms to continue operations despite heavy losses in the mortgage markets.

SHARES RALLY

At the time Paulson privately addressed the fund managers at Eton Park, he had given the market some positive signals—and the GS’s shares were rallying, with Fannie Mae’s nearly doubling in four days. William Black, associate professor of economics and law at the University of Missouri-Kansas City, can’t understand why Paulson felt impelled to share the Treasury Department’s plan with the fund managers.

‘‘You just never ever do that as a government official and you don’t go around nonpublicly sharing information to market participants,’’ said Black, who’s a former general counsel at the Federal Home Loan Bank of San Francisco. ‘‘There were no legitimate reasons for those disclosures.’’

Janet Tavakoli, founder of Chicago-based financial consulting firm Tavakoli Structured Finance Inc., says the meeting fits a pattern.

‘‘What is this but crony capitalism?’’ she asks. ‘‘Most people have had their fill of it.’’

A LAWYER’S ADVICE

The fund manager who described the meeting left after coffee and called his lawyer. The attorney’s quick conclusion: Paulson’s talk was material nonpublic information, and his client should immediately stop trading the shares of Washington-based Fannie Mae and McLe lan, Virginia-based Freddie. . . .

GOLDMAN ALUMS

One other Goldman Sachs alumnus was at the meeting: Frank Brosens, founder and principal of Taconic Capital Advisors LP who worked at Goldman as an arbitrageur and who was a protege of Robert Rubin, who went on to become Treasury secretary.

Non-Goldman alumni who attended included short seller James Chanos of Kynikos Associates Ltd., who helped uncover the Enron Corp. accounting fraud; GS Capital Partners LP co-founder Bennett Goodman, who sold his firm to Blackstone Group LP (BX) in early 2008; Roger Altman, chairman and founder of New York investment bank Evercore Partners Inc. (EVR); and Steven Rattner, a co-founder of private-equity firm Quadrangle roup LLC, who went on to serve as head of the U.S. government’s Automotive Task Force.

[From the New York Times, Nov. 28, 2011] JUDGE BLOCKS CITIGROUP SETTLEMENT WITH S.E.C.

BY EDWARD WYATT

WASHINGTON—Taking a broad swipe at the Securities and Exchange Commission’s practice of allowing companies to settle cases without admitting that they had done anything wrong, a federal judge on Monday rejected a $285 million settlement between Citigroup and the agency.

The judge, Jed S. Rakoff of United States District Court, said that he could not determine whether the agency’s settlement with Citigroup was ‘‘fair, reason- able, and adequate in the public interest,’’ as required by law, because the agency had claimed, but had not proved, that Citigroup committed fraud.

As in recent cases involving Bank of America, JPMorgan Chase, UBS and others, the agency proposed to settle the case by levying a fine on Citigroup and allowing it to admit that it had broken the commission’s findings. Such settlements require approval by a federal judge.

While other judges are not obligated to follow Judge Rakoff’s opinion, the 15-page ruling could severely undermine the agency’s enforcement efforts if it eventually blocks the agency from settling cases in which the defendant does not admit fraud.

The agency contends that it must settle most of the cases it brings because it does not have the staff to battle deep-pocketed Wall Street firms in court. Wall Street firms will rarely admit wrongdoing, the agency says, because that can be used against them in investor lawsuits.

The agency in particular, Judge Rakoff argued, ‘‘has a duty, inherent in its statutory mission, to see that the truth emerges.’’ But it is impossible to know whether the settlement is getting from this settlement ‘‘other than a quick headline.’’ Even a $235 million settlement, he said, ‘‘is pocket change to any entity as large as Citigroup and as viewed by Wall Street firms as a cost of doing business.’’

According to the Securities and Exchange Commission, Citigroup stuffed a $1 billion mortgage fund that it sold to investors in 2007 with securities that it believed would fail so that it could bet against its customers’ and when values declined. The fraud, the agency said, was in Citigroup’s falsely telling investors that an independent party was choosing the portfolio’s investments. Judge Rakoff rejected a deal from the deal and investors lost $700 million.

Judge Rakoff said the agency settlement policy—‘‘hallowed by history, but not by reason”—creates substantial potential for abuse because ‘‘it asks the court to employ its power and assert its authority when it does not know the facts.’’ That undermines the constitutional separation of powers, he said, by asking the judiciary to rubber-stamp the executive branch’s interpretation of the law.

The judge agreed with the agency’s finding of a pattern. The judge noted that another judge may be reluctant to approve a settlement given the Rakoff ruling. Courts have been approving settlements by government agencies without any admissions of wrongdoing for years.

On the other hand, Mr. Pitt noted, ‘‘there is no suggestion here that this decision would apply in every single case,’’ because Citigroup has reached such settlements before. ‘‘It’s the same case for which there is no direct precedent Court of Appeals have been approving settlements by government agencies without any admissions of wrongdoing for years.’’

Mr. Khuzami took issue with the judge’s characterization of the settlement ‘‘These facts are not allegations that the reasonable conclusions of the federal agency responsible for the enforcement of the securities laws after a thorough and careful investigation of the facts.’’

Barbara Black, a professor at the University of Cincinnati College of Law who edits the Securities Law Prof Blog, said that the judge’s ruling but did not say whether it would apply in every single case apart from many Securities and Exchange Commission settlements.

Judge Rakoff has been a frequent critic of the agency’s settlement policy. In a proposed $33 million settlement with Bank of America for a case in which the agency said the bank had misled shareholders over its acquisition of Merrill Lynch, Judge Rakoff eventually approved a $150 million settlement after the agency presented further evidence of the bank’s wrongdoing.

The judge also noted the difference between the agency’s settlement with Citigroup and its settlement last year with Goldman Sachs in a similar mortgage-deal case. Goldman allegedly said that its marketing materials for the product contained incomplete information.

In the Citigroup case, no such facts were agreed on. ‘‘An application of judicial power that does not rest on facts is worse than mindless, it is inherently dangerous,’’ Judge Rakoff wrote. ‘‘In any case like this that touches on the transparency of financial markets whose gyrations have so depressed our economy and debilitated our lives, there is an overriding public interest in knowing the truth.’’

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Barbara Black, a professor at the University of Cincinnati College of Law who edits the Securities Law Prof Blog, said that the decision was interesting because Judge Rakoff carefully read the terms of the settlement and decided that another judge may be reluctant to approve the settlement.

In a legal dispute between two private parties, they can agree to whatever settlement they desire. But in a case involving a public agency with consequences that affect the public interest, there has to be some kind of acknowledgment that certain things did occur. And Judge Rakoff carefully read the terms of the settlement and decided that another judge may be reluctant to approve the settlement.

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The Treasury Department is the executive agency that promotes economic prosperity and ensuring the financial security of the United States. The Department is responsible for a wide range of activities such as advising the President on economic and financial issues, encouraging sustainable economic growth, and fostering improved governance in financial institutions. The Departmental Offices are primarily responsible for the formulation of policy and management of the Department as a whole, while the operating bureaus carry out the specific operations assigned to the Department. Our bureaus make up 86% of the Treasury work force. The basic functions of the Department of the Treasury include:

- Managing Federal finances, and international financial institutions to encourage global economic growth, raise standards of living, and to the extent possible, predict economic and financial crises. The Treasury Department also performs a critical and far-reaching role in enhancing national security by implementing economic sanctions against foreign threats to the U.S., identifying and targeting the financial support networks of national security threats, and improving the safeguards of our financial systems.

**ORGANIZATION**

The Department of the Treasury is organized into two major components: the Departmental offices and the operating bureaus. These entities are responsible for implementing policy and performing sustained foreign threats to the U.S., protecting American economic interests, and maintaining systems that are critical to the nation's financial infrastructure, such as the production of coin and currency, the disbursement of payments to the American public, revenue collection, and the borrowing of funds necessary to run the federal government.

The Department works with other federal agencies, international financial institutions, and national and international partners to ensure that the U.S. has a strong and secure financial system.

**FIXING A BROKEN WASHINGTON**

The Treasury Department operates and maintains systems that are critical to the nation's financial infrastructure, such as the production of coin and currency, the disbursement of payments to the American public, revenue collection, and the borrowing of funds necessary to run the federal government. The Department works with other federal agencies, international financial institutions, and national and international partners to ensure that the U.S. has a strong and secure financial system.

The Treasury Department is responsible for formulating economic policies and managing and implementing financial programs to promote economic growth and job creation.

The Treasury Department's financial infrastructure, such as the production of coin and currency, the disbursement of payments to the American public, revenue collection, and the borrowing of funds necessary to run the federal government. The Department works with other federal agencies, international financial institutions, and national and international partners to ensure that the U.S. has a strong and secure financial system.

The Treasury Department is responsible for building a financial system that promotes economic growth, job creation, and the security of the American people. It is committed to ensuring the stability of the financial system and to promoting economic growth and job creation.

**PASS AMERICAN DREAM ACT**

The American people's frustrations with the federal government's handling of our national debt, job creation, and the security of the American people...
at least 5 years before the enactment of the law, have good moral character, graduate from high school or obtain a GED, and complete 2 years of college or military service in good standing.

Having been brought by their parents to this country as children, these young men and women know America as their home. Without question, DREAM students exemplify the best of American ideals, such as hard work, perseverance, and the desire to contribute to America’s workforce, economy, and civic life.

In the Rio Grande Valley of south Texas, DREAM students have excelled in school and have become valedictorians, Advanced Placement Scholars, and student leaders, despite facing difficult circumstances.

As ranking member for the Subcommittee on Higher Education and Workforce Training, I have no doubt that the DREAM students can help America achieve President Obama’s ambitious high school and college completion goals by the year 2020. Many of these students are working tirelessly to earn their high school and college diplomas and aspire to become professionals in the sectors of our workforce which need their talent, skills, and ingenuity.

In the areas of science, technology, engineering, and mathematics, better known as STEM, our country must train a new generation of high-skilled scientists, engineers, and mathematicians to bolster scientific discovery and spur technological innovation. Simply having these talented youth can help our Nation increase its global competitiveness and be the innovators of tomorrow.

Finally, it’s important to note that the DREAM Act has enjoyed broad, bipartisan support from Members of Congress and Administration officials on both sides of the aisle. They include Secretary of Education Arne Duncan, Former Secretary of State Colin Powell, and Carlos Gutierrez, former Secretary of Commerce under President Bush.

Chancellors and university presidents and thousands of students, civil rights groups, and prominent education, business, religious leaders, and elected officials support the DREAM Act because it is humane and sensible. It’s the right thing to do.

THE PLUNDER OF COLFAX

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. McClintock) for 5 minutes.

Mr. McClintock. In the Sierra foothills in northeastern California lies the little town of Colfax, a population of 1,800 with a median household income of about $35,000. Over the last several years, this little town has been utterly plundered by regulatory and litigatory excesses that have pushed this little town to the edge of bankruptcy and ravaged families already struggling to make ends meet.

You see, Colfax operates a small wastewater treatment plant for its residents that discharges into the Smothers Ravine. Because it does so, it operates within the provisions of the Clean Water Act, a measure adopted in 1972 and rooted in legitimate concerns to protect our vital water resources. The dilemma is that prevailing environmental law firms have now discovered how to take unconscionable advantage of that law to reap windfall profits at the expense of working-class families like the townpeople of Colfax.

In the case of Colfax, an environmental law firm demanded every document pertaining to the water treatment plant from the date of its inception. It then pored over those documents looking for any possible violations, including mere paperwork errors. By law, those documents include self-monitoring reports by the water agency itself, and any violation, no matter how minor, establishes a cause and effect that allows no affirmative defense, even if the violation is due to factors completely beyond the local community’s control, including acts of God and acts by unrelated and uncontrollable third parties. Conversely, in “predatory” environmental law, the law allows for no affirmative defense—and you’ve just guaranteed the attorneys all of their fees, which in this case were billed at $550 per hour.

As a result of this predatory activity, the town of Colfax is facing legal fees alone that exceed the town’s entire annual budget. Families that are struggling to keep afloat just above the poverty level are fleeced by attorneys charging $550 an hour. But that’s just part of the problem.

The law requires constant upgrading of facilities to meet ever-changing state-of-the-art regulations that have nothing to do with health and safety and only increase costs by 90 percent. The law was passed to protect our water resources; but like so many movements, as it succeeded in its legitimate ends, it also attracted a self-interested constituency that has driven far past the borders of common sense and into the realms of political extremism and outright plunder. I’m hopeful that we’re now entering an era when common sense can be restored to environmental law in this session of the Congress.

PILOT FATIGUE RULE

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. Higgins) for 5 minutes.

Mr. Higgins. In February 2009, tragedy struck western New York when Continental Connection Flight 3407 crashed outside of Buffalo. The National Transportation Safety Board found that one of the principal causes of the crash was pilot fatigue, so Congress passed landmark aviation legislation to reform the system.

One of the key provisions required that the Federal Aviation Administration update flight and duty time rules and set minimum rest requirements for airline pilots by August 1, 2011. Congressional intent was clear. That should have been enough time. After all, the National Transportation Safety Board had urged that pilot fatigue rules be updated for the past 20 years. Getting it right is also about getting it done. Yet here we are today, 16 months after Congress asked the Federal Aviation Administration to issue these reforms and 4 months past the deadline we gave them, and still no pilot fatigue rule.

That is unacceptable to me, that is unacceptable to my colleagues from western New York, and it is unacceptable to the flying public.

I urge the Federal Aviation Administration to complete the pilot fatigue rule immediately.

KEYSTONE XL PIPELINE SAFETY

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. Olson) for 5 minutes.
Mr. OLSON. Mr. Speaker, at a time when our Nation’s economy is struggling to recover from our deepest recession in which millions of Americans are looking for work, no one would believe that we would forgo an opportunity to reduce our reliance on Middle Eastern oil and create thousands of American jobs.

Incredibly, that’s exactly what happened after the White House announced they would delay decision on approval of the Keystone XL pipeline until 2013, after they left office. My colleagues and I, November 2013. At a time when our President faced a difficult choice between opposing polls within his base—labor unions and radical environmentalists—he chose to punt rather than lead.

Labor unions support construction of the Keystone XL pipeline because they understand this project has been deemed safe and will create 20,000 direct American jobs and thousands more indirect jobs across our Nation as the pipeline will provide the environment with natural gas. But radical environmentalists and Hollywood activists vehemently oppose the project. In fact, they surrounded the White House in protest of the Keystone XL pipeline, claiming that the project is not environmentally friendly. While these protesters made catchy headlines, their claims about the Keystone XL pipeline simply aren’t true.

The Keystone XL project has been studied extensively over 3 years, when TransCanada originally filed an application for a Presidential permit with the Department of State. The Presidential permit review process was conducted by the State Department, the Environmental Protection Agency, and many other agencies within the Federal Government. After 3 years of comprehensive review and several changes to the project to accommodate environmental concerns, the final report to the White House incorporated 57 pages of special conditions for the design, construction and operation of the Keystone XL pipeline. In simple terms, the Keystone XL pipeline was designed to be the safest pipeline the world has ever known.

Here’s the truth why the Keystone XL pipeline promises to be the safest pipeline ever. As proposed, the Keystone XL pipeline will be monitored 24 hours a day, 7 days a week, 365 days a year with the most advanced technology will be buried at a deeper depth than similar pipelines to minimize risk. It will utilize multiple leak detection methods and failsafe shutdown systems, as well as having an emergency response program in place ready to respond if needed.

Critics of the project further claim that the crude transported by the Keystone XL pipeline is highly corrosive “toxic sludge.” This is a claim that can only come out of Hollywood, with no facts to support it. Independent analysis and sound science have determined these oils are not corrosive to steel. Canadian oil is already shipped safely across the United States via other Canadian pipelines. Good old-fashioned common sense tells us that no company would try to destroy its own interest by spending billions to construct a pipeline system that is going to be eaten up by the very products it transports.

I'll wrap up my comments with the facts about the Keystone XL pipeline. This project has been exhaustively studied and detailed analysis by multiple Federal Government agencies have concluded that construction and use of the Keystone pipeline is safe. In August, our Department of State recommended that President Obama approve the Keystone XL pipeline.

Our economy is still teetering on recession. It needs to be strengthened; and we need a safe, reliable supply of energy to grow it. Canada can provide it. They want to provide it, thereby reducing our reliance on Middle Eastern oil and strengthening our national security because we have energy security as a result.

Thousands of new jobs will be created to build this pipeline. Mr. Speaker, I urge the President to approve the Keystone XL pipeline now.

EXTENDING UNEMPLOYMENT COMPENSATION

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. RANGEL) for 5 minutes. Mr. RANGEL. My colleagues, I once again rise asking that we immediately consider extending the Federal Unemployment Compensation Act.

It seems as though I walked into this movie before, last year, and we were begging once again that we throw away the labels of being Democrat or Republican and reach out to make an appeal as to what makes this country different from other countries. This is the only country in the world that no one wants to leave and everyone wants to come in. And it’s not because of the differences we have with the rich and the poor. It’s that always in this country we extended hope. We allowed people to believe that they were never really truly alone. And then we find a circumstance that Americans, hardworking Americans are trying to fulfill that American Dream, once they became a Wall Street broker, and certainly not to be living a life of poverty, but to join that middle class that has been the engine for hope and economic advancement for our country. And we find this situation now that, through no fault of their own, these dreams have been shattered.

People have not only lost their jobs, but they’ve lost their self-esteem, they’ve lost their savings, they have not been able to send their kids to college.

And so what is it that we can do since it’s abundantly clear that in this Congress there is a gridlock? And we don’t want you to lose hope because there’s things that Americans can do. It’s not just waiting for this Congress to act, because you hold in your hands the power to control this Congress. And we should not have to wait until next year in order to say that you can express yourself at the polls. No indication.

Every Member of Congress—435 of us here—are anxiously waiting for your call, and I hope that call would be a call of compassion. It should be a call from our ministers, from our Catholics and Protestants and Jews and synagogues and Mormons and believers saying that in America we should not have the vulnerable carrying the pain of mistakes that have been made. We should be hearing from our civic leaders and our voters and calling Republicans, Democrats, and Independents saying we did not send you to Washington to display just what a good Republican you are or what a good Democrat you are.

We should talk about this sign up here, “In God We Trust.” Doesn’t that mean something about taking care of the vulnerable, the unemployed, those without homes, without jobs and without hope? Doesn’t it mean that we have a tradition as Members of Congress? And doesn’t it mean that our voters have a responsibility not to just say right but what we are, but that they are for making certain that they’re monitoring our conduct, not through a poll, but through our action.

The question is, How did your Congressman vote on extending unemployment compensation?

Rather than wait for the good or bad news, call now. Call today. Call every day this week.

They’ll never have a Thanksgiving or a Christmas that they used to have, but they can’t give up. They can’t give in and they can’t give up.

So I am saying for America, you don’t have to go and protest, even though I appreciate the fact that these courageous men and women are doing it. You don’t have to walk those civil rights marches. But you can at least get in touch with your Member of Congress, remind him or her of their constitutional responsibility, and remind them of their moral responsibility to the vulnerable among us, the sick, the aged, the unemployed, those that played by the rules, and we know have nothing to do with the situation they find themselves in economically.

We can make a change, but it’s going to take the American people to come together and say they’re mad as hell and they’re not going to take it anymore.

So let’s make an appeal that America takes the Congress back. Direct not ourselves to do things in order to get reelected but direct we do things because it’s the right thing to do.
HONORING THE LIFE OF LANCE CORPORAL SCOTT HARPER

The SPEAKER pro tempore. The Chair recognizes the gentleman from Georgia (Mr. WESTMORELAND) for 5 minutes.

Mr. WESTMORELAND. Mr. Speaker, I could not think of anyone appropriate person to be in the Chair this morning than yourself, to me and to others, an American hero because, Mr. Speaker, today I come to the floor with a sadness but yet with a great sense of pride to honor the service of one of Georgia's own, Scott Harper.

On October 13, in Helmand Province, Afghanistan, he gave the ultimate sacrifice in support of Operation Enduring Freedom and the protection of his homeland and his family and his friends.

Mr. Speaker, he will be greatly missed by all. Lance Corporal Harper was better known to his close friends not as Scott but as Boots. While a student at Alexander High School, he once forgot his tennis shoes for gym class and kept his boots on instead. And on that day, Mr. Speaker, he learned the lasting nickname of Boots. But he also showed how he was prepared to adapt to all scenarios.

When a Marine recruiter showed up at his high school senior year, Boots answered the call and chose a life of service in the United States Marine Corps with a courage and motivation that most young men his age have not yet found in life. After graduating high school, he went into active duty in the Marine Corps. Boots served one term in Afghanistan and returned safely home. He left on the second tour July 13, with the First Battalion, Sixth Marine Regiment, Second Marine Division.

On October 13, his division was struck by small arms fire while conducting combat operations. A fellow Marine was shot first, and Boots ran into opposing gunfire to save his wounded friend. Though Boots lost his life, he saved the life of his wounded friend in the process. Boots was always loyal as a friend, and there is no more honor that one can give than to lay down his life for another.

Boots was devoted to his family and his community. Even when he only had a few days off, he would make time, that precious time, to come home and visit his family and friends. Though communication was difficult, Boots was always writing his family and called home as much as possible. The Saturday before he was killed, Boots called his father to say that he had decided to enroll at the University of Georgia when he returned home.

Upon coming home for this final time, he arrived at Charlie Brown Airfield. Crowds from the community lined the streets to escort Boots to his final home, to his family and to his friends for the last time. Boots was accompanied by a Marine Corps Honor Guard, the Patriot Guard, the Douglasville Police Department, and the Douglas County Sheriff's Department, among many others.

Norfolk-Southern even stopped its railroad cars in honor of the procession. As they passed everyone stood and saluted to honor the fallen Marine and hometown hero.

Boots embodied the ideals that the Marines strive to achieve. I am both honored and proud that this soldier from the Third District fought so hard for our country and for our freedom. Boots was a model citizen, soldier, and friend. He was an encouraging young man with incredible potential before him, and he will be forever missed.

I am proud to stand here and thank him for sacrificing his life for strangers like me and my family. And Joan and I extend our sympathy to the family of this fallen hero for raising such a brave, courageous, honorable, giving son.

And Boots, we, as a Nation, salute you today. Semper Fi.

LIFE WITHOUT HOPE

The SPEAKER pro tempore. The Chair recognizes the gentleman from Missouri (Mr. CLEAVER) for 5 minutes.

Mr. CLEAVER. Mr. Speaker, first, let me associate my comments with those of my colleague Mr. WESTMORELAND.

Mr. Speaker, on each Wednesday night for probably the last 10 or 12 years, our church has provided food for those who are struggling. Not long ago a gentleman came to our church, picked up food. And then later that night, as I was leaving the church, I ran into him at a 7-Eleven. You can imagine how troubled I was when I saw him buying a lottery ticket. I thought to myself, this guy has just ripped off the church and then is using his money for a lottery ticket.

So I waited for him outside the 7-Eleven. And when he came out, I said to him, Hey, you got a little concerned because you picked up a sack of groceries, and then you just spent money on a lottery, and those two just don't match.

And he said Well, I probably shouldn't have spent the money on the lottery, but you know, Reverend, a man's got to have some hope.

And while I think that hope is misplaced, the truth of the matter is he was absolutely correct. It is virtually impossible to imagine any kind of productive life on this planet without hope.

There are millions of Americans who, unfortunately, cannot place their hope in this body. I think that I can state without fear of contradiction that the dysfunctionality of the United States Congress is helping to erase hope from the men and women in this country who are struggling. All of the back and forth and blaming each other has nothing to do with providing hope. And quite often, we allow ideology to trump logic.

We decide almost every day that no matter what, I'm going to take the position of the Republicans or I'm going to take the position of the Democrats, and, as a result, we have polluted the public.

This is one of the nastiest moments in U.S. history. Just look at television. Look at all of the so-called reality shows. The ones that are most popular are ones where people are fighting things to each other or insulting each other; you're fired, or you've got to eat live spiders. That's what we are coming to.

A perfect example of what we're doing is not addressing the expiring unemployment benefits. At the end of this year, almost 2 million Americans—they have names, they have faces, they have families—2 million Americans will lose their unemployment benefits by mid-February.

A total of over 6 million Americans will lose benefits next year unless this body decides to become functional. In Missouri, my home State, 40,000 citizens depend on unemployment benefits. Many more are unemployed and not receiving any help at all. In Missouri, the unemployment rate is almost 9 percent.

I grew up in public housing. Yes, public housing. My father worked three jobs to get us out, worked three jobs to send me and my three sisters through college. And my mother started college when I was in the 8th grade. So I always resent any implication that people don't want to work.

So as we move into a holiday season, a season of hope, my hope is that the Congress of the United States will not snatch hope from over 2 million Americans.

EUROPE BAILOUT

The SPEAKER pro tempore. The Chair recognizes the gentleman from Indiana (Mr. BURTON) for 5 minutes.

Mr. BURTON. Mr. Speaker, no nation, no economy can survive without fiscal discipline. Printing more money is never the answer. Bailout funds have already been granted to Greece, Ireland, and Portugal; and the European crisis has gotten worse, not better.

And here in the United States, the Obama administration has cranked up the printing presses first through their $800 billion stimulus boondoggle and then through the Federal Reserve's Quantitative Easing Program. And what did it produce? Nine percent unemployment and a $1 trillion-plus budget deficit for the last 3 years, and we have $15 trillion in debt.

I want to read from a couple of articles that were in the paper yesterday.

The first one from The Wall Street Journal, and it's entitled "Blame It on Berlin." It says: "Berlin's alleged sin is its reluctance to write a blank check to save the euro—either by underwriting a new euro zone fiscal union, or by extending bailout funding to Eurozone countries through the European Central Bank to buy trillions of dollars in sovereign debt."

And they'd have to print money to do that.
“The chant comes in unison from the debtor nations themselves, the bailout caucus in Brussels. An Obama White House concerned with its re-election and liberal pundits worried about their welfare-state economic model is under assault. Like the rich Americans who must pay their ‘fair share,’ the Germans are supposed to pay up to save a united Europe.

“The reality is that the Germans, along with the Dutch and the Finns, are two of Europe who understand that saving the euro requires more than a blank check. It requires a new political commitment to better economic policy to fiscal discipline.”

Now let me read from another article that was in the paper. I think it was this morning in this Washington Post. I will read it in part. It says: “Investors have grown wary of lending money to European banks.” People who invest, they don’t want to invest in European banks because they’re worried that their foreign loans could lose big amounts of money in their holdings of bonds issued by cash or European government. So investors don’t want to invest, and Germany doesn’t want to invest.

So what happened? “The world’s most powerful central banks, including the United States,” our Fed, are stepping in and using unlimited ability to print money and to lend it across national borders to try to arrest that dangerous cycle. The central banks are using what are called swap lines to exchange their respective currencies.”

And then it goes on in the article and says: “The swap lines pose little risk to the U.S. taxpayers. Federal officials have said, because “the Fed is doing business with foreign central banks viewed as trustworthy.” Those foreign central banks, in turn, take the risk of loss if the banks they’re lending to go under.” But it goes right up the line. If they can’t make it, then they go back to the original lender, which would be the United States Fed.

Why are the Germans so reluctant to invest? Because they’ve been through hyperinflation. They know what it’s like to have the EU Central Bank printing money because they remember under the Weimar Republic. Those World War I people took baskets of money to go buy a loaf of bread. And why are the investors reluctant? Because they don’t want to lose their money. They’re afraid that they’ll lose their investors’ money and they might go out of business.

So what happens? The United States comes to the rescue by bailing out the central banks in Europe by saying that we’re going to have a swap line with you and our currency will guarantee your currency, and we’ll charge you almost no interest to do that. This is an exercise in futility. That is not the answer.

We should not risk the American taxpayer by giving money or lending money to Europe under these circumstances. It’s crazy, in my opinion.

Mr. Speaker, I hope that the President and the Fed will reconsider this and not put us into the basket with the Europeans under these circumstances right now. It makes absolutely no sense, and it risks the American taxpayer.

UNEMPLOYMENT IN AMERICA

The SPEAKER pro tempore. The Chair recognizes the gentleman from Georgia (Mr. JOHNSON) for 5 minutes.

Mr. JOHNSON of Georgia. At a time when Americans are not really deeply concerned about investors in European markets and what will happen to them upon Greece or Italy or somewhere like that going belly-up, most Americans are fixated on one problem, ladies and gentlemen. It’s a very personal problem. That problem is unemployment right here in America.

Now, while we are pondering the difficulties that investors may face because of efforts to prop up central banks in Europe, people are hurting out here. People, including wives or husbands of unemployed spouses, are suffering. They’re suffering as we close in on the holiday season when they see so many out doing for their families and they themselves, having been unemployed, most of whom have been unemployed for at least 6 months, many for 2 years, they’re looking and they’re feeling this holiday season in a bad way. They’re regretful of the fact that they’re not able to fully participate in this part of the American Dream doing for others, buying Christmas gifts.

In fact, people are worried about whether or not their unemployment insurance will be there for them after the beginning of the year. They realize that they’re closing in on the cut-off date for expiration of the long-term unemployment insurance, and they’re worried about that, not about investors and how they might fare in terms of European countries not being fiscally solvent, allegedly.

So, Mr. Speaker, every day it seems like I read another report from economists telling us how important it is to extend unemployment benefits to help our fragile economy recover. And there’s no doubt about helping millions of unemployed Americans during the worst downturn since the Great Depression, which was caused by the very investment bankers that have been discussed today that might be hurt because of European shenanigans. It’s mind-boggling.

They are the ones that actually kicked this cesspool that we’re in. And then they got bailed out, but they’re not willing to allow the very Tea Party, Grover Norquist Republican parties who they control, they’re not willing to extend unemployment insurance benefits for the long-term unemployed unless there’s a penalty involved.

TRIBUTE TO MRS. MAGGIE DALEY, FIRST LADY OF THE CITY OF CHICAGO

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. DAVIS) for 5 minutes.

Mr. DAVIS of Illinois. On Monday, November 28, 2011, the City of Chicago laid to rest the wife of Chicago’s longest serving mayor, Mayor Richard M. Daley.

While Maggie Daley was known as the mayor’s wife, she was, indeed, a well-known, well-liked and revered personality in her own right. Maggie Daley played the role of matriarch. She was warm, graceful, elegant, eloquent, and easy to like. She was a patron of the arts and was fully steeped in the cultural affairs of our city.

While Mrs. Daley has received accolades for many of her activities, the one which strikes me the most is her involvement in a program called After School Matters. I think that anyone who knows anything about education and youth development knows that, yes, after school does, indeed, matter. When discussing this program, you could see Maggie Daley’s eyes light up, and you could feel her passion. She seemed to know everything there was to know about the program. She knew program sites, personnel, special features and activities, benefits and successes. After a session of listening to Mrs. Daley explain and advocate for this program, I would often smile and say to myself, How could anyone not be in support of this great program?

So I say thanks to a great lady—a lady of grace, a lady of dignity, a lady of passion, a lady of faith, and a lady of action.

My family and I and residents of the Seventh Congressional District of Illinois express condolences to Mayor Richard M. Daley and to all of Maggie Daley’s family. She was a great first lady of our city and performed her role to perfection. After school does matter. It mattered to Mrs. Maggie Daley, and it matters to all of America.
EXTENDING UNEMPLOYMENT INSURANCE

Ms. SEWELL. Mr. Speaker, today I rise in support of workers, families, and middle class Americans across the Seventh Congressional District of Alabama and across this entire Nation who have lost their jobs as a result of the deepest economic recession since the Great Depression. In my district, for the Seventh Congressional District of Alabama and across this Nation, the number one issue is job creation. While some progress has been made in turning our economy around, there is still so much work to be done in order to encourage job creation. Recent reports indicate that the Nation’s private employers created approximately 200,000 new jobs during November. While this number shows that our economy is slowly recovering and growing, we cannot forget about the millions of Americans who have been diligently searching for work but who have not been successful in doing so.

Congress must extend unemployment benefits for the hardworking Americans who have lost their jobs due to no fault of their own—rather, due to the economic downturn. These workers should also be given the necessary assistance to provide for their families during this difficult time. Nearly one-third of America’s 14 million unemployed have had no jobs for a year or more. In fact, long-term unemployment data suggests that about 2 million people have used up the 99 weeks of unemployment benefits, but they still cannot find work.

Congress has never allowed emergency unemployment programs to expire when the unemployment rate has exceeded 7.2 percent. With our Nation’s unemployment rate hovering around 9 percent, this is not the time to allow these essential benefits to expire.

In my home State of Alabama, unemployment and poverty rates have both increased dramatically in the wake of the most recent recession. In parts of the district that I represent, unemployment rates are as high as 19 percent. These persistently high unemployment numbers demonstrate the need for Federal unemployment assistance, and it remains a critical lifeline to many of the constituents I represent.

The Census Bureau states that unemployment benefits kept nearly 3.2 million Americans, including 900,000 children, from slipping into poverty last year. Without action, more than 2 million Americans will be cut off from unemployment insurance by mid-February of next year. The potential effects of this lapse in benefits would devastate millions of Americans and millions of households across this Nation.

We all understand that extending these unemployment insurance benefits is a temporary fix to a much larger problem. As Members of Congress, we must move quickly to adopt a comprehensive jobs plan that will aid businesses and communities in developing and growing. We must draft legislation that will promote an entrepreneurial climate and support American businesses globally. Now is the time that we must act. The American people want a comprehensive jobs plan. Until then, we have to extend unemployment benefits to help those millions of Americans who are desperately looking for work and can’t find it.

I urge my colleagues to put partisanship aside. Party politics has no place when we’re talking about the betterment and advancement of our Nation. Unemployed Americans, struggling families and communities across this Nation cannot wait. We must act now.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 11 o’clock and 28 minutes a.m.), the House stood in recess until noon.

PRAYER

Reverend Dr. Cathy C. Jones, Parkwood Institutional CME Church, Charlotte, North Carolina, offered the following prayer:

Almighty God our Father, because of who You are and the glory that is revealed in Your only begotten Son, Jesus Christ, we praise Your Holy Name.

Lord, Your Word declares “if any man lack wisdom, let him ask of God that giveth to all men liberally and upbraideth not; and it shall be given him.”

We ask for Your unmerited favor upon the lives of every elected Member of the House of Representatives to provide the wisdom, knowledge, understanding, and courage that will allow their hearts to be filled with the principles of justice, loyalty, compassion, humility, and love so that we can continue to be united as one Nation under God.

In the name of Him who is able to keep us from falling and present us faultless before the presence of His Glory with exceeding joy.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day’s proceedings and announces to the House his approval thereof.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey (Mr. PASCRELL) come forward and lead the House in the Pledge of Allegiance.

Mr. PASCRELL 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.

WELCOMING REVEREND DR. CATHY C. JONES

The SPEAKER pro tempore. Without objection, the gentleman from North Carolina (Mr. WATT) is recognized for 1 minute.

Mr. WATT. Mr. Speaker, I’m pleased to welcome Reverend Dr. Cathy C. Jones as the guest chaplain today for the United States House of Representatives. Since July, 2009, Dr. Jones has served as pastor of Parkwood Institutional CME Church, which is located in my congressional district in Charlotte, North Carolina.

Reverend Dr. Jones is a native of Chatham County, North Carolina. She received her associates, bachelor’s, and master’s degrees from Justice Fellowship International Bible College in Raleigh, North Carolina. In May of 2010, she received her doctorate in Biblical Studies from Justice Fellowship Bible College in Jacksonville, North Carolina.

Dr. Jones has been a pastor and served on different committees at the local and district levels during her time with the CME Church. She’s married to Theodore Jones and has been blessed with 7 children, 19 grandchildren, and 3 great grandchildren.

On behalf of my constituents in the 12th congressional district and my colleagues here in the House, I thank her for her service to her community and for her prayer this morning.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. WESTMORELAND) laid before the House the following communication from the Clerk of the House of Representatives:


Hon. John A. Boehner,
Speaker, U.S. House of Representatives, Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on December 1, 2011 at 9:51 a.m.:

At the Senate's request, the Senate agreed to House amendment to Senate amendment H.R. 394.

Appointments:
National Commission for Review of Research and Development Programs of the United States Intelligence Community.
ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to 15 further requests for 1-minute speeches on each side of the aisle.

CARTEL INTRUSION INTO AMERICA

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, according to The Washington Times, last December, five Mexican nationals armed with at least two AK-47 rifles were infiltrating the rugged desert—the American desert, that is. That's right, Mr. Speaker. Cartel soldiers were reportedly on our side of the border in Arizona “parroting in single-file formation” with the goal of “intentionally and forcibly assaulting” Border Patrol agents. They spotted and opened fire on four U.S. Border Patrol agents. Agent Brian Terry was murdered. Two cartel assault weapons found at the scene were connected to Operation Fast and Furious. Mr. Speaker, you recall that’s the operation where our government facilitated smuggling weapons to Mexican drug cartels—the enemies of Mexico and the United States.

Military-type intrusions by the cartels will only increase. We need to defend our sovereignty and protect our Border Patrol and first responders. It’s time to send military equipment coming back from Iraq to secure the southern border from the cartel soldiers. This veteran equipment includes Humvees, night-vision equipment, and more UAVs. Incidents like this will only continue to occur until Washington elites realize what happens in Mexico doesn’t stay in Mexico.

And that’s just the way it is.

PAYROLL TAX CUT AND UNEMPLOYMENT BENEFITS EXTENSION

(Mr. SIERES asked and was given permission to address the House for 1 minute.)

Mr. SIERES. Mr. Speaker, with our economy struggling and unemployment remaining unacceptably high, now is not the time to take more money out of the pockets of hardworking Americans.

The majority is opposing an extension of the payroll tax holiday, enacted earlier this year, that gave virtually all working Americans a much-needed tax cut. The payroll tax holiday cut Social Security payroll taxes of over 160 million workers. Economic uncertainty both here in the U.S. and abroad makes this a dangerous time to eliminate an important tax cut that is saving American families an average of $1,000 a year. Failing to extend the payroll tax holiday will raise taxes on millions of Americans, taking over $120 billion out of the pockets of consumers and out of the economy. In addition, failing to extend the unemployment insurance time to where lost their jobs will take an additional $30 billion out of the economy and rob over a million unemployed Americans of much-needed income and assistance.

Now is not the time to end these important tax cuts. It is certainly not the time to pull the plug on the unemployed in our economy. I encourage my colleagues to pass both of these provisions as swiftly as possible.

CROHN’S AND COLITIS AWARENESS WEEK

(Mr. CRENSHAW asked and was given permission to address the House for 1 minute.)

Mr. CRENSHAW. Mr. Speaker, today is the first day of Crohn’s and Colitis Awareness Week. Crohn’s disease and ulcerative colitis are diseases that collectively are known as inflammatory bowel disease. They are painful; they are incurable; they attack the digestive system; and they affect about one out of every 200 people in our country. A few weeks ago, Congressman JACKSON and I formed the Crohn’s and Colitis Caucus to raise awareness in the Congress and to fight for additional Federal support, and Crohn’s and Colitis Awareness Week is part of that effort. Today we will file a House Resolution which will support this awareness week. And hopefully, as we work with the Crohn’s and Colitis Foundation of America, all Americans will use this week, this time to join in this fight to raise awareness to increase research and to find a cure for this debilitating disease.

CROHN’S AND COLITIS AWARENESS WEEK

(Mr. JACKSON of Illinois asked and was given permission to address the House for 1 minute.)

Mr. JACKSON of Illinois. Mr. Speaker, I rise in support of a resolution my friend Congressman CRENSHAW and I introduced today supporting the goals and ideals of Crohn’s and Colitis Awareness Week, which begins today and runs through December 7, 2011.

This resolution, which is identical to the Senate version adopted earlier this month, declares congressional support for Awareness Week, recognizes the patients living with Crohn’s disease and ulcerative colitis, and commends the dedication of health care professionals and biomedical researchers who care for these patients. Crohn’s disease and ulcerative colitis are chronic disorders of the gastrointestinal tract. Affecting an estimated 1.4 million Americans, including 140,000 children under the age of 18, IBD remains the most prominent factor in morbidity caused by digestive illness.

Again, thank you to my caucus co-chair for working with me on this important resolution, my colleagues who have joined as cosponsors, as well as the Crohn’s and colitis patients and their families, medical providers, and researchers for their advocacy.

I urge my colleagues to cosponsor this resolution and join the bipartisan Congressional Crohn’s and Colitis Caucus, which advocates for enhanced patient care, treatment, and finding a cure for these debilitating diseases that impact both patients and their families.

OBAMA NEEDS TO FOCUS ON JOB CREATION

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, for the past 2 ½ years, our Nation’s unemployment rate has risen over 8 percent. The President continually develops policies that discourage and prohibit small businesses from creating jobs.

Just last month, the administration announced the delay of the Keystone XL pipeline, a project estimated to create over 300,000 jobs without costing taxpayers a dime. I was fortunate enough to visit Alberta, Canada in October and witnessed firsthand the Canadian oil sands and the positive impact that exploration has for new American jobs.

At the end of this legislative week, House Republicans will have passed 25 job-creation bills. Sadly, they are stalled in the Senate. With a growing debt of over $15 trillion, it is absolutely necessary for Congress and the President to work together to promote job creation and ways to remove barriers to allow for small businesses to create jobs.

In conclusion, God bless our troops, and we will never forget September the 11th in the global war on terrorism.

RECOGNIZING POP WARNER LITTLE SCHOLARS

(Mr. McINTYRE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McINTYRE. Mr. Speaker, I rise today to recognize the Pop Warner Little Scholars program, our Nation’s oldest and largest youth football, cheer and dance organization. Currently, more than 400,000 children participate in Pop Warner organizations that span 43 States, Scotland, Germany, Russia, Japan, and Mexico. The NFL Players Association estimates that Pop Warner has been the career starting point for 70 percent of its current athletes.

It has a long history of promoting structured athletics and instilling the
qualities of sportsmanship, hard work, and leadership in young athletes. It's the only national youth sports organization to require academic proficiency, and it annually awards more than $110,000 in scholarships. It's also a leader in making youth sports safe, including investigating concussions and injuries and a medical advisory board to remain proactive on player health and safety.

This Saturday, December 3, Pop Warner will kick off its Super Bowl and National Dance Championship at ESPN's Wide World of Sports complex in Orlando. This week-long competition will feature participation from more than 12,000 athletes and will be broadcasted on ESPN3.

I want to extend our congratulations, Mr. Speaker, on behalf of the U.S. Congress, to this excellent, well-recognized, and well-organized program for young people here in America on behalf of the Congressional Caucus on Youth Sports.

STOP EXCESSIVE REGULATION NOW

(Mr. JOHNSON of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of Ohio. Mr. Speaker, one thing is certain: Excessive government regulations are hurting America's economy and strangling job creation.

Just this year, new regulations cost our economy almost $100 billion, and this is just the cost of new regulations this year. The Small Business Administration estimates that regulations cost our economy approximately $1.75 trillion annually. This is unacceptable.

With over 14 million Americans out of work, we can't afford these excessive government regulations. But instead of creating jobs, President Obama would rather create more regulations that kill jobs and burden small businesses.

Now, House Republicans have done the exact opposite. As part of the House Republican Plan for America's Job Creators, we're fighting to reduce the regulatory burdens to empower small businesses to create jobs. We've passed over 20 bills that will create much-needed jobs right now.

President Obama and Senate Democrats need to work for job creation, not against it, because the people of eastern and southeastern Ohio and all Americans deserve better.

DELAYED PILOT FATIGUE RULE

(Ms. HOCHUL asked and was given permission to address the House for 1 minute.)

Ms. HOCHUL. Mr. Speaker, despite what you might hear in this body, I believe that there are some regulations that we all can support. One related to the crash of Continental Airlines Flight 3407, which crashed into a house in my district, killing 50 innocent victims nearly 3 years ago. The legislation passed by this body in response to this crash mandated new pilot fatigue guidelines to be implemented by August 1 of this year. That response to this event. Then we were told November 22. Then we were told November 30. Those days have come and gone.

The families of these victims have worked tirelessly for a resolution to this. They never thought this would happen again. The millions of Americans who fly our skies every year are counting on us for regulations to ensure their safety. Let's not let them down.

Texas Valley Coastal Bend Health Care System Gold Seal

(Mr. FARENTHOLD asked and was given permission to address the House for 1 minute.)

Mr. FARENTHOLD. In November, the VA outpatient clinic in Harlingen, Texas, earned the Joint Commission's Gold Seal of Approval. This award recognizes facilities that comply with the Joint Commission's national standards for health care quality and safety in ambulatory care, behavioral health care, and home care.

There is no way we can adequately express our thanks to those who serve this country, but we must welcome them home and make sure they have access to the benefits and services that they have earned.

Our servicemen and -women deserve quality health care. The Texas Valley Coastal Bend Health Care System has earned this distinction because they demonstrate a commitment to meeting the health care needs of all south Texas veterans.

My staff and I are passionate about helping veterans. South Texas is one of the most military and veteran-friendly places in the country, and I will work hard to ensure that the servicemembers and families receive the support that they deserve.

While south Texas is served by great facilities to south Texas veterans.

POSTDEPLOYMENT COGNITIVE TESTING

(Mr. PASCRELL asked and was given permission to address the House for 1 minute.)

Mr. PASCRELL. Mr. Speaker, as co-chair of the Congressional Brain Injury Task Force, one of my top priorities is to help our servicemembers with brain injuries. With posttraumatic stress disorder and traumatic brain injury recognized as the signature injuries of the conflicts and wars in Iraq and Afghanistan, you would think the Defense Department would have a good system to catch the injuries. They do not.

Despite our vote, a bipartisan vote in 2010 to have pre- and postdeployment screenings, postdeployment screenings are not being required. Five hundred thousand and thirty-six soldiers with predeployment cognitive test were given that test before they went to the battle. Coming out, only 3,000 tests were done postdeployment to actually compare results. We have nothing to compare. This is a disgrace and a disservice to our troops.

Both sides have agreed that we want something done. It has not been done in violation of the law. The Pascrell-Platts-Andrews-Cole-Ortiz-Wilson-Coffman amendment passed in the House Defense authorization bill to address this, but it was not included in the final bill. That's what we're trying to do this year.

PASS THE EXTENSION OF UNEMPLOYMENT BENEFITS

(Ms. TSONGAS asked and was given permission to address the House for 1 minute.)

Ms. TSONGAS. Mr. Speaker, I have heard from many struggling families in Massachusetts who simply don't know how they will make ends meet if Congress does not pass an extension of unemployment benefits before January 1.

From Lowell: I am a 58-year-old man that has been unemployed for 2 years
and 4 months. Finding a job these days is just about impossible. I am writing to you to beg you to please sign on to the unemployment extension bill.

From Westford: I have been unemployed since January of 2010. I look for a job every waking hour. Cutting unemployment benefits of needy families at this time makes no sense.

From Haverhill: If my unemployment ends, I will be unable to make my mortgage payments. Then my home will go into foreclosure and my neighbors’ homes will be depreciated. This is truly a ripple effect. Please don’t be penny wise and pound foolish.

I urge my colleagues on both sides of the aisle to work to pass this desperately needed extension.

HELP OUR ECONOMY GROW

(Mr. YODER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YODER. Mr. Speaker, the American people are calling on government to help the economy grow, but apparently Washington still hasn’t gotten the message. The onslaught of new government burdens on the economy have become unbearable; yet Federal regulators pile on more and more. So far this week alone, the Federal Register has over 1,799 pages of new rules and regulations facing our Nation’s small business owners.

Mr. Speaker, complex and burdensome regulations drive up the cost of doing business and, therefore, drive up unemployment. A great example is the EPA’s new Cross State Air Pollution Rule. This rule, to be imposed by January 1, will not only cause rolling brownouts in places like Kansas, but will dramatically drive up the cost of energy production, increasing the costs of doing business and, therefore, putting more people out of work.

Mr. Speaker, if both parties are serious about job creation in this country, then we must put a stop to the constant attacks on those who create jobs.

HONORING THE SERVICE OF DR. MILTON GORDON

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, today I rise to honor the president of California State University at Fullerton, Dr. Milton Gordon, and to recognize his upcoming retirement.

For over two decades, Dr. Gordon’s outstanding commitment to higher education has let California State University at Fullerton become one of the largest and one of the most inclusive institutions in our Nation. Because of Dr. Gordon’s vision and commitment for greater cultural diversity in higher education, the university currently ranks ninth in the Nation in bachelor’s degrees awarded to minority students. And additionally, it ranks number one in California among colleges and universities awarding bachelor’s degrees to Hispanics.

Dr. Gordon’s caring, articulate, and collegial nature created a sense of pride among the faculty, the staff and students advocating for excellence in all aspects of university life.

It has been an honor for me to work with Dr. Gordon. He has been a mentor; he has been a shining light in Orange County. And I congratulate him on all his awards and distinctions, and I look forward to his next career. We hope to reel him in to continue to work on our community. Thank you, Dr. Gordon.

THE SILENT EPIDEMIC OF FOOD INSECURITY AND HUNGER

(Mr. BUTTERFIELD asked and was given permission to address the House for 1 minute.)

Mr. BUTTERFIELD. Mr. Speaker, I want to bring attention to a silent epidemic growing in our midst. Right alongside long-term unemployment, the increases in poverty and food prices, homelessness and the steep decline in household incomes is now the shocking rate of food insecurity and hunger.

According to the USDA, there are 46 million Americans surviving on food stamps. While Congress considers reductions to food stamp funding, the USDA predicts that the number of people requiring food assistance will substantially increase.

Last week, in my district in North Carolina, which ranks second in the country for food insecurity, I greeted thousands of people lined up outside of the Wilson OIC and the food bank of the Albemarle food distribution centers to collect bags of food for the Thanksgiving holiday.

Mr. Speaker, to help remedy the challenges to food security, I introduced H.R. 3437, the Eva Clayton Fellows Program Act. This legislation would enable the development of solutions to world hunger and confront food insecurity head on.

Food insecurity is not a partisan issue. I urge my colleagues to join me in this fight.

IN HONOR OF NANCY COOK’S SERVICE TO DELAWARE

(Mr. CARNEY asked and was given permission to address the House for 1 minute.)

Mr. CARNEY. Mr. Speaker, I rise today to recognize a remarkable woman and to honor her decades of service to the State of Delaware. Former State Senator Nancy Cook has been a leader in strengthening Delaware agriculture and our economy for the past 28 years.

Senator Cook has been an irreplaceable leader since becoming Delaware’s first female Democratic senator in 1974. For 36 years, Senator Cook served with distinction on the Senate Agriculture Committee, where she accomplished so much for Delaware farmers. Recently, a legislator remarked that agriculture had no better friend in the Delaware Senate than this lady, and I couldn’t agree more.

In 1991 Senator Cook helped create the Aglonds Preservation Program, which has preserved over 20 percent of Delaware’s farmland. In 1999 she helped establish Delaware’s landmark Nutrient Management Program. The program is now modeled for the entire region in the effort to manage animal waste responsibly and protect precious bays and waterways.

I would like to thank the Delaware Farm Bureau for its decision to honor Senator Cook with the Distinguished Service to Agriculture Award, and to join the bureau in celebrating an incredible leader for Delaware. Congratulations to my good friend, Senator Cook.

STOP STALLING ON THE CONSUMER FINANCIAL PROTECTION BUREAU

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute.)

Mr. PRICE of North Carolina. Mr. Speaker, opponents of financial regulatory reform in the Senate continue to prevent the Consumer Financial Protection Bureau from fulfilling its legislative mandate.

The CFPB has been open since July 21, but it’s taken 3 months for the Senate Banking Committee to advance President Obama’s nominee for the director of the bureau, Richard Cordray, to the full Senate. Now, continuing their strategy of partisan obstructionism, 44 Republican Senators have pledged to oppose any Presidential appointee for the CFPB, until the bureau’s mandate is weakened.

Such naked obstructionism is a disservice to American consumers and the American economy, which is in bad need of certainty after a year of artificial crises fomented by the Tea Party-dominated Republican Party.

The American people are sick of a dysfunctional Congress. We need the CFPB at full strength to move our economy forward, protect borrowers and consumers, and promote the interests of Main Street over Wall Street.

I call on the Senate to confirm Richard Cordray as director of the Consumer Financial Protection Bureau now.

REPUBLICAN’S FEAR OF DR. BERWICK

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, tomorrow’s a sad day. Don Berwick, Dr. Berwick, the Director of the Center for Medicare and Medicaid Services, is stepping down. And what a sad day it is. I had the privilege of working with Don in the Consumer Financial Protection Bureau.

Don’s a devoted public servant whose mission has been to strengthen the consumer protections of Wall Street. Today, Don’s witness is to the fact that Wall Street is thriving while hard-working families are struggling.

The Republican leadership is determined to gut the program that Don helped to create. They’re determined to eliminate the jobs of the 220 dedicated employees who are working hard to make a difference in America.

Mr. Speaker, opponents of financial regulation have spent the year obstructing Wall Street speculation. It’s time for the Democratic majority to take action and reprimand Republicans who are stalling on the CFPB.

Mr. Speaker, it’s time to stand up and protect the American people from Wall Street. Thank you, Mr. Speaker.
Ms. PELOSI. Mr. Speaker, today across the globe, people are marking World AIDS Day. It’s an opportunity to reflect upon the progress we’ve made in the fight against HIV/AIDS, this pandemic, and to re dedicate ourselves to ending this epidemic at last.

World AIDS Day is an occasion to remember friends, family members, loved ones, and millions of others lost to the disease. It is a solemn reminder of those still living with HIV/AIDS, whether in the cities of the United States, or in countries of Africa, Asia, or elsewhere. It is a reminder of the need to continue the fight to keep investing in research and medical advances, to stay focused on new treatments, care, prevention, and early intervention—a key element of quality of life; to expand housing opportunities to people with HIV/AIDS and end discrimination.

Yet it’s also a reminder of how far we’ve traveled since the first World AIDS Day in 1988, and since Dr. Berwick’s diagnosis, which we acknowledged recently on the 30-year anniversary of the first AIDS diagnosis.

In my hometown of San Francisco, we learned early on of the terrible toll of HIV/AIDS. The toll it could take on a community.

But that knowledge, as sad as it was, drove us to action, advocacy, and progress. Because we had suffered so much, we could also become a model for the rest of the world, with our community-based solutions in regard to prevention, to care, and to research for a cure or vaccine.

This is something I’m very proud of, and really it found its way into legislation: the Ryan White Care Act; housing opportunities for people with HIV/AIDS; increased funding for NIH research: expanded investments in prevention, care, treatment; and an end to the ban on Federal funds for syringe exchange programs, which increased funding for the Ryan White Care Act; housing opportunities for people with HIV/AIDS; increased funding for NIH research: expanded investments in prevention, care, treatment; and an end to the ban on Federal funds for syringe exchange programs.

But then the Speaker, Speaker Wright, said, “Would the gentle lady from California wish to address the House?” I had been told not to address the House, and if I did, to be very, very brief. So I stood up and acknowledged my father, Thomas D’Alesandro, had served as a Member of Congress, so he was on the floor of the Congress, and my family, and I thanked them all and constituents. My one sentence was, “I came here to fight against HIV and AIDS.” And that was about it.

Well, my colleagues who had told me to be brief then said, “Why would you even mention that?? This was 24 years ago, and why would you even mention that? The first thing that you want to say to the Members of Congress when you get here is you’re here to fight HIV/AIDS? Why did you say such a thing?”

I said, “Well, I said such a thing because that’s why I came here.”

But I never would have thought 24 years ago that we would project—really into another generation now—that we would not have a cure for HIV/AIDS. I never would have thought that. The first thing that you want to say to the Members of Congress when you get here is you’re here to fight HIV/AIDS? Why did you say such a thing?

But in the meantime, we’ve reduced discrimination. We’ve expanded prevention, care, deepened our research, actually mobilized support. Some, like Boni on the outside, using his celebrity to attract attention to the issue. Public policy, whether it’s President Bush, President Clinton. And now with this global initiative, and President Obama, we’re at a completely different place than we were then when they wouldn’t even have an AIDS ribbon in significant places like D.C. Today we all proudly wear that ribbon.

Again, it’s a day of reminder, but it’s also a day where we act upon those reminders of the work that needs to be done. And again, it’s a global challenge, but it is a very personal issue.

The statistics are staggering, but we think of them one person at a time. And that is what we have to act upon. This Congress has been great on the subject. I hope that we will continue to honor our responsibility.

Again, on AIDS Day in San Francisco today we are celebrating the 20th anniversary of AIDS Memorial Grove.
This is something that this Congress designated as a national memorial. This is of great significance to our community, for sure—I think very appropriately so—and also for the issue of AIDS. So, when you go West, you have to go to the AIDS memorial and see it as a spirit of renewal—a garden, a grove—and to those who follow Congress the importance of fighting HIV/AIDS as well as its importance to people, to communities, to our country, and to the world for our good health, for our economy, for the success of individuals.

OUR MAGGIE

(Mr. QUIGLEY asked and was given permission to address the House for 1 minute.)

Mr. QUIGLEY. Mr. Speaker, Maya Angelou wrote: “If you find it in your heart to care for somebody else, you will have succeeded.”

On Thanksgiving night, Chicago lost a matriarch who, by Ms. Angelou’s measure, was a magnificent success. We, sadly, lost Margaret Corbett Daley, or as she was better known, “our Maggie.”

Maggie Daley embodied the heart of our city and grace under fire even when her own health was failing. Her contribution to the arts and our children, to communities, to our country, most notably through the After School Matters program, changed countless lives; and it will continue to do so for generations.

When Maggie was laid to rest this week, it wasn’t just dignitaries who came to pay respects. Thousands of regular Chicagoleans lined up for blocks in the rain to say goodbye. That’s because Maggie transcended politics and reminded us that nothing is more important than family and each other.

She is, of course, survived by her best friend and husband, former Mayor Richard M. Daley, as well as by her loving children, grandchildren, and friends.

May she rest in peace and never be forgotten.

WORLD AIDS DAY

(Ms. JACKSON LEE of Texas asked and was given permission to address the House for 1 minute.)

Ms. JACKSON LEE of Texas. I rise today in commemoration, Mr. Speaker, of World AIDS Day; and I thank our minority leader for her eloquent recounting of how far we have come.

In our best days, we can look to my dear friend and to those who have been a living example of the improvements and the courage of those who are living with the HIV infection; but we recognize that, of the 15 million people medically recommended for antiretroviral medication worldwide, only half of them have access to drug treatment.

In the United States, nearly one in five people with HIV, or 240,000 people, don’t even know that they are infected. Communities of color and young gay and bisexual men face the most severe burden of HIV in the United States—Magic Johnson, on one hand, and my dying friend on another hand being at the bedside of a friend dying with AIDS, who, one, lived with the stigma and didn’t have a way out.

Today, I will join others and be test- ed for the HIV virus, and I encourage others to do so.

I congratulate my constituents, the Harris County Hospital District and the Thomas Street Clinic, for their 12th annual World AIDS Day.

Thank you, Mr. President, for recognizing that 6 million more people need to have access to AIDS prevention drugs.

To those who have lost their lives, may I say to you on this day that your life that was lost should not be in vain. We still look for a cure, and we work for a better Nation and an opportunity to provide resources to those around the world and in the United States who still suffer. It is our challenge. We accept that challenge, and I believe someday we will be victorious.

To those who commemorate this day because of someone else, I commemorate it with you in your mourning. For those who celebrate life, I, likewise, celebrate life.

TERMINATING PRESIDENTIAL ELECTION CAMPAIGN FUND AND ELECTION ASSISTANCE COMMISSION

Mr. HARPER. Mr. Speaker, pursuant to House Resolution 477, I call by the bill (H.R. 3463) to reduce Federal spending and the deficit by terminating presidential taxpayer financing of presidential election campaigns and party conventions and by terminating the Election Assistance Commission, and ask for its immediate consideration in the House.

The Clerk read the title of the bill. The SPEAKER pro tempore. Pursuant to House Resolution 477, the bill is considered read. The text of the bill is as follows:

H.R. 3463
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TERMINATION OF TAXPAYER FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS

SECTION 101. TERMINATION OF TAXPAYER FINANCING OF PRESIDENTIAL ELECTION CAMPAIGNS.

(a) TERMINATION OF DESIGNATION OF INCOME TAX PAYMENTS.—Section 6096 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection: "(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2010.".

(b) TERMINATION OF FUND AND ACCOUNT.—

(1) TERMINATION OF PRESIDENTIAL ELECTION CAMPAIGN FUND.—

(A) IN GENERAL.—Chapter 95 of subtitle H of such Code is amended by adding at the end the following new section:

"SEC. 9014. TERMINATION.

"The provisions of this chapter shall not apply to any candidate with respect to any presidential election after the date of the enactment of this section.".

(B) TRANSFER OF FUNDS REMAINING AFTER TERMINATION.—The Secretary shall transfer all amounts in the fund after the date of the enactment of this section to the general fund of the Treasury, to be used only for reducing the deficit.

(2) TERMINATION OF ACCOUNT.—Chapter 96 of such Code is amended by adding at the end the following new title:

"SEC. 9043. TERMINATION.

"The provisions of this chapter shall not apply to any candidate with respect to any presidential election after the date of the enactment of this section.".

(C) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 95 of subtitle H of such Code is amended by adding at the end the following new item:

"Sec. 9014. Termination."

(2) The table of sections for chapter 96 of subtitle H of such Code is amended by adding at the end the following new title:

"Sec. 9043. Termination.

TITLE II—TERMINATION OF ELECTION ASSISTANCE COMMISSION

SEC. 201. TERMINATION OF ELECTION ASSISTANCE COMMISSION.

(a) TERMINATION.—The Help America Vote Act of 2002 (42 U.S.C. 15301 et seq.) is amended by adding at the end the following new title:

"TITLE A—Termination

"SEC. 1001. TERMINATION.

"Effective on the Commission termination date, the Commission (including the Election Assistance Commission Standards Board and the Election Assistance Commission Board of Advisors under part 2 of subtitle A of title II) is terminated and may not carry out any programs or activities.

"SEC. 1002. TRANSFER OF OPERATIONS TO OFFICE OF MANAGEMENT AND BUDGET DURING TRANSITION.

"(a) IN GENERAL.—The Director of the Office of Management and Budget shall, effective upon the Commission termination date:

(1) perform the functions of the Commission with respect to contracts and agreements described in subsection 1003(a) until the expiration of such contracts and agreements, but shall not renew any such contract or agreement; and

(2) shall take the necessary steps to wind up the affairs of the Commission."

EXCEPTION FOR FUNCTIONS TRANSFERRED TO OTHER AGENCIES.—Subsection (a) does not apply with respect to any functions of the Commission that are transferred under subtitle B.

"SEC. 1003. SAVINGS PROVISIONS.

(a) PRIOR CONTRACTS.—The termination of the Commission under this subtitle shall not affect any contract that has been entered into by the Commission before the Commission termination date. All such contracts shall continue in effect until modified,
superseded, terminated, set aside, or revoked in accordance with law by an authorized Federal official, a court of competent jurisdiction, or operation of law.

"(b) OBLIGATIONS OF RECIPIENTS OF PAYMENTS.—

"(1) IN GENERAL.—The termination of the Commission under this subtitle shall not affect any obligation to any recipient a payment made by the Commission under this Act prior to the Commission termination date to use any portion of the payment that remains, as of the Commission termination date, and the terms and conditions that applied to the use of the payment at the time the payment was made shall continue to apply.

"(2) SPECIAL RULE FOR STATES RECEIVING REQUIREMENTS PAYMENTS.—In the case of a requirements payment made to a State under part 1 of subtitle D of title II, the terms and conditions applicable to the use of the payment for purposes of the State's obligations under this subsection (as well as any obligations in effect prior to the termination of the Commission under this subtitle), and for purposes of any applicable requirements imposed by regulations promulgated by the Director of Management and Budget, shall be the general terms and conditions applicable under Federal law, rules, and regulations to payments made by the Federal Government to a State, except that to the extent that such general terms and conditions are inconsistent with the terms and conditions that are specified under part 1 of subtitle D of title II or section 1002, the terms and conditions specified under such part and such section shall apply.

"(c) PENDING PROCEEDINGS.—

"(1) IN GENERAL.—The termination of the Commission under this subtitle shall not affect any proceeding to which the Commission is a party that is pending at the time the payment was made or that is commenced prior to such date, and the applicable official shall be substituted or added as a party to the proceeding.

"(2) TREATMENT OF ORDERS.—In the case of a proceeding described in paragraph (1), an order may be issued, an appeal may be taken, and an order or action may be rendered, and payments may be made as if the Commission had not been terminated. Any such order shall continue in effect until modified, terminated, or reversed by a court of competent jurisdiction, or operation of law.

"(3) CONSTRUCTION RELATING TO DISCONTINUANCE OR MODIFICATION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding described in paragraph (1) under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if the Commission had not been terminated.

"(4) TRANSFER OF PROCEEDINGS.—The Director of the Office of Management and Budget may issue regulations providing for the orderly transfer of proceedings described in paragraph (1), or administrative review that apply to any function of the Commission shall apply to the exercise of such function by the applicable official.

"(e) APPLICABLE OFFICIAL DEFINED.—In this section, the 'applicable official' means, with respect to any proceeding, order, or action—

"(1) the Director of the Office of Management and Budget, to the extent that the proceeding, order, or action relates to functions performed by the Director of the Office of Management and Budget under section 1002; or

"(2) the Federal Election Commission, to the extent that the proceeding, order, or action relates to a function transferred under subtitle B.

"SEC. 1001. COMMISSION TERMINATION DATE.

"The 'Commission termination date' is the first date following the expiration of the 60-day period that begins on the date of the enactment of this subtitle.

"Subtitle B—Transfer of Certain Authorities

"SEC. 1011. TRANSFER OF ELECTION ADMINISTRATION FUNCTIONS TO FEDERAL ELECTION COMMISSION.

"There are transferred to the Federal Election Commission (hereafter in this section referred to as the 'FEC') the following functions of the Commission:

"(1) The adoption of voluntary voting system guidelines, in accordance with part 3 of subtitle A of title II.

"(2) The testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories, in accordance with subtitle B of title II.

"(3) The maintenance of a clearinghouse of information on the experiences of States and local governments in implementing voluntary voting system guidelines and in operating voting systems in general.

"(4) The development of a standardized format for reports required by States under section 102(c) of the Uniformed and Overseas Citizens Absentee Voting Act, and the making of such format available to States and units of local government for implementing voluntary voting system guidelines and in operating voting systems in general.

"(5) Functions transferred to the Commission under section 801 (relating to functions of the former Office of Election Administration of the FEC).

"(6) Any functions transferred to the Commission under section 802 (relating to functions of the National Voter Registration Act of 1993).


"(8) Any functions of the Commission under section 588(e)(1) of the Military and Overseas Voter Empowerment Act (42 U.S.C. 1973ff–E(1)) (relating to providing technical assistance with respect to technology pilots programs for the benefit of absent uniformed services voters and overseas voters).

"SEC. 1012. EFFECTIVE DATE.

"The transfers under this subtitle shall take effect on the Commission termination date described in section 1004."

(b) CLERICAL AMENDMENT.—The table of contents of this Act is amended by adding at the end the following:

"TITLE X.—TERMINATION OF COMMISSION

"Subtitle A—Termination

"Sec. 1001. Termination.

"Sec. 1002. Transfer of operations to Office of Management and Budget during transition.

"Sec. 1003. Savings provisions.

"Sec. 1004. Commission termination date.
as members of the Board under each of the
paragraphs (2) through (9) of subsection (a)
may not be members of the same political
party.

(‘‘c’’) TERM OF SERVICE; VACANCY.—Members
of the Board shall serve for a term of 2 years,
and may be reappointed. Any vacancy in the
Board shall be filled in the manner in which
the original appointment was made.

(‘‘d’’) EXECUTIVE BOARD.—

(1) IN GENERAL.—Not later than 60 days after
the appointment of its members is completed, the Board shall
select 9 of its members to serve as the Execu-
tive Board of the Guidelines Review Board,
of whom

(A) not more than 5 may be State election
officials;

(B) not more than 5 may be local election
officials; and

(C) not more than 5 may be members of
the same political party.

(2) TERMS.—Except as provided in para-
graph (3), members of the Executive Board of
the Board shall serve for a term of 2 years
and may not serve for more than 3 consecu-
tive terms.

(3) STANDING OF INITIAL TERMS.—Of
the members first selected to serve on the Execu-
tive Board of the Board—

(A) 3 shall serve for 1 term;

(B) 3 shall serve for 2 consecutive terms; and

(C) 3 shall serve for 3 consecutive terms, as
determined by lot at the time the members
are first appointed.

(4) DUTIES.—The Executive Board of the
Board shall carry out such duties of the Board as the Board may delegate.

(‘‘e’’) BYLAWS; DELEGATION OF AUTHORITY.—
The Board may promulgate such bylaws as it
c onsiders appropriate for the operation
of the Board, including bylaws that permit
the Executive Board to grant to any of
its members the authority to act on behalf
of the Executive Board.

SEC. 214. POWERS; NO COMPENSATION FOR
SERVICE.

(‘‘a’’) HEARINGS AND SESSIONS.—

(1) IN GENERAL.—To the extent that funds
are made available by the Federal Election
Commission, the Board may hold such hear-
ings for the purpose of carrying out this Act,

(a) in the heading, by striking ’’Board of
Advisors and Standards Board’’ and in-
inserting ’’Guidelines Review Board’’;

(b) by striking paragraphs (2) and (3) and
inserting the following:

’’(2) GUIDELINES REVIEW BOARD.—The Exec-
utive Director of the Commission shall sub-
mit the guidelines proposed to be adopted
under this part (designated by such guid-
elines) to the Guidelines Review Board.’’

(3) REVIEW OF PROPOSED GUIDELINES.—Sec-
tion 222(c) of such Act (42 U.S.C. 15362(c)) is
amended by striking ’’the Board of Advisors and
the Standards Board shall each review’’ and
inserting ’’the Guidelines Review Board shall review’’.

(4) FINAL ADOPTION OF PROPOSED GUID-
ELINES.—Section 222(d) of such Act (42 U.S.C. 15362(d)) is
amended by striking ’’the Board of Advisors and
the Standards Board shall each review’’ and
inserting ’’the Guidelines Review Board’’.

(b) TESTING, CERTIFICATION, DECERTIFICA-
TION, AND RECERTIFICATION OF VOTING SY-
STEM HARDWARE AND SOFTWARE.—

(1) IN GENERAL.—Subsection of title II of such Act (42 U.S.C. 15371 et seq.) is amended by adding at
the end the following new section:

Sec. 223. Transfer of authority to Federal Election Commission.

(1) TRANSFER.—Effective on the Commis-
sion termination date described in section 1004, the Federal Election Commission (hereafter in this section referred to as the ’’FEC’’) shall be responsible for carrying out the duties and functions of the Commission under this part.

(2) ROLE OF STAFF DIRECTOR.—The FEC shall carry out the operation and manage-
ment of its duties and functions under this part through the Office of the Staff Director of the FEC.

(c) CLERICAL AMENDMENT.—The table of
contents of such Act is amended by adding at
the end of the item relating to part 3 of sub-
title A of title II the following:

Sec. 223. Transfer of authority to Federal Election Commission.

(2) TRANSFER OF OFFICE OF VOTING SYS-
TEM TESTING AND CERTIFICATION.—

(1) IN GENERAL.—There are transferred to the Office of the Staff Director of the FEC the
functions of the Office of Voting System Testing and Certification of the Commission (hereafter in this section referred to as the ’’Office’’) exercised under this subtitle before the Commission termination date.

(2) TRANSFER OF PROPERTY, RECORDS, AND
PERSONNEL.—

(A) PROPERTY and RECORDS.—The con-
tracts, liabilities, records, property, appro-
priations, and other assets and interests of
the Office, together with the unexpended
balances of any appropriations or other funds
available to the Office, are transferred and made available to the FEC.

"(b) PERSONNEL.—
(1) In general.—The personnel of the Office and the FEC, except that the number of full-time equivalent personnel so transferred may not exceed the number of full-time equivalent personnel of the Office as of January 1, 1971.

(2) Treatment of employees at time of transfer.—An individual who is an employee of the Office who is transferred under this subsection shall not be separated or reduced in grade or compensation because of the transfer during the 1-year period that begins on the date of transfer.

"(c) Development of standardized format for reports on absentee balloting by absent uniformed services voters and overseas voters.—Section 703(b) of such Act (42 U.S.C. 1973g–7(a)) is amended by adding at the end the following:

"Sec. 232. Transfer of authority to Federal Election Commission.

(1) Development of standards for state reports.—Section 101(b)(11) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973g–7(a)) is amended by striking "the Election Assistance Commission" and inserting "the Federal Election Commission".

(2) Uniform and overseas citizens absentee voting.—

(a) Title II of such Act (42 U.S.C. 1973g–7(a)) is amended by inserting "the Federal Election Commission" after each occurrence of "the Election Assistance Commission".

(b) Section 201(b) of the Help America Vote Act of 1999 (42 U.S.C. 1973g–7(a)) is amended by striking "the Election Assistance Commission" and inserting "the Federal Election Commission".

(c) Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "or the Election Assistance Commission".

"(d) Procedures for voting system testing and certification.—

(1) Study.—The Federal Election Commission shall conduct a study of the procedures for the testing, certification, decertification, and recertification of voting system hardware and software used in elections for Federal and State office, and shall develop recommendations on methods to improve such procedures, taking into account the needs of persons affected by such guidelines, including State and local election officials, voters with disabilities, absent military and overseas voters, and the manufacturers of voting systems.

"(2) Report.—Not later than 2 years after the date of the enactment of this Act, the Federal Election Commission shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report the recommendations developed under such paragraph.

"(e) Procedures for voting system testing and certification.—

(1) Study.—The Federal Election Commission shall conduct a study of the procedures for the testing, certification, decertification, and recertification of voting system hardware and software used in elections for Federal and State office, and shall develop recommendations on methods to improve such procedures, taking into account the needs of persons affected by such guidelines, including State and local election officials, voters with disabilities, absent military and overseas voters, and the manufacturers of voting systems.

"(2) Report.—Not later than 2 years after the date of the enactment of this Act, the Federal Election Commission shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report the recommendations developed under such paragraph.

"(f) Procedures for voting system testing and certification.—

(1) Study.—The Federal Election Commission shall conduct a study of the procedures for the testing, certification, decertification, and recertification of voting system hardware and software used in elections for Federal and State office, and shall develop recommendations on methods to improve such procedures, taking into account the needs of persons affected by such guidelines, including State and local election officials, voters with disabilities, absent military and overseas voters, and the manufacturers of voting systems.

"(2) Report.—Not later than 2 years after the date of the enactment of this Act, the Federal Election Commission shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report the recommendations developed under such paragraph.

"(g) Subject to applicable laws, the Commission may enter into contracts with private entities to carry out any of the duties or functions described in section 1004, the Federal Election Campaign Act of 1971, that are not performed by the FEC.

"(h) Notwithstanding subsection (a), or any other provision of this Act, the Commission may enter into contracts with private entities to carry out any of the duties or functions described in section 1004, the Federal Election Campaign Act of 1971, that are not performed by the FEC.

"(i) Treatment of employees at time of transfer.—An individual who is an employee of the Office who is transferred under this subsection shall not be separated or reduced in grade or compensation because of the transfer during the 1-year period that begins on the date of transfer.

"(j) Transfer of authority to Federal Election Commission.

(1) Development of standards for state reports.—Section 101(b)(11) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973g–7(a)) is amended by striking "the Election Assistance Commission" and inserting "the Federal Election Commission".

(2) Uniform and overseas citizens absentee voting.—

(a) Section 201(b) of the Help America Vote Act of 1999 (42 U.S.C. 1973g–7(a)) is amended by striking "the Election Assistance Commission" and inserting "the Federal Election Commission".

(b) Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking "or the Election Assistance Commission".

(c) Section 3132(a)(1)(C) of title 5, United States Code, is amended by striking "the Election Assistance Commission".

"(d) Electronic voting demonstration projects for secretary of defense.—

(1) Development of standards for state reports.—Section 101(b)(11) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973g–7(a)) is amended by striking "the Election Assistance Commission" and inserting "the Federal Election Commission".

(2) Receipt of reports on number of absentee ballots mailed and executed.—Section 101(c) of such Act (42 U.S.C. 1973g–7(a)) is amended by striking "the Election Assistance Commission (established under the Help America Vote Act of 2002)" and inserting "the Federal Election Commission".

(3) Reports on number of absentee ballots mailed and executed.—Section 101(c) of such Act (42 U.S.C. 1973g–7(a)) is amended by striking "the Election Assistance Commission (established under the Help America Vote Act of 2002)" and inserting "the Federal Election Commission".

(4) Effective date.—The amendments made by this section shall take effect on the date of the enactment of this Act, the Federal Election Commission Act of 2002 (as added by section 201(a)).

"(e) Technology pilot program for absent military and overseas voters.—

(1) Title II of such Act (42 U.S.C. 1973g–7(a)) is amended by striking "the Election Assistance Commission (established under the Help America Vote Act of 2002)" and inserting "the Federal Election Commission".

(2) Effective date.—The amendments made by this section shall take effect as of January 1, 2011.

"(f) Procedures for voting system testing and certification.—

(1) Study.—The Federal Election Commission shall conduct a study of the procedures for the testing, certification, decertification, and recertification of voting system hardware and software used in elections for Federal and State office, and shall develop recommendations on methods to improve such procedures, taking into account the needs of persons affected by such guidelines, including State and local election officials, voters with disabilities, absent military and overseas voters, and the manufacturers of voting systems.

"(2) Report.—Not later than 2 years after the date of the enactment of this Act, the Federal Election Commission shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report the recommendations developed under such paragraph.
less and less popular for both taxpayers and candidates. Second, H.R. 3463 terminates the Election Assistance Commission, an obsolete government agency originally intended to sunset in 2005. Every Federal program, including those that are funded by private contributions, should be reviewed for effectiveness and longevity. In 1992, the Federal Election Commission was established to oversee presidential campaign contributions. Since then, the FEC has become an increasingly important body in the political landscape, with a budget of $3.5 million. However, in 2004, the FEC received $5.4 million to manage programs totaling $3.5 million. This bill would transfer the FEC’s remaining valuable service, its voting system testing and certification program, to an existing agency instead of paying over the overhead costs of a complete agency just to operate that program. Like its predecessor bill, H.R. 672, this bill maintains an advisory system to give State and local election officials input into the testing and certification program.

Mr. Speaker, since December of 2010, the Election Assistance Commission has not had a quorum. That means it has not been able to make policy decisions requiring approval by the Commissioners. Has anyone even noticed? Compared to the real crises facing our country, has there been harmed to justify keeping an obsolete agency? The EAC is not merely obsolete, it’s also wasteful. I have spoken to my colleagues about the $1.5 billion in funding for presidential primary campaigns, presidential election campaigns, and national party conventions. My colleague from Oklahoma (Mr. Cole) has been a leader in trying to end those campaigns as being wasteful. I have spoken to this committee confirmed that no Presidential candidate to date has opted to participate for the 2012 election.

Mr. Speaker, we are talking about $1.5 billion in funding. A fundingPresidential primary campaigns Presidents election campaigns, and national party conventions. My colleague from Oklahoma (Mr. Cole) has been a leader in trying to end those campaigns as being wasteful. I have spoken to this committee confirmed that no Presidential candidate to date has opted to participate for the 2012 election.

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Our elections are financed, and that bill and I passed the DISCLOSE Act, which calls for greater transparency and accountability, not secrecy and irresponsibility.

I appreciate your willingness to support expediting floor consideration of this important legislation, notwithstanding the inclusion of any provisions under the jurisdiction of the Committee on Science, Space, and Technology. I understand and agree that your willingness to waive further consideration of the bill is without prejudice to your Committee’s full interests or similar legislation in the future. In the event a House-Senate conference on this or similar legislation is convened, I would support a request from your Committee for an appropriate conference.

I will include a copy of our exchange in the Congressional Record during consideration of H.R. 3463. Thank you for your cooperation as we work towards enactment of this legislation.

Sincerely,

[Signature]

Daniel E. Lungren, Chairman, Committee on House Administration

Mr. Brady of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

I think in opposition to H.R. 3463. This is not new territory for this Congress. This proposal to eliminate the Presidential Election Campaign Fund and the Election Assistance Commission has already been dealt with in this Congress. The legislation before us proposes to combine these two really bad ideas.

In an era of rapidly changing election law, both in terms of campaign finance regulation and voting rights, these two programs are among the most important that we have ever had. The electoral landscape is much different today than it was even 4 short years ago. The Supreme Court allows unlimited contributions from special interests, and Super PACs are raising vast amounts of funds with no government oversight or regulation. Corporations and special interests are donating massive sums of money, and some may expect a return on their investment. Unfortunately, this return often comes at the expense of the American people and sometimes at the expense of the integrity of this body.

We cannot expect the trust of the electorate if they feel they do not have a voice. We should provide transparency and accountability, not secrecy and irresponsibility.

Just last Congress, my colleagues and I passed the DISCLOSE Act, which called for more transparency in how our elections are financed, and that bill was killed by Senate Republicans. Members of the House, such as Mr. Van Hollen of Maryland and Mr. Larson of Connecticut, have authorized bills that would strengthen public financing of elections, not weaken it, as this bill does.

When sources of funds are intentionally concealed, what kind of message does this send to the country? It sends the message that we do not care where the money is going. As long as they are substantial and they are secret, and that is wrong.

We can reform the Presidential Election Campaign Fund without repealing it. This is not an act of faith in the American people.

Across the country, States are making it harder for voters to cast their ballots. New laws requiring voter identifications, strict and arbitrary voting registration regulations, and eliminating the days designed for early voting are all part of an effort to limit voter participation and turnout. Voters have noticed and have already started to push back.

This was the case in Maine last month when they used the “People’s Veto” to throw out a law passed by the Republican legislature and Governor to eliminate the State’s successful same-day voter registration program which has in Maine an example for the country. States, restrictive new laws may be forced onto the ballot for a possible repeal in referrals in 2012. If that wasn’t bad enough, overworked and underpaid local election officials and volunteers are expected to keep track of election law changes while still administering large, complex, and often unpredictable elections. The Election Assistance Commission does much of the heavy lifting for them, establishing an information database for all local election officials to utilize.

The EAC also produces instructional videos and materials, which cash-strapped election officials claim save them thousands of dollars annually. And the letters of support for the EAC, which have been also sent to my colleagues across the aisle, are still rolling in.

The EAC’s essential services do not stop there. The Commission is charged with the testing of certification of voting machines, the only agency in the Federal Government tasked to do this. Who will ensure that all of our votes are counted? Who will ensure that everyone has an opportunity to cast a ballot for their intended candidate? Who will ensure that we do not repeat the historical debacle of Florida in the year 2000? It is important to remember that events led to the establishment of the Presidential Election Campaign Fund and the EAC—the Watergate scandal of the early 1970s and Florida in 2000, respectively. These historical controversies and the chinks in our political system. These measures were meant to restore their faith, to restore accountability to Washington and, most importantly, to ensure that the people were heard. All this bill will do is weaken further the belief of faith the American electorate has left.

Today I stand with every letter writer that has pleaded with us not to terminate the EAC. I stand with those who cannot afford to make huge contributions and who would rather speak with their votes not their wallets. I, along with Democratic colleagues, stand with the principles that voter inclusion, not voter exclusion, is what we should stand for. And this stripping away of the franchise of all eligible voters is despicable and is beyond words and cannot be tolerated.

On this bill I urge a “no” vote.
that are committed to supporting and expanding the civil and voting rights of all Americans, we have devoted substantial resources to the passage of both the National Voter Registration Act and the Help America Vote Act. Terminating the EAC puts our work at jeopardy and risks reducing the voting and civil rights of our citizens—rights for which we have fought against the odds.

The EAC does valuable work to ensure the reliability and trustworthiness of our nation’s elections, and the Commission plays a major role in collecting accurate and comparable election data. With our nation’s complex and diversified election administration systems, the EAC’s leadership is essential if we are going to improve our citizens’ trust and confidence in election results. The Commission develops and fosters the training and certification of our nation’s more than 8,000 election administrators. Through its many working committees and the work it does to foster robust dialogue among advocates, manufacturers and administrators, the Commission is improving the administration of elections. The EAC’s award-winning web page has become the “go to” site for election administrators, advocates, and academics.

The Commission is charged with developing standards for voting systems, and this precedent-setting work has been recognized by nations around the world. Several countries are so impressed with our system that they have signed agreements with the EAC for technical assistance as they develop their own voting system standards and certification procedures. The EAC’s certification program uses its oversight role to coordinate with manufacturers and local election officials to ensure that existing voting equipment meets durability and longevity standards. This saves state and local governments from the unnecessary expense of new voting equipment.

The EAC has also played a central role in improving the accessibility of voting for the country’s more than 37 million voters with disabilities. We still have a long way to go to achieve the Help America Vote Act’s mandate to make voting accessible. The EAC’s leadership is essential to continuing the effort to offer all Americans the right to vote “privately and independently.”

As we approach the 2012 elections, the EAC must continue to do its important work. Rather than abolishing the agency just before the 2012 elections, we believe Congress should renew the Commission by broadening its data collection responsibilities and by giving it regulatory authority to ensure that persons with disabilities have full access to the polls.

Thank you for your consideration of our position. If you have any questions about this letter, please contact Leadership Conference on Civil and Human Rights, at (323) 283-2856 or Bornstein@civilrights.org.

Sincerely,

WASHINGTON, DC, June 2, 2011.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE

MEMBERS,

U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the NAACP, our nation’s oldest, largest and most widely-recognized grassroots-based civil rights organization, I strongly urge you to do all you can to support the Election Assistance Commission and to oppose and vote against efforts to terminate this crucial tool in our arsenal to strengthen our democracy. The right to vote is a cornerstone of our democracy and we as a Nation should do all we can to ensure that every eligible American can cast an unaltered vote, in their own free will and that their vote is counted.

As established by the 2002 Help America Vote Act, the Election Assistance Commission provides research and data, guidance and grants to states and local governments so they can employ the best practices and technologies to register voters and enhance voting. The Election Assistance Commission has provided crucial help to many localities in the efforts to identify and reach groups that have been disenfranchised, including racial and ethnic minorities, members of the Armed Services (especially those serving overseas), disabled Americans and senior citizens.

We should be supporting and enhancing groups like the Election Assistance Commission, whose mission is to engage more Americans in the democratic process so that their voices may be heard. I therefore must again strongly urge you to oppose and work against bills such as H.R. 672, which would terminate the Election Assistance Commission within 60 days of enactment. Sadly, this shortsighted legislation is, in fact, a direct attack on one of the most fundamental components of our government, the right to vote and have that vote count, was passed out of the House Administration Committee and may come before you on House floor in the very near future.

Thank you in advance for your attention to the NAACP position: I look forward to working with you to see that we work toward a more inclusive democracy and to protect the integrity of our Nation and our government. Should you have any questions or comments, please do not hesitate to contact me at miles@naacp.org.

Sincerely,

MILES RAPPOPORT, President.

DEAR REPRESENTATIVE: Démósz recently urged the House Committee on Elections to oppose H.R. 672. Legislation that would terminate the Elections Assistance Commission (EAC), Without the EAC there would be no federal agency focused on improving the quality of elections—a vital function in ensuring the success of our democratic institutions.

Démósz is a non-partisan public policy research and advocacy organization committed to building an America which achieves its highest democratic of democracy and inclusive, with high levels of electoral participation and civic engagement; an economy where prosperity and opportunity are broadly shared and disparity is reduced; and a strong and effective government with the capacity to plan for the future.

The EAC does valuable work to ensure the efficacy, reliability, and trustworthiness of our nation’s election systems. For example, the Commission plays a major role in collecting and disseminating accurate election data. With our nation’s complex and diversified election administration system, central data collection is essential to accurately assessing how well we serve our citizens’ trust and confidence in election results. The Commission also develops and fosters the training and organization of our nation’s more than 8,000 election administrators.

Moreover, the Commission is charged with developing standards for voting systems, and this precedent-setting work has been recognized by nations around the world. Several countries are so impressed with our system that they have signed agreements with the EAC for technical assistance as they develop their own voting system standards and certification procedures. The EAC’s certification program is helping state and local governments to save money by using its oversight role to coordinate with manufacturers and local election officials to ensure that the existing equipment meets its durability and longevity potential. This saves state and local governments from the unnecessary expense of new voting equipment.

Importantly, the EAC has played a central role in improving the accessibility of voting for the country’s more than 37 million voters with disabilities. Although we still have a way to go to achieve the Help America Vote Act’s mandate to make voting accessible, the Commission’s leadership is essential to continuing the effort to offer all Americans the right to vote “privately and independently.”

We recognize that H.R. 672 would transfer many of the EAC’s functions to the FEC but this would not be wise. The FEC is dysfunctional. It is overwhelmed by its current responsibilities, as evidenced by repeated court orders to correct its regulations to bring them in line with the laws of the United States. The FEC is starkly divided on partisan lines, making it particularly inappropriate for election administration responsibilities. And the FEC is increasingly unable to make decisions or even to agree on staff-negotiated recommendations.

Rather than abolishing the EAC, Congress should provide the EAC with resources and a renewed commitment to sponsoring and encouraging information sharing among state and local officials, EAC committees, the non-partisan voting rights community, technical experts and others.

Elections are the life blood of a democracy. We strongly urge you to oppose efforts to terminate the EAC's leadership is essential to continuing the effort to offer all Americans the right to vote “privately and independently.”

Sincerely,

MILES RAPPOPORT, President.

DEAR MADAM LEADER: The Lawyers’ Committee for Civil Rights Under Law (“Lawyers’ Committee”) writes to express our opposition to the “To Terminate the Election Assistance Commission, and For Other Purposes Act” (H.R. 672). In the 2000 presidential election, many voters in Florida were wrongfully denied access to the ballot based on faulty voting equipment and a lack of discernible standards for vote counting. This bill would roll back the progress being made to bring more uniformity and equity to the election process across the states.

The Lawyers’ Committee is a nonpartisan, nonprofit organization, established in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to protect the rights of individuals affected by racial discrimination. The defense of voting rights has been a core part of the Lawyers’ Committee’s work since our founding nearly 50 years ago. We believe that
abolishing the Election Assistance Commission (EAC) fails to further voting transparency and reliability that was at the heart of the Help America Vote Act (HAVA). Predictably, those who are the most frequently disenfranchised are also those least able to advocate for their right to vote, whether poor, uneducated, infirm or elderly.

Paced with a crisis to our democratic system, Congress immediately rushed to action to take bold steps to bring our elections into the 21st century by passing HAVA which established the EAC. EAC tests and certifies voting machines for use in elections to avoid a repeat of the 2000 election debacle in Florida; administers electronic voting for our brave men in uniform fighting overseas so that they are able to vote abroad; and creates voluntary voting guidelines for states, instilling confidence in the democratic process of this country for all voters. Since its inception, the Lawyers’ Committee has been intimately acquainted with the work of the EAC, especially as Barbara Arwine our Executive Director has served on the EAC advisory board. Our work and experience with the EAC leads us to believe that its establishment was the right course of action.

The work of the EAC to improve and modernize our electoral process is far from over. Moving the functionality of the EAC to the bipartisan group, they did a resolution, which charges P&As with helping to ensure that the EAC, in particular, it is the EAC that has played an important role in improving the accessibility of the voting process as a whole, more accessible.

There remains much work to be done not only relating to physical accessibility, but also relating to other barriers to voting, such as a lack of voting and registration materials in accessible formats for people with sensory disabilities. In some instances, there have been outright denials of the right to register and vote based on false assumptions about a person’s legal capacity to vote. Abolishing the EAC at this point in time would be a step back for people with disabilities and the goal of full accessibility to the voting process, and prevent people with disabilities from participating in this most fundamental civil right.

As we rapidly approach the 2012 elections, the EAC must continue to do its important work. Rather than abolishing the agency just before the 2012 elections, Congress should strengthen the EAC to ensure that people with disabilities, including those with disabilities, are able to vote privately and independently. Therefore, on behalf of the NDRN and the 57 P&A agencies it represents, I ask that you oppose H.R. 672 when it is considered by the full House of Representatives today.

Sincerely,
BARBARA R. ARNWINE, Executive Director.
TANYA CLAY HOUSE, Director of Public Policy.

NATIONAL DISABILITY RIGHTS NETWORK,
Washington, DC, June 21, 2011.

Re: Opposition to H.R. 672, the Election Support Consolidation and Efficiency Act.

As a Director of the National Disability Rights Network (NDRN), I write to express the opposition of NDRN and the 57 Protection and Advocacy systems it represents to H.R. 672, the Election Support Consolidation and Efficiency Act (ESCEA).

Voting is a fundamental right, and the Election Assistance Commission has played an important role in creating the opportunity for people with disabilities to participate in the process. The ESCEA would hinder progress toward accessibility of polling places and the voting process by abolishing the Election Assistance Commission (EAC).

NDRN is the national membership association for the 57 Protection & Advocacy (P&A) agencies that advocate on behalf of persons with disabilities in every state, the District of Columbia, and U.S. territories. For over 30 years, we have been mandated by Congress to protect and enhance the civil rights of individuals with disabilities of any age and in any setting. One area of focus for the P&A system is voting, and the Protection and Advocacy for Voting Access Act (PAVA) which charges P&As with helping to ensure the full participation of individuals with disabilities in the entire electoral process, including registering to vote, casting a ballot, and accessing polling places.

The EAC has played a central role in improving the accessibility of voting for voters with disabilities. A Government Accountability Office report from 2009 (http://www.gao.gov/new.items/d09605p.pdf) found that 72 percent of polling places surveyed on Election Day 2008 had impediments that hinder physical access or limit the opportunity for private and independent voting for people with disabilities. This is an improvement over the results of a similar study done during the 2004 election, but the majority of polling places had impediments. The EAC, established following the 2000 election, has helped improve these results by acting as a national clearinghouse for information on accessible voting and providing technical assistance and guidance for election commissioners and how to make polling places, and the voting process as a whole, more accessible.

Instead of focusing on jobs and helping middle class families, the Republican leadership is hard at work today creating additional ways in which corporations and special interests can dominate our elections process. Ending the Presidential Election Campaign Fund opens the door for large political spenders to enjoy an even greater role in the funding of political campaigns.

The voluntary public finance system for Presidential campaigns was created in the early seventies as a direct result of the corruption of Watergate, the largest political scandal of our generation. Stopping corruption and the appearance of corruption is as important today as it was during the Nixon years. The level of spending by corporations and special interests since the Supreme Court’s decision in Citizens United should give every American reason for concern. Do my Republican colleagues really believe that more corporate and special interest money in politics is going to benefit in any way the 99 percent of Americans who don’t have lobbyists?

With that, I reserve the balance of my time.

Mr. SPEAKER pro tempore, the time of the gentlewoman has expired.

Mr. BRADY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentlelady from California (Ms. LOFGREN).

Ms. ZOE LOFGREN of California. Thank you, the gentlelady.

Mr. HARPER. Mr. Speaker, I yield myself such time as I may consume.

It is clear from the things that have happened here is that there has been no response to many of the allegations of mismanagement that we’ve heard so far. It is clear from the things that have happened here that the EAC, in particular, is for this time to come to a conclusion. It is an agency whose average salary for its employees—and the employee size has more than doubled since 2007!—is $106,000 for this agency. Ronald Reagan said that the closest thing on earth to eternal life is a temporary government program. This was supposed to last for a period of 3 years.

The National Association of Secretaries of State in 2005 did a resolution, a bipartisan group, they did a resolution saying bring this to an end. They renewed that resolution again in 2010. We tried to get rid of an agency like the EAC, then we’re never going to be able to get rid of anything up here.

With that, I reserve the balance of my time.

Mr. BRADY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentlelady from California (Ms. LOFGREN).

Ms. ZOE LOFGREN of California. Thank you, the gentlelady.

Mr. SPEAKER pro tempore, the time of the gentlewoman has expired.

Mr. BRADY of Pennsylvania. I yield the gentlelady an additional 30 seconds.

Ms. ZOE LOFGREN of California. Have there been problems that the EAC? Yes, there have been problems. What should we do about it? We need oversight and reform. We shouldn’t just abolish this commission because we are going backwards to the bad old days of inconsistency among voters. I urge my colleagues in both the House and Senate to focus on jobs, and don’t pass bills that give corporations and special interests even greater influence in our elections.
Mr. HARPER. Mr. Speaker, I yield myself such time as I may consume.

It is amazing that there is a reference to the need that we need to focus on jobs instead of doing something like this. If that’s the case, we’ve passed about 25 bills this year. The Office of Special Counsel that dealt with jobs and dealt with the economy. We have done our job on that, and now they’re sitting over in the Senate who knows where or why awaiting action. So we’ve been telling them tough things, the tough decisions, the things that will create jobs if the Senate and the White House would join with us on those things. So that is simply not accurate to say that we haven’t been focusing on jobs because we have done that since we started this year, and we will continue to do so and encourage and urge our colleagues over in the Senate to bring these matters up. They include things that will help on overburdensome EPA regs, with things that will deal with permitting and drilling in the Gulf of Mexico and things that will have a direct impact on our economy and jobs.

You know, it is clear, particularly on the EAC, which was created in 2002 after HAVA, the Help America Vote Act, after the Bush-Gore recount so that we wouldn’t have another hanging chad or butterfly ballot situation, and this agency administered over $3 billion worth of grants to the States for machinery that was passed away that was designed to be a 3-year agency and program. We’re 9 years into this. And instead of trying to say, okay, and we showed the chart a minute ago with $5.4 million worth of management costs, and yet only a little over $3 million in program costs. And the grants for the machines, Mr. Speaker, are now gone and they are not there.

We have the letter from the National Association of Secretaries of State which restates their position on the mission fiscal year 2008 financial statement improvements together is a step in the wrong direction.

We have a report from the EAC’s financial records back in November of 2008 which I dealt with when I first got on the Committee on House Administration. This report is an audit of the Election Assistance Commission’s fiscal year 2008 financial statements. The records were so mismanaged, this agency that the other side wants to keep instead of trying to make us more efficient, it was so bad that the agency couldn’t be audited. The records were too bad to tell them how bad it was. So that lengthy report is available to anyone who cares to read it.

Then, we have a report from the Office of Special Counsel that was done in 2009. The Office of Special Counsel talks about having to settle a political discrimination case. An agency that is supposed to talk about fairness and helping in elections themselves get sued for political discrimination. And one of those that created that problem is the one that voluntarily resigned and received unemployment benefits for a vote that was not cast.

We have the organizational chart that shows that the EAC included a special assistant to the vacant position I can go on and on, Mr. Speaker, on the mismanagement of the EAC. It is clearly too large. There are some things that we need to keep. We are saying that the essential functions of this group, send them over to the FEC, and we can take care of those situations on testing and certification, make the process more efficient, and we’ll save money for the taxpayers.

With that, I reserve the balance of my time.

Mr. BRADY of Pennsylvania. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, I rise in opposition to H.R. 3463. It might sound, but right behind jobs, one of the top concerns my constituents contact me about is campaign reform. You’d think that campaign rules would be the very last thing people would think about when they’re worried about their livelihoods, their mortgages, and their family’s health care. But they know that the electoral process is at the heart of everything their government can do for them.

The American people are frustrated. They are frustrated by what I call super-sized campaigns. It’s all too much. It’s too slanderous. It’s too hard to tell who’s paying for what and who’s saying what. They feel that big donors, big corporations, and ideological groups are running the show, and they’re being left out. But the American people care, and they believe in “we the people.”

Public financing gives the voice back to the middle class. The Election Assistance Commission can help election officials better the process for voters. Neither of these is perfect right now. We acknowledge that, but we should be improving rather than eliminating them. Throw away what public financing we have, what financing worked for every President from 1976 to 2004 and making it harder to bring election improvements together is a step in the wrong direction.

Rather than making it even harder for the average voter to make a difference, Congress should be improving access to democracy by expanding public financing, assisting election officials, and increasing voting opportunities for all Americans.

Our people are our strength, and we have to do this. The supporters of this bill say it will save us money. But in fact, Mr. Speaker, it will mean our democracy is up for sale.

Mr. HARPER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. I thank the gentleman from Mississippi for yielding.

One of the arguments that’s been made about the EAC, Mr. Speaker, is that it’s the Federal Election Commission that ensures every American citizen’s right to vote. If only that were true, Mr. Speaker.

The National Association of Secretaries of State, which is the organization in each State that oversees the elections, has called for the dissolution of the EAC. The committee has heard firsthand testimony from Secretaries of State all across the country. Both in 2005 and again in 2010, the National Association of Secretaries of State has called for the dissolution of the EAC.

If the organizations that are actually responsible in each State for holding the elections, Mr. Speaker, are asking that the Federal entity that’s supposed to help them should be dissolved, I think it would behoove the Congress to listen to the States and in this case dissolve this commission.

Mr. BRADY of Pennsylvania. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. I thank the gentleman from Pennsylvania for yielding.

Mr. Speaker, there are ongoing attempts to suppress the valid legal votes of some communities in this country. Earlier efforts to stop selected Americans from voting, such as literacy tests and poll taxes, were overturned by this Congress. But while the tactics of these people have changed, their strategy remains the same—intimidate, discourage, or otherwise prevent certain groups of American citizens from voting.

Current tactics include burdensome voter ID laws, outrageous registration fees, “inactive voter lists,” and unlawful disenfranchisement of ex-offenders. To theseフラgrant tactics proponents of voter suppression have added more subtle approaches, including disinformation campaigns—and behind-the-scenes, quiet—and unfair—purging of voter rolls.

Now we are presented with their latest plan to deny certain Americans their right to vote—the elimination of the federal programs whose purpose is to ensure that every American’s voice is heard in our election. The Presidential Election Campaign Fund and the Election Assistance Commission are in need of strengthening, not elimination. They help make sure that all choices can be heard and that all votes will be counted. I support improving these programs.

But the only reason to want to eliminate them is to further suppress votes. There are some communities or groups who were targeted by Jim Crow laws decades ago. The votes are the same groups who are now targeted by “inactive voter lists” and voter ID laws and
Let me remind my colleagues there is nothing more crucial to democracy than guaranteeing the integrity, the fairness, the accountability, the accuracy of elections. Democracy works only if the citizens believe it does. The system must work, and the people must believe in it; but voting shouldn’t be an act of blind faith. It should be an act of record.

The EAC helps maintain the integrity of the American electoral process. Too many Americans have lost confidence in the legitimacy of the election results. Dismantling the EAC would further erode that necessary faith in the process.

We’ve discussed several times—and others have talked about it—if manipulating the outcome of elections occurs, how much easier will it be once the EAC is eliminated. Millions of Americans are casting their votes now on unverifiable voting machines and the results of most elections are not audited.

Eliminating the EAC would increase the risks that our electoral process would be compromised by vote manipulation, by targeted voter ID laws, by voter system irregularities. Can we afford to take that risk? Certainly not.

Do we want problems to go undetected? I would hope not.

Less oversight, lesser standards, less transparency in reporting, less testing, fewer audience weakens our democracy. Abolishing the EAC is the wrong way to go.

Mr. HARPER. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma (Mr. COLE), a distinguished member of the Appropriations and Budget Committees, who also has been heavily involved in this matter as a cosponsor and also has done great work on trying to eliminate and bring to an end the Presidential Election Fund.

Mr. COLE. I thank the gentleman for yielding to me.

The legislation before us actually does three important things: First, it eliminates an antiquated, outdated system of public financing, second, it terminates an obsolete commission; and then finally, and not incidentally, it actually saves money, something that we talk a lot about around here but we very seldom actually do.

When the Presidential Election Campaign Fund was created in 1974, it was during the time before things like Facebook, YouTube, and Twitter. The widespread use of the Internet did not exist. That’s no longer the case today. Today, it’s pretty easy to actually contribute money to a Presidential candidate if you want to do it. I would advise anybody, regardless of their political persuasion, to simply type the name of the candidate that they like into the Internet and wait and see what pops up, and they’re going to have a great opportunity to donate to that individual.

There is no need to take public money at a time that we’re running $1.5 trillion deficits and divert it to what’s essentially political welfare for Presidential candidates—absolute waste of money. It’s so much a waste that our President, who defends the system but chose not to participate in the system—in 2008, he did not participate, and he didn’t do it during the public campaign, actually broke precedent and, frankly, the commitment he had made earlier in the campaign and just chose not to do it. And that’s fine. That was his right. But it certainly was not adequately funded. His opponent, Senator Clinton, now Secretary Clinton, was also adequately funded. She did not use the public financing system. The one person who did, John McCain, was heavily outspent, although I don’t think that had much to do with his defeat.

I think, honestly, Americans know how to contribute to Presidential candidates. They don’t need the Federal Government letting them check off a portion of their taxes and divert it for that purpose.

In addition, public participation in this system has declined radically. It’s never reached even one-third of American taxpayers that do this—peaked at 28 percent, and in 2009 was down to 7 percent of American taxpayers who chose to do it.

So we’re not denying anybody the ability to participate. We are giving you expensive welfare to potential candidates and to political parties at a cost to the taxpayer when that cost can’t be afforded.

Two weeks ago, we had something that occurred that honestly ought to concern everybody on this floor. And I don’t fault either party for it, but the Democratic Party and the Republican Party both received $17 million for their conventions from the Federal Treasury of the United States; $17 million for two political parties—actually, 34 in total—to actually run their conventions from the American taxpayer. Who really believes that’s a needed expenditure? Each one of those parties—and I can tell you because I used to be the chief of staff of one of them—I will spend over $100 million on its convention. They don’t require additional Federal help. It’s simply a waste of time and a waste of money.

As for the Election Assistance Commission, I say is say the Secretary of State—this is a commission whose time has come and gone. Whatever good it did, it currently spends over 50 percent of its budget on administration, not on direct assistance to the States. And the idea that State governments and States who have been running elections for 200 years suddenly need the Federal Government to tell them how to do it and spend this kind of money I think is just absurd.

Frankly, the National Association of Secretaries of State, which is the oldest public association of elected officials and appointed officials in the United States, has twice called for the
Mr. BRADY of Pennsylvania. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GONZALEZ), a valued member of the House Administration Committee.

Mr. GONZALEZ. Mr. Speaker, I rise in opposition to this bill in its entirety but especially to that provision which attempts to eliminate the Election Assistance Commission.

I need to address a few points that have been made by the proponents of this bill because I was there when this original bill came up for consideration years ago, and I've been there for the subsequent hearings in the committee of jurisdiction.

First of all, when it comes to the secretaries of state, they've been opposed to the creation of the Election Assistance Commission from its very beginning. This is nothing new. Their renewal of opposition basically used a form letter that didn't even change from the 2006 date. The 2010 opposition letter actually referred and still used the same letter of previous years.

But the most important thing to point out is that that provision which threatens to allow big money to pour into our electoral process knows that on Election Day you're not going to find anyone from the Secretary of State's Office. They're not going to count the ballots. They're not going to be there. It is a local effort, and that's what the Election Assistance Commission is doing.

It was never meant to have a life span of 3 years. If you read the bill carefully, and Mr. HOYER, who will be the next speaker, will try to make that point, that's what the Election Assistance Commission is doing.

If we are to criticize them for an inordinate amount of their budget being applied to personnel, then we must look at the mirror and ask ourselves how we are going to pay so much money to get a steady state of our elections.

You and I and anybody involved in the electoral process knows that on Election Day you're not going to find secretary of state personnel at the polling places. When the ballots are mailed for absentee voting, you're not going to find anyone from the Secretary of State's Office. They're not going to count the ballots.

I fear such pleas are falling on deaf ears in this Chamber these days. But we need to get to work on the people's business, not on this flawed bill that threatens to allow big money to play an even larger role in our politics.

Mr. HARPER. I reserve the balance of my time.

Mr. BRADY of Pennsylvania. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, I rise for the third time this year to oppose a measure that would summarily repeal our system of public financing for Presidential elections.

Once again, the House majority seems intent on dismantling the few remaining safeguards we have left against the influence of special interests in politics following the Supreme Court's Citizens United ruling. The fact that they are ostensibly bringing this bill forward as a deficit reduction measure in order to pay for a bill to undermine workers' rights is the height of cynicism.

The reform that we need today would destroy one of the most successful examples of reform that followed the Watergate scandal. Dare we forget what that scandal was about? The Committee to Reelect the President, fueled by huge quantities of corporate cash, paying for criminal acts and otherwise subverting the American electoral system.

The hallmark of the Federal Election Campaign Act of 1974, enacted at a time when public confidence in government was dangerously low, was our voluntary program of public financing for Presidential elections. To this day, this innovative reform stands as one of the greatest steps we have taken to bring transparency and accountability to our electoral system. And it has worked remarkably well, being utilized in the general election by every Republican and Democratic Presidential nominee from 1976 through 2004 and by JOHN MCCAIN in 2008, although in recent years that trend for modernization has become evident.

Perhaps the best example of this program's success is President Ronald Reagan, who participated in Presidential public financing in all three of his Presidencies—1976, 1980, and 1984. The Reagan case illustrates the positive effects public financing has had in both parties at both the primary and the general election stages. It illuminates the way in which the system benefits candidates who challenge the party's establishment. It also highlights the system's focus on small donations rather than big bucks from the large contributors. Note that this is no free ride; no willy-nilly spending. Potential candidates must seek the support of thousands of small donors during the primary to prove their viability, and only then do they receive matching funds.

Today one could wish, in light of the positive history of this program and prior Republican support, for a bipartisan effort to repair the system and restore its effectiveness. I don't know of any policy that exemplifies the maxim "mend it, don't end it" better than this bill.

Earlier this year, Congressman VAN HOLLEN and I reintroduced a bill that would do just that. It would modernize the Presidential public financing system and again make it an attractive and viable option for Presidential candidates. Our bill would bring available funds into line with the increased cost of campaigns, adjust the program to the front-loaded primary calendar, and enhance the role of small donors. The bill has been carefully designed and deserves deliberation and debate.

Instead, we're faced with yet another Republican attempt to open the floodgates for corporate cash and special interest influence to pour into our political system.

With confidence in government at rock bottom, and the perception of government corruption through the roof, why is the majority trying to turn us to the dark days of Watergate? Let's instead restore and improve our public financing system and move on to real solutions to put our Nation's fiscal house in order.

Let's not use valuable floor time to pass a bill that has no chance of becoming law. The American people want us to get to work on important measures to revive the struggling economy and put people back to work. So I urge the majority to heed that call. Get to work on passing appropriations bills, fixing the Medicare physician reimbursement, extending the payroll tax cut and unemployment benefits, patching the AMT, and authorizing the FAA in time for families' holiday travel.

I'm afraid such pleas are falling on deaf ears in this Chamber these days. But we need to get to work on the people's business, not on this flawed bill that threatens to allow big money to play an even larger role in our politics.
It was never really intended to fully fund every effort at the local level. It’s to give advice. That’s why I have received in the past, from local election officials in Maryland, Texas, Florida, and Ohio—the local experience in Texas—one view there, was that $100,000 by the suggestions and recommendations that were issued by the commission.

Lastly, you criticize the commission for not functioning because it doesn’t have a full body of commissioners. But whose fault is that? It’s the individuals on the other side of the aisle that have blocked consideration.

That reminds me. When I was a lawyer, we used to have an old joke about the individual defendant who was there charged with murdering his parents, and at the end of the trial goes before the jury and asks for mercy because he’s an orphan. It is a self-fulfilling prophecy.

Mr. ROKITA. I thank the gentleman for yielding time.

Mr. GONZALEZ. If you want to help your local election officials, vote “no” on this bill.

Mr. HARPER. Mr. Speaker, I yield 2 1/2 minutes to the gentleman from Indiana (Mr. ROKITA), who is a distinguished member of the Committee on House Administration, a former secretary of state of Indiana, and he has served as president of the National Association of Secretaries of State.

Mr. ROKITA. I thank the gentleman for yielding time.

Mr. Speaker, listening to the prior comments, I can’t help but wonder if certain Members of this body can’t help but not do more than one thing at a time. But certainly, your secretaries of state and your local election officials at the State and local level, we at NASS have worked at both the State and Federal level, and they do an excellent job of executing the States’ elections.

I want to focus on the portion of the bill that eliminates the Election Assistance Commission, Mr. Speaker. As has been said, I have a unique perspective on this. In 2005, as Indiana’s secretary of state, and serving as the president of the National Association of Secretaries of State, I coauthored the successful resolution that was talked about earlier, to dissolve the EAC after the 2006 election. As the oldest organization of bipartisan elected officials in the Nation, we at NASS renewed the call to dissolve the commission in 2010.

And, Mr. Speaker, I can assure you from the debates that we had in that organization, it was not a form letter. It was not a form renewal.

Furthermore, the vote for the renewal was 24–2, with 13 Republicans and 11 Democrats calling for its dissolution. This is not a partisan issue. We recognized, on a bipartisan basis, that the Election Assistance Commission cannot be justified on the grounds of fairness, justice, opportunity, or necessity.

EAC bureaucrats do not make elections fair. In fact, EAC makes them less fair by producing biased, inaccurate reports on the state of elections in our Nation and offering recommendations geared toward junk studies. EAC bureaucrats do not enfranchise voters. States and individuals do that, as our Federal Constitution dictates.

Giving unelected, unaccountable bureaucrats in Washington more power over elections does not lead to more just election outcomes. If anything, it interferes with a just outcome because these bureaucrats, many with an ideological axe to grind, face little or no accountability for their actions, and they know it.

Voting is fundamental to our system and the legitimacy of our government. Ensuring qualified American citizens have an opportunity to vote is essential. The Constitution tasks the States with execution and maintenance of elections, not Federal bureaucrats.

Like I said, Mr. Speaker, I believe States do an excellent job. And by managing elections closest to the voters at the State and local level, we stand the best chance of ensuring opportunity for all and correcting injustice if the opportunity to vote is denied or interfered with.

Mr. BRADY of Pennsylvania. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island (Mr. LANGEVIN).

(Mr. LANGEVIN asked and was given permission to revise and extend his remarks.)

Mr. LANGEVIN. As a former secretary of state for the State of Rhode Island, and now a Member of the United States Congress, I have serious concerns about this bill.

Mr. Speaker, voter participation is the cornerstone of our democracy and a fundamental civic duty that empowers every citizen to effect change within our society. Unfortunately, many individuals with disabilities have been historically shut out of the voting process due to lack of accessibility. That’s among my particular concerns with this bill.

We have made impressive strides in recent years to close that gap, and the Election Assistance Commission, established under the Help America Vote Act, was an important part of that effort. As a Member of Congress who lives with a disability, cofounded the bipartisan Disabilities Caucus, and has worked at both the State and Federal levels to modernize and make accessible our voting systems, I find it unconscionable that the Republican leadership is considering this bill to abolish the Election Assistance Commission, an agency whose fundamental mission is to promote security, accessibility, and trust in our electoral process.

Could the EAC use some reforms? Yes. But the Republican solution of eliminating an agency with such an important mission is unnecessary. Everyone, Mr. Speaker, should have full faith in our system of elections including seniors, military members, minorities, and people with disabilities, and that’s exactly what the Election Assistance Commission seeks to provide.

Instead of considering a bill that will only serve to erode America’s faith in our democracy, our time would be better spent rebuilding it by focusing on a job creation, getting this economy back on track.

I urge my colleagues to oppose this bill and turn our attention to legislation that will extend tax relief for families and small businesses, reduce unemployment, and create greater economic stability. That is exactly what my constituents expect from me, and that’s exactly what the American people expect from this Congress.
Mr. Speaker, in the last Congress, the Committee on House Administration held hearings on the issue of taxpayer financing of campaigns. And one of our witnesses asked this question. He said, if the voters are not willing to pay for the program, then why should it continue?

As for the Election Assistance Commission, this agency has been the subject of two hiring discrimination lawsuits, spends over 50 percent of its budget on administrative costs, and is asking Congress for $5.4 million to manage programs totaling $3.5 million.

In short, Mr. Speaker, this bill before us eliminates an unused government program, shuts down an obsolete government agency, saves the taxpayers $400 million over 5 years, and returns almost $200 million to the Treasury. How could we not vote for it?

Mr. BRADY of Pennsylvania. Mr. Speaker, may I inquire how much time we have available?

The SPEAKER pro tempore. The gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Let me just take this from 30,000 feet for a minute and reiterate what the gentleman from Ohio said.

We have too much private money in the people’s House. We can’t get anything done now because it somehow may affect what Wall Street is doing.

We had a China currency bill on the floor last year. It had 350 votes. 99 Republicans. We can’t even get it up for a vote now in the House because Wall Street doesn’t want it. We’re in dire straits with trying to balance our budget.

We need to ask people making more than a million dollars a year to help us close this gap so we can reinvest back in our country. Nothing is happening because Wall Street doesn’t want it.

We’ve got oil and gas still getting benefits when profits are going through the roof. We can’t close that loophole because the oil and gas industry doesn’t want it closed.

There is too much private money in the people’s House. We need public funding of every citizen kick in fifty or a hundred bucks, and we run elections by letting people on the airwaves making these debates, making these discussions having a little bit of money to do it.

We’ve got all these red tape, regulations everywhere, and set us on a path to prosperity. No wonder we can’t invest in public education, public health, public infrastructure, because the private interests are running the whole show here.

Mr. Speaker, the National Association of Secretaries of State—who are the direct beneficiaries of this—have become increasingly expensive to the tune of billions of dollars a year. We have too much private money in this country and we set us on a path to prosperity. No wonder we can’t invest in public education, public health, public infrastructure, because the private interests are running the whole show here.

Mr. Speaker, if the voters are not willing to pay for the program, then why should we allow government programs that have outlived their usefulness and mismanaged—let’s make this clear—why should we allow government programs that have outlived their usefulness and mismanaged their resources—all while costing taxpayers millions of dollars a year?

In the midst of our record levels of debt, we must scrutinize where every dollar of taxpayer money is being spent to ensure we are allocating these funds responsibly and delivering the best possible value to our citizens.

Mr. Speaker, the Election Assistance Commission’s budget request for 2012 devoted 51.7 percent of its budget to management overhead costs. It should be hard for anyone to argue that an agency that spends $5 million dollars managing programs totaling $3.5 million dollars is a responsible use of taxpayer funds.

The EAC has more than doubled in size—without an increase in its responsibilities—since it was originally supposed to sunset in 2005. It is long past time, Mr. Speaker, that we allow government programs that have outlived their usefulness to be shut down, rather than maintain unnecessary and redundant layers of bureaucracy.

Eliminating this red tape would save American taxpayers $33 million dollars over five years, while at the same time preserving the EAC’s necessary functions—voting system testing and certification—at the Federal Election Commission, which can more efficiently handle these responsibilities.

Mr. Speaker, the National Association of Secretaries of State—who are the direct beneficiaries of the EAC’s services—have themselves called for the EAC’s dissolution. This body should follow suit today. I urge all of my colleagues to support this bill.

Mr. BRADY of Pennsylvania. Mr. Speaker, I yield 3 minutes to the distinguished Democratic whip, the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. First of all, we ought to be talking about jobs. The contention that this bill funds bills that are about jobs is spurious, in my opinion; and no one, in my estimation, can assert that that is the fact. We ought to be dealing with jobs.

But what are we dealing with?
December 1, 2011

CONGRESSIONAL RECORD—HOUSE

H8029

Now, I know of what I speak, I tell the gentleman from Georgia. I understand. I was a Member of the House Administration Committee for, I think, some 15 years. I, along with Bob Ney, was the sponsor of the Help America Vote Act, which created the Election Assistance Commission. So I know something about the Election Assistance Commission.

It was created because in the year 2000 we had a disastrous election which was not only a threat to American democracy but not very acceptably by most people, whether your candidate won or lost. So the Election Assistance Commission was created for the purpose, for the first time in history, of having some Federal presence in the oversight of Federal elections. Not mandatory, but advisory.

Now, what we see, frankly, throughout America in Republican-controlled legislatures in many, many States is an effort to make voting more difficult to, in effect, suppress the vote, to require more and more documentation of people who have already registered to vote and claiming problems that exist that do not exist.

Now, if you want to obfuscate the election process, if you want to suppress the vote, if you want to make it more difficult, what is one of the things you want to do?

Eliminate the Election Assistance Commission, whose responsibility it is to advise and counsel on best practices to assure every American not only has the right to vote but is facilitated in casting that vote and in making sure that that vote is counted. That’s what the Election Assistance Commission does.

And what do they want to do with the Election Assistance Commission’s responsibility? Transfer it to the Federal Election Commission, whose sole responsibility is to oversee the flow of money into elections. They neither have the expertise nor, frankly, do they have the time. They hardly have the time to do what they’re supposed to do right now.

Now, the Bush administration did not fund the Election Assistance Commission very robustly. Like every agency, it requires and should have proper oversight, and should, in my view, be more vigorous in the carrying out of its responsibilities. That is not, however, a reason for eliminating it. The eliminating it is to make voting more obscure, with less oversight and less assurance to our citizens that they not only have the right to vote but that a vote will be cast and counted correctly.

Mr. HARPER. Mr. Speaker, may I inquire as to the time remaining on both sides.

The SPEAKER pro tempore. The gentleman from Mississippi has 1 minute remaining, and the gentleman from Pennsylvania has 2 minutes remaining.

Mr. HARPER. Mr. Speaker, I yield 1 minute to a distinguished member of the Judiciary Committee and a former judge, the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Let’s cut to the chase. This is a tax credit for people who want to contribute to the President’s campaign fund. How can you check this box and it doesn’t cost you anything. No, but it takes $40 million-plus a year away from the fund that could be used for other things, including for Social Security, and it gives it to the President’s campaign fund.

I stand with our President, Barack Obama, on this issue, who found that that fund is worthless and that it’s an impediment to getting elected. So I stand with President Obama in saying let’s get rid of the fund and not use it anymore, and let the $200 million in that fund go to something helpful instead of being an impediment to being elected President.

Mr. HATCH of Pennsylvania. Mr. Speaker, I yield myself the balance of my time.

The Presidential campaign fund currently has over $190 million. Tens of thousands of Americans put their money in there. That’s their money, and they want to use it to go for this purpose. We would be fooling and deceiving our very own citizens if we were to pass this bill. They put that money there to be able to have the small say that they can—

Mr. BRADY of Pennsylvania. Mr. Speaker, I reserve the rest of my time.

The Presidential campaign fund currently has over $190 million. Tens of thousands of Americans put their money in there. That’s their money, and they want to use their money in the Treasury. They already put their money in the Treasury. They would be fooling the American people.

We would be telling them, We told you to check off a box and give us X number of dollars for a campaign. Now we’re going to take $100 million of the money we told you to check off to use for that purpose, and we’re no longer going to use it for that purpose. That’s wrong. It’s not right. It’s deceptive, which is why I urge a “no” vote on this bill.

Respectfully submitted,

DALE FELLOWS,
President, Ohio Association of Election Officials.

HON. ROB PORTMAN,
Russell Senate Office Building
DEAR SENATOR PORTMAN: We are writing today regarding the possible elimination of the US Election Assistance Commission (EAC) as part of the Super Committee’s recommendations for budget reductions. The EAC is an independent federal agency created in the wake of the 2000 election to help solve election related problems. The EAC provides assistance to election officials in the form of best practices, guidance, and the testing and certification of voting systems.

Today, the EAC is running an outlet and open forum for election officials to share their experiences, consider alternatives, de- liberate their outcomes, and establish con- tinuity of practices in protecting our democracy by helping election officials to do their job well. However, if Congress has its way, the EAC may not provide these services to election officials. Such losses of funding in the House to eliminate the agency since last year, labeling it “wasteful” and “unnecessary.”

Respectfully submitted,

DALE FELLOWS,
First Vice President, Ohio Association of Election Officials.

STATE BOARD OF ELECTIONS,
Raleigh, NC, March 27, 2011.

Chairman Gregorio Harper,
Committee on House Administration, Subcommittee on Elections, Washington, DC.

Ranking Member Robert Brady,
Committee on House Administration, Washington, DC.

Re H.R. 672.

Gentlemen: As with any governmental agency, commission, department or other entity, methods of improving efficiency, streamlining program and maintaining responsiveness should all be considered to maintain viability for constituencies. These

However, election administrators on the local level feel differently.

Although it has been argued that the EAC has outlived its usefulness because the Help America Vote Act fund has been exhausted, the EAC has become far more than a distributor and auditor of money; the EAC is a repository and resource for election management personnel, performance measures, election materials, and administrative knowledge. Effective designs of polling place signage, webinars on topics such as contingency planning, minority lan- guage glossaries of election terminology, Quick Start Guide publications regarding Developing an Audit Trail, Conducting a Re- count, and Acceptance Test guidance, and pertinent reminders for veteran election officials as well as critical learning tools for those of- ficials newly elected, appointed, or hired.

The EAC is not without its issues. The agency’s Voting System Testing and Certifi- cation program was slow to develop and con- tinue to struggle to certify systems in a timely manner. As with many federal agen- cies greater efficiencies of operation should be considered in order to more effectively produce election materials at less cost to the public. Also, as the Election Assistance Commission at its current size has its overhead costs and management size. These areas should all be addressed through greater Congressional oversight, not through elimi- nating the agency.

Ironically, proponents of the elimination of the EAC would simply reallocate the vari- ous function of the Commission to other more bureaucratic federal agencies such as the Federal Election Commission (FEC). Claims that any savings would be realized by its elimination are specious at best. We see no need to eliminate or dismantle the only federal resource available to local election of- ficials.

The EAC has never been needed more than now. Election officials across Ohio and the United States are doing more with less and it’s only going to get worse. As budgets tighten and voting equipment ages, the chances of another election disaster in- crease. Without the EAC’s help, another Florida 2000 election may be inevitable, and Congress will have no one to blame but itself. With a total operating budget of just under 18 million dollars the EAC would make up approximately half a percent of the total federal operating budget. To stop funding the EAC would be an irresponsible misuse of tax payer dollars for helping protect our democracy. If you think a good election costs a lot, you should see how much a bad election costs.

We urge you to reject these efforts as part of the Super Committee reviews of federal spending.
The EAC has never been needed more than today. Members of the EAC, which has outlived its usefulness because the Help America Vote Act funding it oversees has been exhausted, the EAC has become far more than a distributor and auditor of money; the EAC is a repository and resource for election administrators across the country are worrying about the issues that will directly impact an election. The number one facing election officials today is limited and ever-shrinking budgets combined with aging equipment, technology, and workers.

Direction on how to address these concerns exist in this legislation. The Election Assistance Commission (EAC) is an independent federal agency created in the wake of the 2000 election to help solve these problems. The EAC provides assistance to election officials in the form of best practices, guidance, and the testing and certification of voting systems. Basically, the EAC provides an outlet and a repository for election officials to share their experiences, consider alternatives, deliberate their outcomes, and establish continuity of process thus strengthening our democracy by helping election officials to do their job well. However, if some members of Congress have their way, the EAC may not serve its purpose.

The EAC would make up approximately half a percent of the total federal operating budget: a small price to pay for protecting our democracy. If you think a good election costs a lot, you should see how much a bad election costs. We voted in opposition to the dissolution of the EAC and the distribution of the remaining functions to the Federal Election Commission.

Respectfully submitted for your consideration by the Election Officials of Arizona.

I yield back the balance of my time.

Mr. HARPER. Mr. Speaker, it has been said that we haven’t done anything without jobs. How about a card that lists 25 different bills that we’ve passed which help manufacturing, the economy, energy—bills that are going to be great job creators. Yet the complaint has been that the EAC is not dealing with those issues.

Members on the other side of the aisle who said that this is not appropriate and that it’s going to disenfranchise voters should remember they all voted for this in 2002 when it had its 3-year provision to sunset after that. So I think that argument will not fail. In addition, the EAC has no regulatory or enforcement authority.

Mr. Speaker, I urge my colleagues to support this important legislation, and I yield back the balance of my time.
Mr. Speaker, since its creation, the Federal Election Commission has served the valuable purpose of preserving the voting and civil rights of our citizens which was born out of the scandal know as Watergate. The Presidential Election Campaign Fund succeeds in its purpose by leveling the playing field when it comes to public financing of campaigns. By terminating taxpayer financing of presidential election campaigns and party conventions, the Republican majority seeks to permanently tilt the playing field in favor of special interest groups and corporate money at the expense of the public interest.

Presidential campaigns are currently funded through the voluntary $3 check-off on income tax returns. Given the size of the deficit and the national debt, the amount of money saving by terminating taxpayer financing is de minimis—less than $1 billion—but will achieve a goal long sought by conservatives who have never believed that public financing of campaigns is a permissible use of federal revenues.

The Election Assistance Commission is charged with developing standards for voting systems, advising and counseling on best voting practices, assuring that every American has the right to vote, as well as to facilitate such vote, and to make sure that every single vote is counted. The precedent-setting work of the Election Assistance Commission has been recognized by nations around the world. The Election Assistance Commission has also played a central role in improving the accessibility of voting for the country’s more than 37 million voters with disabilities. Let us not forget that the Election Assistance Commission was born out of the 2000 presidential election fiasco with its unforgettable contributions to the political lexicon: “hanging” chads, “pregnant” chads, “dimpled” chads; “butterfly ballots”; and “voter intent.”

In response to the 2000 debacle, the Election Assistance Commission has performed valuable work to ensure the reliability and trustworthiness of our nation’s election systems. It has played a central role in collecting accurate and comparable election data. With our nation’s democratic processes, our nation’s diversified and complex administration system, central data collection is essential if we are going to improve our citizens’ trust and confidence in election results. The Election Assistance Commission develops and fosters the training and organization of our nation’s more than 8,000 election administrators.

Mr. Speaker, every vote counts—and every vote should be counted—and that is why we must preserve the Election Assistance Commission and oppose this legislation.

It is not to note that abolishing the Election Assistance Commission will not save taxpayers money, but rather simply shift costs to the Federal Election Commission, FEC, and local governments. The FEC is not an agency that can make decisions in a timely and responsive fashion due to its partisan divisions. Instead, transferring the functions performed by the Election Assistance Commission to the FEC is inconsistent with the national interest in ensuring election integrity, improving voter access to the polls, and enhancing the quality of election systems.

Mr. Speaker, the American people elected us to work on their priorities and real problems, like the lack of jobs. They do not want us to waste time on inconsequential matters of interest only to the Tea Party. H.R. 3463 is unnecessary and a diversion from addressing the real challenge facing our country. Therefore, I strongly oppose H.R. 3463 and I would urge my colleagues to join me in defeating this misguided and reckless legislation that puts the integrity of our elections, and public confidence at risk.

Mr. WAXMAN. Mr. Speaker, the last thing we need to do in this House as this legislative year draws to a close is to further the corrupting influence of special interest money in presidential campaigns. But this is what the Republicans are attempting to do.

Last January, the House Republicans stymied one part of this bill through the House—provisions that terminate the system of public funding of presidential campaigns that was established in the wake of the infamous Watergate scandals, under Richard Nixon’s presidency, nearly 40 years ago. It’s not enough to pass this bill once—the Republicans insist we pass it again today. It is not enough that virtually unlimited amounts of private money can now slosh through our political system. Last year alone, thanks to the Citizens United decision by the Supreme Court last year—we have to pass a bill that asphyxiates the supply of public money in our presidential campaigns.

The Republicans are also practicing gross hypocrisy in this bill ends public financing of presidential campaigns, the Republican Party is seeking $18 million in public funding to support their nominating convention next year.

Everyone knows that this bill is dead on arival in the Senate and would be vetoed by the President—because it is a corruption of good government. But that does not impede the Republican leadership in the House today. Rather than work with us on real legislation that would deliver real jobs, real investment and real growth to the American economy, the House Republicans would rather waste our time and continue to deliver nothing to the American people.

To treat our democracy so cavalierly is disgraceful; to persist in policies that, should they succeed, deliver the opposite of the intended privatization of the political process by monied special interests, is shameful.

The other part of this bill would eliminate the Election Assistance Commission, which was established in the wake of the 2000 election debacle in Florida. Its mission is to ensure that elections are conducted properly, with assistance that promotes voter registration, trained poll workers, and access to the polls by disabled Americans. There is no justification for terminating this small agency, which helps ensure our democracy works as it should.

The American people, and our democratic processes, deserve far better than this legislation in the House today.

Mr. CONNOLLY of Virginia. Mr. Speaker, once again, this House is taking up a proposal that represents a direct attack on the will of the American people.

Public financing for Presidential elections, which began in the 1970s, is one of the few opportunities where Americans are allowed to specify how they want their tax dollars spent.

As Members of Congress, we are charged with representing the interests of our constituents. In this particular instance, however, we know precisely what the American people want. By voluntarily checking this box on their tax forms, more than 10 million of our fellow Americans have made their intentions explicitly clear. The Presidential Election Campaign Fund exists because individual Americans expressively opted to dedicate a portion of their taxes to that purpose.

In January, House Republicans voted to ignore the expressed intentions of the American people and eliminate the Presidential Election Campaign Fund. Thankfully, the Senate heard Americans’ call and killed the bill. And this year, millions of Americans again checked the box on their tax forms for calendar year 2010, once again telling their government how they wanted their taxes spent.

Ironically, our Republican colleagues cite their own YouCut website as a representative site, with at most, a few hundred thousand followers. They disdain 10 million citizens but revere the few. This is selective representation in its most rawest and worst form.

The bill before us today, H.R. 3463, will break faith with the American people by ignoring their direction. Mr. Speaker, I urge my colleagues to come in defending the will of American taxpayers against the Republican Party is seeking $18 million in public funding to support their nominating convention next year.

Mr. HOYER. Mr. Speaker, while the Republican sponsors of the two bills before us contend they will create jobs, their claim is spurious. Economist have told us again and again that easing regulations has a negligible effect on job creation. Thus, on doing these bills will do is make it harder for federal agencies to protect Americans through safety standards and environmental protections.

One of the bills adds 35 pages to what is currently a 45 page page, and is likely to add months to the rulemaking process. Agencies will be tied in knots and leave businesses without the certainty they need.

To pay for this expansion of the federal regulatory process, Republicans would have us eliminate the Election Assistance Commission.

I was proud to be one of the authors of the Help America Vote Act, which established the EAC in order to fix the flawed system that led to the electoral debacle of 2000. It passed with a strong bipartisan vote of 357–48. The Commission’s sole purpose is to provide the resources they need to ensure everyone eligible to vote can cast their ballots and have them counted. We cannot risk having our elections determined by “hanging chads.”

Instead of trying to erode our ability to protect voters, and instead of promoting regulatory bills that will not put American back to work, Republicans should join with Democrats to pass real jobs legislation. Democrats have two plans on the table to create jobs and grow our economy—the President’s American Jobs Act and our Make it in America plan. We should be debating and voting on those.

I strongly urge the defeat of these bills and hope Republicans will finally set partisanship aside and work with us to help businesses hire workers and to invest in our economy’s future.

Ms. PELOSI. Mr. Speaker, I come to the House floor today to reaffirm a fundamental value of our democracy: elections must be decided by the American people, not the special interests. I come to the floor to defend the right of American citizens to vote in every election. I come to the floor on behalf of clean campaigns.

Republicans, instead, have brought to the floor legislation that would both diminish the...
voting rights of Americans and shift control of our elections into the hands of secret corporate donors. Once again, Republicans refuse to focus on creating jobs and strengthening the economy for middle-class Americans, the 99 percent, but are instead pursuing a narrow agenda to benefit special interests, the 1 percent.

Last year, the Supreme Court overturned decades of precedent in a court case called the Citizens United case. Their decision has undermined our democracy and empowered the powerful by flooding the floodgates to big secret money, resulting in a corporate take-over of our elections.

As a result, the Democratic majority in the Congress, working with President Obama, created the DISCLOSE Act. It would increase transparency and accountability to federal campaigns, and ensure that Americans know who is behind political advertisements.

Democrats in the House passed the DISCLOSE Act, but Senate Republicans blocked its passage.

As a result, secret dollars are flowing into campaigns that represent the interests of the 1 percent—not the urgent national interest—to create jobs. Indeed, special-interest groups spent $600 million and more in 2010 than any previous election cycle.

Today, Republicans want to take it another step further. The anti-reform legislation we debate today strengthens the role of foreign-owned entities and large corporations in funding political campaigns by eliminating the Presidential Election Fund. For nearly 30 years, the Fund has promoted small campaign donations and disclosure. It should be strengthened and reformed, not eliminated.

Likewise, the legislation also eliminates the Election Assistance Commission, which was created in the aftermath of the 2000 elections. The EAC should also be strengthened, especially as states across the nation are taking active efforts to enact partisan measures to disenfranchise the rights of American voters.

According to the Brennan Center for Justice at NYU: since the 2010 elections, almost 34 percent of the American people support the continuation of the presidential public financing system.

The question is on the engrossment and third reading of the bill.

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

Pursuant to clause 1(c) of rule XIX, further consideration of H.R. 3463 is postponed.

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess for a period of less than 15 minutes.

Accordingly (at 1 o’clock and 56 minutes p.m.), the House was in recess subject to the call of the Chair.

[1405]

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DENHAM) at 2 o’clock and 5 minutes p.m.

The SPEAKER pro tempore. Pursuant to clause 1(e) of rule XIX, further consideration of the bill (H.R. 3463) to reduce federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions and by terminating the Election Assistance Commission, will now resume.

The Clerk read the title of the bill.

MOTION TO RECOMMIT

Mr. BISHOP of Georgia. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BISHOP of Georgia. I am in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Bishop of Georgia moves to recommit the bill to the Committee on House Administration with instructions to report the same back to the House forthwith with the following amendment:

Add at the end of the following new section:

SEC. 207. PROTECTIONS FOR ELDERLY, DISABLED, AND MILITARY VOTERS.

Notwithstanding any provision of this Act or any amendment made by this Act, to the extent that the Election Assistance Commission is responsible for the administration or enforcement of any of the following provisions of law as of the Commission termination date described in section 1004(a) of the Help America Vote Act of 2002 (as added by section 201(a)), any successor to the Commission shall remain responsible for the administration or enforcement of such provisions after such date:

(1) Any provision of law relating to the rights of the elderly to vote and cast ballots in elections for Federal office.

(2) Any provision of law relating to the rights of the elderly and other individuals who are registered to vote in elections for Federal office to obtain absentee ballots in such elections.

(3) Any provision of law relating to the access of the elderly, the disabled, and other individuals to polling places in elections for Federal office, including the Americans with Disabilities Act of 1990.

(4) Any provision of law relating to the protection of the rights of members of the uniformed services and overseas citizens to vote and cast ballots in elections for Federal office, including the Uniformed and Overseas Citizens Absentee Voting Act.

(5) Any other provision of law relating to the protection of the right of citizens of the United States to vote in elections for Federal office, including the Voting Rights Act of 1965.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia is recognized for 5 minutes in support of his motion.

Mr. BISHOP of Georgia. Mr. Speaker and my colleagues, I offer the final amendment of the bill which, if adopted, will not kill the bill or send it back to committee. Instead, it will proceed to final passage, as amended. The purpose of my amendment is simple. It deals with one of my most valuable rights as an American citizen.

It is a right which many Americans throughout the course of our history have shared blood, sweat, and tears to protect, including our colleague and my dear friend, Representative JOHN LEWIS of Georgia. He marched from Selma to Montgomery and endured beatings, hunger, and tear gas to preserve this sacred right.

The right to which I’m referring is the right to vote, as enshrined in the 14th Amendment to the Constitution and further protected in the landmark Voting Rights Act of 1965 and the Help America Vote Act of 2002 and various other measures.

Today, nearly five decades after the Voting Rights Act was signed into law and nearly 10 years since the Help America Vote Act, there is still an unprecedented attack on voting rights in States across this country.

Yet, the underlying legislation before the House today would abolish one of the key provisions of the Help America Vote Act, the Election Assistance Commission, which was designed to avoid a repeat of the turmoil surrounding the 2000 Presidential election in Florida, where problems with absentee and military ballots played a large role and led to many of these ballots not being counted.

If the commission is abolished, it will undermine America’s faith in the integrity of our elections. According to the Brennan Center for Justice, more than 5 million Americans in 2012 could be unnecessarily impeded from that tighten or restrict voting that were put into effect just this year. The number is larger than the margin of victory in two of the last Presidential elections.

Seniors, the disabled, and our Nation’s veterans are now being turned away from the polls for not having the photo identification. Popular reforms like early voting and same-day voter registration are being rolled back.

[1410]

Mr. Speaker, this situation should not be happening in the United States of America today.

My final amendment, therefore, is simple. It states that any successor to the Election Assistance Commission...
shall remain responsible for the administration or enforcement of laws relating to the rights of the elderly, the disabled, members of the uniformed services, and overseas citizens to vote and cast ballots in elections for Federal office.

In signing the Voting Rights Act of 1965, President Lyndon Johnson said that “the vote is the most powerful instrument ever devised by man for breaking down Negro barriers and destroying the terrible walls which imprison men because they are different from other men.”

If this final amendment is approved, we can continue to tear down the walls of injustice and ensure that our democracy is open for all Americans to deliberate, to participate, and to engage with each other.

I urge my colleagues to vote “yes,” and I yield the balance of my time to my colleague, Representative MARCIA FUDGE of Ohio.

Ms. FUDGE. I thank the gentleman for yielding.

Mr. HARPER. Mr. Speaker, and my colleagues, there is no doubt that a concerted voter suppression effort is under way in this Nation. Abolishing the Election Assistance Commission, an agency charged with ensuring that the vote of every American counts, is just another step in the voter suppression effort and would completely remove oversight of the most important process in our democracy.

Is it possible to remove oversight at a time when Republican-led legislatures across this Nation are passing laws to obstruct voting? No, it absolutely does not.

In the first three quarters of 2011, 19 new State laws and two executive actions were enacted to limit the ability of American citizens to vote. They would make it significantly harder for more than 5 million eligible voters to cast ballots.

Many of the bills, including one signed into law in my home State of Ohio, include the most drastic voter restrictions since before the Voting Rights Act of 1965.

Seniors will be denied their right to vote, the franchise, and the disabled will find it more difficult to vote. Minorities and students will face more challenges than ever before.Soldiers honorably serving our country will be left with their absentee ballots uncounted. And let’s not forget the people who died for our right to vote. People were slain to create the rights we enjoy today.

This determined effort is really about targeting a specific population of eligible voters to change the outcome of the 2012 elections. Plain and simple, H.R. 3403 is yet another voter suppression tactic.

Join me today in supporting this final amendment to guarantee the right of every American citizen to cast their vote.

Mr. HARPER. Mr. Speaker, I rise in opposition to this motion.

The SPEAKER pro tempore. The gentleman from Mississippi is recognized for 5 minutes.

Mr. HARPER. Mr. Speaker. I am amazed that an argument could be made that in any way the elimination of the EAC would result in disenfranchising any voter. We all believe that every person who should vote, that needs to vote, that wants to vote should be allowed to do so.

I would like to point out that all of those that are speaking in opposition that were here in 2002 when HAVA passed voted for HAVA. And in HAVA, it contained the provision that created the EAC, which was only supposed to last for 3 years. This is not a complicated lift to do away with. Does that mean when they voted for this in 2002 that they were trying to disenfranchise voters? Obviously not. In no way is this intended to do anything but clean up an agency that has an average employee salary of $106,000 a year, has been sued for political discrimination, problems with the military, an agency that cannot be corrected but needs to be eliminated.

I urge my colleagues to vote against this motion to recommit and to support this bill.

I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the maximum time for any electronic vote on the question...
Mrs. BLACKBURN and Mr. HALL changed their vote from “yea” to “nay.”

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. This is a recorded vote.

The question was taken; and the result of the vote was announced as above recorded.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 235, noes 190, not voting 8, as follows:

RECORDED VOTE

Mr. BRADY of Pennsylvania. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 235, noes 190, not voting 8, as follows:

ROLL NO. 873

AYES—235

...
Mr. Chairman, while job creators suffer under the weight of these regulations, Federal employees are visibly writing even more to implement the mandates of new laws like ObamaCare and Dodd-Frank. The same study also found that the cost of regulatory compliance is disproportionately higher for small businesses. This hurts their ability to create jobs for Americans.

Last month a Gallup poll found that small business owners consider “complying with government regulations” as the “most important problem” they face.

On February 8, 2011, I introduced H.R. 527, the Regulatory Flexibility Improvements Act of 2011, to provide urgently needed help to small businesses. Mr. Graves and Mr. Coble are original cosponsors along with the bill’s 24 additional cosponsors.

This bill primarily reinforces the Regulatory Flexibility Act of 1980 and the Small Business Regulatory Enforcement Fairness Act of 1996.

It requires agencies to do what current law and common sense dictate that they should be doing. Current law requires agencies to prepare a regulatory flexibility analysis so agencies will know how a proposed regulation will affect small businesses before it is adopted. But the Government Accountability Office has found in numerous studies that agencies are not always adhering to these laws.

For example, current law allows an agency to wave—or anti-regulation tidal wave: waiver—or anti-regulation tidal wave: agencies’ ability to waive the Regulatory Flexibility Act’s requirements. And the bill improves judicial review.

Some critics of regulatory reform may claim that this bill undermines agencies’ ability to issue new regulations. In other words, the study is flawed in a number of ways but mostly by the Crain study people themselves, who said that their analysis was not meant to be a decisionmaking tool for lawmakers or Federal regulatory agencies to use in choosing the right level of regulation.

In other words, the study is flawed because it fails to account for any benefits of regulation. So I want everybody to know that this correction about $1.75 trillion has been thoroughly debunked by not only CRS but other authorities as well.

Now, this debate follows a number of pieces of legislation that we’re considering. It’s sort of a regulation tidal wave—or anti-regulation tidal wave: H.R. 3010: Regulatory Accountability; H.R. 10, which we will see soon, the REINS Act; and H.R. 527, the bill before us now, the Regulatory Flexibility Improvements Act.

Now, it’s strange to say that this trio of public safety-killing legislation would make it harder to control and make safe our products that we count on. Under the law presently, rulemaking must make an analysis for every new rule that would have a significant economic impact on small businesses. Among other things, the bill makes it harder to decide whether the rules would risk national emergencies, and would lose a lot of the safety and health protections that we now enjoy. I feel that there hasn’t been a careful consideration of what the real goal is.

The Wall Street Journal, which is no enemy of big business, said: The main reason United States companies are reluctant to step up hiring is scant demand rather than uncertainty over government policies.

So even the business community recognizes that the big problem with our economy is not that rules are tying up businesses but that we don’t have enough people buying, because they don’t have enough jobs to create the demand. If you examine carefully, as many on our Committee on the Judiciary have done, you will find that the safety standards of which we are really very proud are going to be compromised in a very embarrassing way.

Regulations don’t kill jobs; they save lives.

There are plans underway—this is one of them—here in the House to undermine the regulatory process that guarantees the health and the safety of millions of Americans. I urge all of the Members of the House to carefully consider the direction of this bill.

I reserve the balance of my time.

Mr. Smith of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. Coble), the chairman of the Courts, Commercial and Administrative Law Subcommittee of the Judiciary Committee.

Mr. Coble. I thank the gentleman from Texas (Mr. Smith) for having yielded to me.

Mr. Chairman, those who oppose H.R. 527 insist that those of us who support it are willing to compromise health and safety standards. Since criticism is not justified, we simply are refining safety standards. Excessive regulations and bad regulations serve no good purpose.

My district is not unlike many others. We are still suffering from the recession. While we once claimed many manufacturing and producing distinctions, much of our manufacturing has either disappeared or has gone to other places. Bad regulations don’t help matters. They create unnecessary costs, uncertainty for employers, do not improve public health or safety, and they are particularly burdensome for small businesses.

Two critical laws that help ensure regulators will take into account the impact of proposed regulations on
small businesses are the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act. In essence, these laws require agencies to conduct economic impact analyses of proposed rules on small businesses. Unfortunately, regulators routinely utilize exemptions from both laws and promulgate regulations without taking into account their economic impacts on small businesses.

The Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act do not break the flow of Federal regulation. They, rather, help guide it. We need regulations and small businesses need regulations, but the regulations must be effective and efficient or they could do more harm than good.

H.R. 527 will improve future regulations by requiring agencies to conduct the economic impact analyses of proposed regulations on small businesses before they are implemented. In doing so, it will enhance the basic requirements of the Regulatory Flexibility Act and of the Small Business Regulatory Enforcement Fairness Act, and it will extend the advocacy review panels to all agencies, including to all of the independent agencies.

The Administrative Procedure Act was not intended to create a regime whereby executive agencies could implement a regulation without recourse. Unfortunately, there are countless situations in which agencies have implemented rules and regulations that are unnecessary, redundant, or unjustifiably costly. H.R. 527 will help ensure that agencies do not overlook the critical interests of small businesses, and it will help prevent agencies from promulgating wasteful regulations.

Finally, the Congressional Budget Office estimated that H.R. 527 will cost $80 million in 2012 and 2016. Although there may not be a quantifiable means to assess the benefits of H.R. 527, from the perspective of a small business, they are, indeed, priceless. Also, it’s important to note that, among many others, the National Taxpayers Union, the National Association of Independent Business, the United States Chamber of Commerce, and the National Association of Manufacturers have endorsed H.R. 527.

H.R. 527 is critical for small businesses. Mr. Chairman, and it will not impede the ability of agencies to promulgate regulations. This is good government legislation. We do not need more regulation. We need better regulations, which is exactly what H.R. 527 will achieve; so I urge support in the final passage of this bill.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 5 minutes to the ranking member of the Courts, Commercial and Administrative Law Subcommittee, the gentleman from Tennessee, STEVE COHEN.

Mr. COHEN. I want to thank the ranking member for yielding time.

This bill amends the Regulatory Flexibility Act of 1980, which requires agencies to engage in so much analysis and in so many new procedures that it basically befuddles the agencies in bringing forth any rules in the future. It is eliminating commonplace regulation. While it doesn’t say it is eliminating rules, that’s the effect of it. It subjects all major rules and other rules, those which have a significant economic impact on a substantial number of small entities, to review by small business review panels.

The cumulative effect of these and other changes in H.R. 527 will be to undermine the ability of agencies to effectively regulate consumer health and product safety, environmental protection, workplace safety, and financial services industry misconduct, among other critical concerns.

We talk about small businesses. Small businesses are important, and they create more than any other sector of our economy, but small businesses are made up of human beings. To paraphrase Mitt Romney, who said that corporations are people, small businesses are people, too. Small businesses are concerned about consumer health and product safety because they are the victims of it. Small businesses are concerned about environmental protection and workplace safety and food and drug safety and, certainly, about financial services industry misconduct, which almost brought this country to its knees in what could have been a depression but for the work of our great President and the Congress that worked with him at that time.

This bill does little to help small businesses shape or comply with Federal regulations. Right now, we can take for granted that the food we eat, the water we drink, the air we breathe, the places we work, the planes we fly on, the cars we drive, and the bank accounts in which we put our savings are going to be safe because we have strong regulation; but if H.R. 527 is enacted, it will be extremely difficult, maybe impossible, to provide those protections for future generations.

H.R. 527 is based on the well-intentioned, but false, premise that regulations result in economically stifling costs.

In particular, proponents of H.R. 527, and of anti-regulatory legislation generally, of which we have seen an abundance in this Congress, repeatedly cite a thoroughly debunked study by econo-

istics Mark and Nicole Crain, which made the ridiculous claim that Federal regulations impose a $1.57 trillion cost on the economy.

Ridiculous? Why, you say. Because they even admitted, and the Congressional Research Service said, it failed to account for any benefits of regula-
tions. There are indeed benefits of regulation and great—and the Office of Management and Budget said great benefits outweigh costs.

Moreover, the study was never intended to be a decisionmaking tool for lawmakers or Federal regulatory agencies to use in choosing the right level of regulation. But they still use that as the basis for this law.

So let’s focus on the real facts. H.R. 527 will bring agency rulemaking to a halt because of multiple layers of bureaucratic review and analysis that it adds to the rulemaking process. It is the de facto end of regulations.

As Sherwood Boehlert, a colleague of mine in Congress, the previous Congressman from the State of New York and a Republican and a long time chair of the House Science Committee, recently warned, this measure ignores history—Newt Gingrich—ignores history, larding the system with additional reviews based on previous efforts that have slowed progress while helping nobody.

Second, the bill clearly presents a serious threat to public health and safety for all Americans. It does this by eliminating the emergency authority that currently allows agencies to waive or delay certain analyses so they can expediently respond to national crises such as a massive oil spill, or a nationwide outbreak of food poisoning, or an emerging financial marketplace meltdown. We’ve experienced all of these.

The priority in the face of an emergency is to have emergency agencies to say, sorry, we can’t do this. We have to conduct regulatory analysis first before we aid the American people.

H.R. 527 is simply chock full of crafty provisions to slow down rulemaking, requiring small business advocacy review panels to analyze rules promulgated by all agencies, and not just those from the three agencies for which review panels are currently required. Moreover, it would require review panels for all major rules, not just those that have a significant economic impact on a substantial number of small entities. And this bill would force agencies to engage in seemingly endless, wasteful, and speculative analysis, including assessment of all reasonably foreseeable, indirect—indirect—economic effects of a proposed rule.

I think we may see agencies purchasing crystal balls so they can comply with this inane requirement of looking into the future. As any first-year law student would know, it can take years of costly and time-consuming litigation to figure out exactly what is reasonably foreseeable and what is indirect. Where is Mr. PAUL’s got this bill.

While adding analytical requirements and opportunities for industry to disrupt rulemaking, H.R. 527 provides absolutely no assistance to businesses in complying with Federal regulations, which is what small businesses require needs. And for those of us who should really be worried about the national deficit, this bill has a hefty price tag. The most conservative estimates,
Mr. CONYERS. Mr. Chairman, I am pleased to yield 1 minute to a distinguished member of our committee, the gentleman from California, Judy Chu.

Ms. CHU. I rise in opposition to the so-called Regulatory Flexibility Act. This bill is just how out of touch the House leadership is, not only with the American people, but with America’s small businesses.

A recent poll conducted by the Hartford Financial Group asked small businesses the biggest barriers to success. Despite the majority’s claim, do you know how many cited government rules and regulations as the biggest barrier? Just 9 percent. Instead, a majority, a vast majority, in fact, 59 percent of small businesses, said they struggle the most with finding qualified talent.

So it’s clear that this bill does nothing to knock down barriers and help the majority of small businesses with their greatest needs. Instead, it just slows down the rulemaking process and stops government from protecting the consumers from unsafe products, dirty air or water that could make them sick, a dangerous workplace, or gross misconduct in the financial industry.

Our country’s small businesses don’t have time for this nonsense. We should be working on a bill that creates jobs and actually helps small business.

Mr. SMITH of Texas. Mr. Chairman, I yield 3 minutes to the gentleman from Texas, Mr. Poe.

Mr. POE of Texas. I thank the gentleman for yielding.

Mr. Chairman, when I meet with small business owners back in southeast Texas, the one thing they always tell me is that they are not comfortable with expanding their businesses or hiring new employees because of the Federal regulators. “We just don’t know what the Federal government is going to do next,” is what I often hear. And considering that the code of Federal regulations is currently over 150,000 pages long, no wonder they are saying that they cannot plan for the future.

Mr. Chairman, do we really need more than 150,000 pages of regulations to be imposed across the fruitless plain? Good thing the regulators weren’t around to draw up regulations on the Ten Commandments. No telling what that would look like.

Anyway, a recent Gallup Poll found regulation and red tape is the most important problem currently facing business owners. That’s right, not the economy, but red tape. Why are we allowing the regulators to administratively pass many unnecessary rules that destroy this economic system?

Unnecessary regulations hurt all American businesses, but hurt the small businesses the most. It’s not easy for a mom and pop shop to go to a legal department to navigate through the ever-growing list of Federal regulations that may be applicable to their small business. In fact, on average, small businesses spend 36 percent more per employee per year complying with Federal regulations than large businesses do.

This legislation will help the problem by requiring that Federal agencies just analyze the impact of a new regulation on small businesses before adopting the regulation. Once a mom and pop shop goes out of business, there’s often no going back.

Regulators and elitist bureaucrats in Washington, D.C., do not always know what is best for people who own a small business. Many of these regulators have never owned a small business or even understand capitalism. They have never signed the front of a paycheck. But yet they make rules. Congress needs to ensure that we do not overregulate America to death and self-destruct our economic system.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Members of the House, it’s important for us to realize who else has difficulty in supporting a bill that ends up creating unsafe products, dirty air, and other kinds of harms to our citizenry. The American Lung Association is opposed to H.R. 527. The Environmental Defense Fund is opposed to this bill. The National Women’s Law Center does not support this bill. Public Citizen is opposed to it. The Union of Concerned Scientists is opposed to it. And, indeed, a total of more than 70 organizations have all written urging us to very carefully consider what we are doing here today.

It’s absolutely critical, and it is very important that we understand that there is no evidence, credible evidence that regulations depress job creation. Now, this is great rhetoric, but we’re passing laws here today.

The majority’s own witness before the House Judiciary Committee agrees with us. Christopher DeMuth, who appeared before the House Judiciary Committee on behalf of the American Enterprise Institute, stated in his prepared testimony that the focus on jobs can lead to confusion in regulatory debates, and that the employment effects of regulation, while important, are indeterminate. He can’t figure it out, and he was a pretty good witness for our side. The fact that regulation has no discernible impact on job creation.

If anything, regulations may promote job growth and put Americans back to work. The BlueGreen Alliance notes: Studies on the direct impact of regulations on job growth have found that most regulations result in modest job growth or have no effect.

Economic growth has consistently surged forward in concert with these health and safety protections. The Clean Air Act is a perfect example. The Center does not support this bill.

And so, my colleagues, regulation and
economic growth can go hand in hand. We recently observed that 40 years of success with the Clean Air Act has demonstrated that strong environmental protections and strong economic growth go hand in hand.

What this bill is a provision that every regulation change would have to come back through the Congress. It would be unthinkable that we could add this to our schedule, especially if there was a health emergency that required a rapid response.

So I want every Member of this House to examine the grossly different analyses that are being made here and come to your own conclusion. I think if you do, you will realize that regulations have no discernible impact on job creation.

I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, how much time do I have on this side?

The CHAIR. The gentleman from Texas has 7½ minutes remaining. The gentleman from Michigan has 3½ minutes remaining.

Mr. SMITH of Texas. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. MANZULLO), a member of the Financial Services Committee.

Mr. MANZULLO. Mr. Chairman, this is one of the most important bills that we will pass in Congress. I’m just amazed at what I hear from the other side—we’re over here endangering safety; we’re poisoning water; we’re doing everything we can in the workplace. That’s not what this is about. I’ll say it is, when you put in a regulation, at least have some basis so the people impacted by it know where to go from there. Have some good, sound science. Let’s have an economic impact study.

Let me just give you five instances specifically. Talk to the doctors today about all of the regulations impacting them, and you’ll hear complaints about spending more time on paperwork than with their patients.

Talk to the banks. I was talking to a small banker, only 19 employees. Two little banks in my district, they have to hire a full-time compliance officer just because of Dodd-Frank, and that bank didn’t do one thing wrong to bring about this economic collapse. And now the farmers, EPA is going to regulate cow manure under CERCLA, as opposed to the present rules.

Several years ago, this House passed the Clean Air Act Amendments of 1990. One of those was something called the employee commute option that said that counties around Chicago had to have something called an employee commute option that was forced car-pooling. The only provision of this incredible mandate and at the same time we did not compromise the quality of the air.

The Hope Scholarship reporting requirements that said that the 7,700 schools across the country had to report who it was that gave them the money—turned them into some kind of a supercomputer. And I worked with the 7,700 schools and with the commissioner of the IRS—this was a $100 million mandate upon all of these schools in the country because nobody took the time to say, what impact will this regulation have upon the schools of this country?

This before me is one day of regulation, just one day in America. Just one day in Washington, just one more day when the small business people have to read through 500 pages of 9-point type dealing with air particulates. And then I hear today that oh, you don’t need any relief, it’s not necessary. Regulations are good. And then we take a look at the impact that this has, the financial impact that it has on the small businesses today.

This is a great bill. It’s long overdue. And as a former chairman of the Small Business Committee, I say it’s about time, and our colleagues on the other side should all vote unanimously for this bill.

Mr. CONYERS. I yield myself such time as I may consume. I’m glad my friend is still on the floor because he asked, what do the doctors have to say about this? The doctors oppose the bill. And I’d like to point out, the American Lung Association and the Center for Science in the Public Interest do not agree with you, and they agree with our position on the bill.

Mr. CONYERS. I yield myself the balance of my time.

Mr. MANZULLO. Will the gentleman yield?

Mr. CONYERS. In just a minute I’ll be very pleased to.

The Environmental Defense Fund, the Friends of Earth, and the Union of Concerned Scientists are all in agreement with us. And so I want you to know that the medical people that have spoken about this bill are not in support of it.

I will yield briefly to the gentleman. Mr. MANZULLO: I thank the gentleman for yielding.

First of all, the doctors that I talk to—the experts themselves, not the lobbyists in Washington—I talk to them on a continuous basis. They’re very upset with more regulations. And NFIB is behind the bill.

Mr. CONYERS. Just a moment. These are not lobbyists. I don’t know if these organizations have any offices here. But the Union of Concerned Scientists probably doesn’t have any lobbyists. I doubt if the American Lung Association does.

Mr. MANZULLO. Will the gentleman yield?

Mr. CONYERS. I would, except that your side has far more time than my side does.

I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, we are prepared to close; so I will reserve the balance of my time.

Mr. CONYERS. I yield myself such time as I may consume. I too am prepared to close on this side.

Ladies and gentlemen of the House, we have two starkly opposing views of what this bill does. I have over 70 organizations that are concerned about the labor movement, from the science world, from the Women’s Law Center, from the Union of Concerned Scientists all telling us that this is a very dangerous process that we’re involved in, that the results of this bill wouldn’t be that the authors of this amendment intended to harm people or that they intended to produce unsafe air products or that they were supporting making the air unbreathable, but that is the result of this bill.

It’s been stated twice on the other side that we are accusing you of bad intent. I don’t do that. I want you to be very clear. It’s not a matter that your intentions are not honorable, but the results of this bill will be factory safe products that are ultimately produce air that is more polluted than the air that we’re dealing with now. It would delay the promulgation of regulations that we need. It is exactly going in the wrong way because, as a matter of fact, we have more regulation surrounding products, particularly children’s toys. We want the air to be much better than it is.

And so I urge my colleagues to examine the purposes stated than have been presented here today and to join us in turning back and sending back to the committee a bill that would make our health much more endangered.

I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself the balance of my time.

Job creation is the key to economic recovery, and small businesses are America’s main job creators. But overregulation kills jobs and is especially burdensome for small businesses. Anybody who doesn’t believe that probably hasn’t spent much time in the private sector. Even President Obama, who has not spent much time in the private sector, wrote in a Wall Street Journal op-ed and recognized that overregulation stifles innovation and has “a chilling effect on growth and jobs.”

It has been 15 years since Congress last updated the Regulatory Flexibility Act of 1980. Experience during that time reveals that further reforms are necessary. The Regulatory Flexibility Improvements Act of 2011 makes carefully targeted reforms to the current law to ensure that agencies properly analyze how a new regulation will affect small businesses before adopting that regulation. In the current economic climate, with millions of Americans looking for work, we simply cannot afford to overburden small businesses with more wasteful or inefficient regulations.

I urge my colleagues to support the bill. I look forward to its passage.

I yield back the balance of my time.
Mr. GRAVES of Missouri. Mr. Chairman, I yield myself such time as I may consume.

I rise today in support of H.R. 527, the Regulatory Flexibility Improvements Act of 2011. I was the original cosponsor to thank Chairman SMITH for the opportunity to work with him on this very important piece of legislation.

Opponents will argue that the bill stops agencies from issuing regulations. However, in reality, H.R. 527 will force agencies to consider how their actions affect small businesses and other small entities. More importantly, if the effects are significant, agencies, not small entities, will have to develop less burdensome and costly alternatives.

Shouldn’t a government understand the consequences of its regulations? Of course, it should. And by doing so, the government may arrive at a more efficient and less costly way to regulate. In a nutshell, that is what H.R. 527 does.

Some may argue that agencies already do this when they draft regulations. However, nearly 30 years of experience with the Regulatory Flexibility Act, or the RFA, shows that agencies are not considering the consequences of their actions, and it is about time that they start doing that.

Government regulations do have consequences. Small businesses must expend scarce and vital capital complying with these rules. If there’s a better way to achieve what an agency wants while imposing lower costs on small businesses, the sensible approach would be to adopt the lower cost methodology. This will enable small businesses to meet the requirements imposed by regulators while freeing up scarce resources to expand their businesses and hire more workers.

H.R. 527 ensures the consideration of consequences of rulemaking through the removal of loopholes that the agencies have used to avoid compliance with the RFA. In addition, the bill will require a closer consideration of the impact of rules on small businesses and other small entities. Yet nothing in H.R. 527 will prevent an agency from issuing a rule. It just stops the government from issuing a rule without understanding its effect on America’s job creators—small businesses.

With that, I urge my colleagues support this very carefully crafted measure to improve the Federal regulatory process.

I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

Reducing the cost of regulation is a very important issue, but it’s not going to turn the economy around. In order for this to happen, businesses need to see more customers coming through their doors—and not just during the holiday season we are now in. With this in mind, it is necessary to create an environment where regulations are not overburdening small businesses, as they do in fact bear the largest burden.

These entrepreneurs face an annual regulatory cost of $5,358 per employee, which is 36 percent higher than the regulatory cost facing large firms. And this brings us to the bill before us.

Too often on the House floor legislation is painted as either being totally perfect or completely awful. With this bill, neither of these characterizations is appropriate. In fact, on many fronts, H.R. 527 contains several very positive provisions and will make a real difference for small businesses.

Many of the provisions were previously advanced by Democrats in the Small Business Committee, and for this Chairman GRAVES and Chairman SMITH and their staff should be commended. For instance, the bill makes agencies’ regulatory flex analyses more detailed so that they cannot simply overlook their obligations to small businesses. It also gives real teeth to periodic regulatory look-backs, which require agencies to review outdated regulations that remain on the books. Agencies will be required to evaluate the entire impact of their regulations, something that is long overdue.

And it cannot go without mention that the bill brings the IRS under the purview of the RFA. This is a real improvement, which will undoubtedly benefit from greater scrutiny of complex and burdensome tax rules. These are all constructive changes that will bring real relief to entrepreneurs.

With that said, there are other items in this legislation that leave you scratching your head. Adding 50 new agencies to the panel process is a recipe for disaster. Such a dramatic change will require new bureaucratic processes, more staff, and more paperwork.

It must be ironic for my colleagues on the other side of the aisle that this bill attempts to reduce Federal regulation by dramatically expanding the role and scope of government. In fact, H.R. 527 creates more government as a means to limit government. How does that make sense?

It also applies reg flex to land management plans, something I have never heard small businesses complain about in my 18 years on the committee. Doing so will enable corporate interests to more readily challenge land use decisions, which could have adverse consequences for the environmental stewardship of public lands. The reality is that the RFA was not intended to cover this action, and it should not do so going forward.

Finally, it is important to note that the Office of Advocacy’s footprint has traditionally been minimal, with a budget of $9 million and 46 employees. Under H.R. 527, the Office of Advocacy would have to increase by up to 200 percent per year to handle the new responsibilities of H.R. 527. It is already taxed in meeting its current role, and expanding its powers geometrically is well beyond its capacity. Members are well aware of the fiscal constraints facing the U.S. Government. Now is not the time to make costly statutory leaps when smaller steps might be more appropriate.

So, in conclusion, there are some good and some not-so-good things in this bill. I want to acknowledge the effort by the bill’s manager, but in the end it is not something I could support, given the imposition of questionable policies. However, I want to thank Chairman GRAVES for always being open to discussions, and I look forward to continuing our dialogue on this legislation.

I reserve the balance of my time.

Mr. GRAVES of Missouri. Mr. Chairman, I yield such time as he may consume to the gentleman from the 24th District of New York (Mr. HANNA).

Mr. HANNA. Mr. Chairman, I rise today in support of H.R. 527, the Regulatory Flexibility Improvements Act.

The small businesses I meet on a regular basis tell me that regulation has become an overwhelming problem. Small business owners are the backbone of the American economy. I know this because I’m a small business owner. Like so many, my life was built by a belief in hard work, free enterprise, an entrepreneurial spirit, and a love to get out of bed in the morning and just do what I love to do, as you know yourself, Mr. Chairman. The preponderance of regulations is stifling that spirit.

This country can’t do well unless small businesses do well. They provide the jobs, the growth, and the opportunity for the rest of society. Small businesses are drowning in regulation. Federal agencies should periodically review their rules to ensure that regulations are not unduly burdensome. As with the 1099 reporting provision and the 3 percent withholding rule, the law of unintended consequences can be crippling. Fortunately, this House has repealed both.

We all agree that regulations are absolutely necessary to protect the public good, but we need to ensure that regulations reflect a proper balance that does not unreasonably hinder entrepreneurship, job creation, and innovation.

Mr. VELÁZQUEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS), the ranking member on the Judiciary Committee.

Mr. CONYERS. I thank the gentlelady from New York.

My friend on the other side from Missouri, who is managing the bill, I was happy to hear you say that this measure that we are examining does nothing to hinder the rulemaking process. And I’d like to help you out in that area if I may because this expands in the 1099 reporting provision and the 3 percent withholding rule, the law of unintended consequences can be crippling. Fortunately, this House has repealed both.
I would say to the gentleman from Missouri that right now there are only three agencies that are affected. What this does, my friend, is extend the review process to every agency. Do you recognize, sir, that there are over 50 agencies in the Federal system? And so for us to think that this small amount of change is much is a grievous mistake. And of course I am here to help you out, to the extent that I can.

The other thing that it does—and you think that this will not change the rulemaking process—is that this measure would force agencies to engage in speculative analysis, including an assessment of all reasonably foreseeable, indirect economic effects of a proposed rule.

The CHAIR. The time of the gentleman has expired.

Mr. GRAVES of Missouri. Mr. Chairman, I yield such time as he may consume to the chairman of the Subcommittee on Investigations, Oversight and Regulations, the gentleman from the Sixth District of Colorado (Mr. COFFMAN).

(Mr. COFFMAN of Colorado asked and was given permission to revise and extend his remarks.)

Mr. GRAVES of Missouri. The Obama administration is currently choking the lifeblood out of our Nation’s middle class, small businesses, and entrepreneurs through excessive regulation. According to the Small Business Administration, regulations cost our American economy $1.75 trillion annually.

The Obama administration has issued 200 such regulations that are expected to cost our economy at least $100 million each, and seven of these regulations have a pricetag of over $1 billion.

The President has long touted the job creation of his so-called stimulus. But every $1 million increase in the Federal regulatory budget costs 420 private sector jobs for hardworking Americans. This is why I am urging passage of House Resolution 527, the Regulatory Flexibility Improvements Act of 2011. This legislation will give real teeth to the Regulatory Flexibility Act of 1980, which mandated that Federal agencies first assess the economic impact of their regulations on small businesses before going forward with them. It is time to rescind rules on small businesses first.

Ms. VELAZQUEZ. Mr. Chairman, may I inquire as to how much time each side has.

The CHAIR. The gentleman from New York has 3 minutes remaining. The gentleman from Missouri has 5 minutes remaining.

Ms. VELAZQUEZ. I yield myself 1 minute.

I need to set the record straight regarding the previous Member who just spoke about how many regulations have been issued under the Obama administration.

Let me remind people here that, according to the conservative Heritage Foundation, net regulatory burdens increased in the years George W. Bush assumed the Presidency. Between 2001 and 2008 the Federal Government imposed almost $30 billion in new regulatory costs on America. About $11 billion was imposed in fiscal year 2007 alone.

With regard to the number of pages of regulations, the Code of Federal regulations totaled 145,000 pages in 2007 alone. The Obama administration issued an Executive order, 13563, and a subsequent memorandum on small businesses, and job creation, and the Executive order instructs agencies to seek the views of affected entities prior to proposed rulemaking. The Executive order also calls on agencies to engage in periodic reviews of existing regulations.

The CHAIR. The time of the gentlewoman has expired.

Ms. VELAZQUEZ. I yield myself 15 seconds more.

If we’re going to come here and, instead of dealing with the issues that are impacting small businesses—and that is access to affordable capital so that they could create jobs—but rather come and criticize the Obama administration for issuing regulations, let’s set the record straight about the regulations that were issued under the Republican administration.

I reserve the balance of my time.

Mr. GRAVES of Missouri. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Ms. VELAZQUEZ. How much time do I have left, please?

The CHAIR. The gentlewoman from New York has 2 minutes and 15 seconds remaining.

Ms. VELAZQUEZ. I yield 1 minute to the gentlelady from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE of Texas. Mr. Chairman, it is clear, when I have the ranking member of the Small Business Committee, the previous Chairman, the gentlelady, my colleague from the Sixth District of Colorado, Mr. Coffman, pointed out that the Bush administration added $60 billion in regulatory burdens out there, which is not a good thing at all. In fact, that scares me in and of itself. In 8 years of the Bush administration you had $60 billion in extra regulations.

The Obama administration has added $40 billion in only 3 years. So at the rate that that administration’s on, it’s going to far outweigh any administration.

But my point is, I don’t care what administration it is. I don’t care if it’s a Republican administration or a Democrat administration. I want to make darn sure that those agencies comply with the Regulatory Flexibility Act, and I want to make darn sure that those agencies take into account how much this is going to cost small business when they’re implementing some of these ridiculous regulations that they’re asking small business staff to comply with.

Some of this stuff is outrageous, and it needs to be studied, or it needs to be taken care of, or it needs to be stopped. But these agencies—and again, I don’t care what administration it is—they need to have to comply with this and they need to understand what the consequences are.

With that, I would urge my colleagues to support the bill, and I yield back the balance of my time.

Mr. HOLT. Mr. Chair, two of the bills before us this week are just two more bills that will not create jobs, endanger the public health, and waste the time and money of the American people. These bills are trying to block new regulations under the misguided notion that they’re going to far outweigh any administration.

The APA provides an opportunity for due process through the court system. If our colleagues have problems with regulations, they can run to the courts. You don’t have to impede the process to be able to address the problem. Let’s help small businesses, let’s discuss how to create jobs, and let’s vote against this legislation.
and water cleaner, and even saved the lives and limbs of our nation’s workers.

As the AFL-CIO has H.R. 527, the so-called “Regulatory Flexibility Improvements Act” would expand the reach and scope of the Regulatory Flexibility Act by covering regulations that might have an indirect effect on small businesses and adding a host of new analytical requirements that will make it even more difficult for agencies to take action to protect workers and the public. Almost any action an agency proposes—including something as simple as a guidance document designed to help a business comply with a rule—could be subject to a lengthy regulatory process. While the bill purports to be focused on small business, it would cover more than 99 percent of all employers, including firms in some industries with up to 1,500 workers or $35.5 million in annual revenues. It is a special interest bail-out for business.

H.R. 3010, the so-called “Regulatory Accountability Act”, is equally odious. This bill would effectively eviscerate the Occupational Safety and Health Act and Mine Safety and Health Act. As representatives of the United States of America in Congress, we urge our colleagues to reject both of these atrocious bills so we can get on with the business of creating real jobs.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

In lieu of the amendments in the nature of a substitute recommended by the Committees on the Judiciary and Big Business printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute consisting of the text of the Rules Committee Print dated November 18, 2011. That amendment in the nature of a substitute shall be considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 327

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 “Regulatory Flexibility Improvements Act of 2011”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Clarification and expansion of rules covered by the Regulatory Flexibility Act.
Sec. 3. Expansion of report of regulatory agenda.
Sec. 4. Requirements providing for more detailed analyses.
Sec. 5. Regulations shall be delayed; additional powers of the Chief Counsel for Advocacy.
Sec. 6. Procedures for gathering comments.
Sec. 7. Periodic review of rules.
Sec. 8. Judicial review of compliance with the requirements of the Regulatory Flexibility Act available after publication of the final rule.
Sec. 9. Jurisdiction of court of appeals over rules implementing the Regulatory Flexibility Act.
Sec. 10. Clerical amendments.
Sec. 11. Agency preparation of guides.

SEC. 2. CLARIFICATION AND EXPANSION OF RULES COVERED BY THE REGULATORY FLEXIBILITY ACT.

(a) IN GENERAL.—Paragraph (2) of section 601 of title 5, United States Code, is amended to read as follows:

“(2) RULE.—The term ‘rule’ has the meaning given such term in this section, except that such term does not include a rule of particular (and not general) applicability relating to rates, wages, corporate or financial structures, prices, agencies, services, or allowances thereof or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, agencies, services, or allowances.”.

(b) INCLUSION OF RULES WITH INDIRECT EFFECTS.—Section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:

“(9) ECONOMIC IMPACT.—The term ‘economic impact,’ means with respect to a proposal or final rule—

“(A) any direct economic effect on small entities of such rule; and

“(B) any indirect economic effect on small entities which is reasonably foreseeable and results from such rule (without regard to whether small entities will be directly regulated by the rule).”.

(c) INCLUSION OF INSTRUMENTS OF ACCOUNTABILITY.—Section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:

“(10) INSTRUMENTS OF ACCOUNTABILITY.—Paragraph (4) of section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:

“(10) INSTRUMENTS OF ACCOUNTABILITY.—In general.—The term ‘instruments of accountability’ has the meaning given such term in section 601(9) of title 5, United States Code.”.

(d) INCLUSION OF CERTAIN INTERPRETIVE RULES INVOLVING THE INTERNAL REVENUE LAWS.—

“(1) IN GENERAL.—Subsection (a) of section 603 of title 5, United States Code, is amended by adding at the end the following new paragraph:

“(2) COLLECTION OF INFORMATION.—In general.—Subject (a) of section 603 of title 5, United States Code, is amended by striking the first sentence and inserting—

“Each initial regulatory flexibility analysis shall also contain a detailed description of alternatives to the proposed rule which minimize any adverse significant economic impact or maximize any beneficial significant economic impact on small entities.”.

(2) FINAL REGULATORY FLEXIBILITY ANALYSIS.—The first paragraph (6) of section 604(a) of title 5, United States Code, is amended by striking “‘striking’ the term ‘significant economic impact’;” and inserting “minimizing the adverse significant economic impact or maximize the beneficial significant economic impact.”

(e) INCLUSION OF RULES AFFECTING TRIBAL ORGANIZATIONS.—Paragraph (5) of section 601 of title 5, United States Code, is amended by inserting “and tribal organizations (as defined in section 504 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450h(1)) or special districts,”.

(f) INCLUSION OF MANAGEMENT PLANS AND NORMAL RULE MAKING.—

“(1) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (a) of section 603 of title 5, United States Code, is amended in the first sentence—

“(A) by striking ‘or’ after ‘proposed rule’; and

“(B) by inserting ‘or publishes a revision or amendment to a land management plan,’ after ‘United States.’”.

(2) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (a) of section 604 of title 5, United States Code, is amended in the first sentence—

“(A) by striking ‘or’ after ‘proposed rule-making;’ and

“(B) by inserting ‘or adopts a revision or amendment to a land management plan,’ after the period.”.

(g) LAND MANAGEMENT PLAN DEFINED.—Section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:

“(10) LAND MANAGEMENT PLAN.—

“(A) IN GENERAL.—The term ‘land management plan’ means—

“(i) any plan developed by the Secretary of Agriculture under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); and


“(B) REVISION.—The term ‘revision’ means any change to a land management plan which—

“(i) in the case of a plan described in subparagraph (A)(i), is made under section 604(f)(5) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)); or

“(ii) in the case of a plan described in subparagraph (A)(ii), is made under section 1610.5-6 of title 43, Code of Federal Regulations (or any successor regulations).

“(C) AMENDMENT.—The term ‘amendment’ means any change to a land management plan which—

“(i) in the case of a plan described in subparagraph (A)(i), is made under section 604(f)(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(4)); and

“(ii) in the case of a plan described in subparagraph (A)(ii), is made under section 1610.5-5 of title 43, Code of Federal Regulations (or any successor regulations) and with respect to which the Secretary of the Interior prepares a statement described in section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));”.

(g) DEFINITION OF SMALL ORGANIZATION.—Paragraph (4) of section 601 of title 5, United States Code, is amended to read as follows:

“(4) SMALL ORGANIZATION.—

“(A) IN GENERAL.—The term ‘small organization’ means any not-for-profit enterprise which, among other things, is an insurance of the notice of proposed rulemaking—

“(i) in the case of an enterprise which is described by a classification code of the North American Industrial Classification System, does not exceed the size standard established by the Administrator of the Small Business Administration pursuant to section 3 of the Small Business Administration Act (15 U.S.C. 632) for small business concerns described by such classification code; and

“(ii) in the case of any other enterprise, has assets that do not exceed $7,000,000 and has not more than 500 employees.”

(h) LOCAL LABOR ORGANIZATIONS.—In the case of any local labor organization, subparagaphs (a) and (b) shall be applied to any national or international organization of which such local labor organization is a part.
"(c) AGENCY DEFINITIONS.—Subparagraphs (A) and (B) shall not apply to the extent that an agency, after consultation with the Office of Advocacy of the Small Business Administration and any other interested parties, determines that for public comment, establishes one or more definitions for such term which are appropriate to the activities of the agency and publishes such definitions in the Federal Register.

SEC. 3. EXPANSION OF REPORT OF REGULATORY AGENDA.

Section 602 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "", and"" at the end and inserting "", and"";

(B) redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

""(2) a brief description of the sector of the North American Industrial Classification System that is primarily affected by any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities; and"";

and

(2) in subsection (c), to read as follows:

""(c) Each agency shall prominently display a plain language summary of the information contained in the regulatory flexibility agenda published in such rulemaking proceeding on its website within 3 days of its publication in the Federal Register. The Office of Advocacy of the Small Business Administration shall compile and prominently display a plain language summary of the regulatory agendas referenced in subsection (a) for each agency on its website within 3 days of its publication in the Federal Register.

SEC. 4. REQUIREMENTS PROVIDING FOR MORE DETAILED ANALYSES.

(a) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (b) of section 603 of title 5, United States Code, is amended to read as follows:

""(b) Each initial regulatory flexibility analysis required under this section shall contain a detailed statement—

""(1) describing the reasons why action by the agency is being considered;

""(2) describing the objectives of, and legal basis for, the proposed rule;

""(3) estimating the number and type of small entities to which the proposed rule will apply;

""(4) a detailed explanation, reporting, record-keeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the regulatory effect and the type of professional skills necessary for preparation of the report and record;

""(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided;

""(6) estimating the additional cumulative economic impact of the proposed rule on small entities beyond that already imposed on the class of small entities by the agency or why such an estimate is not available; and

""(7) describing any disproportionate economic impact on small entities or a specific class of small entities.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

(A) in paragraph (4), by striking "an explanation of" and inserting "a detailed explanation;"

(B) in each of paragraphs (4), (5), and the first paragraph (6), by inserting "detailed" before "as required;" and

(C) by adding at the end the following:

""(7) describing any disproportionate economic impact on small entities or a specific class of small entities.

(2) INCLUSION OF RESPONSE TO COMMENTS ON CERTIFICATION OF PROPOSED RULE.—Paragraph (2) of section 604(a) of title 5, United States Code, is amended by inserting "(or certification of the proposed rule under section 605(b))" after "initial regulatory flexibility analyses".

(3) PUBLICATION OF DETAILED STATEMENT.—Subsection (b) of section 604 of title 5, United States Code, is amended to read as follows:

""(b) The agencies of the final regulatory flexibility analyses available to the public, including placement of the entire analysis on the agency’s website, and shall publish in the Federal Register through the final regulatory flexibility analysis, or a summary thereof which includes the telephone number, mailing address, and link to the website where the complete analysis may be obtained.

(c) CROSS-REFERENCES TO OTHER ANALYSES.—

Subsection (a) of section 605 of title 5, United States Code, is amended to read as follows:

""(a) For any agency to ensure that satisfying any requirement regarding the content of an agenda or regulatory flexibility analyses under section 602, 603, or 604, if such agency provides in such agenda or analysis a cross-reference to the specific portion of another agenda or analysis which is required by any other law and which satisfies such requirement.

(d) CERTIFICATIONS.—Subsection (b) of section 605 of title 5, United States Code, is amended—

(1) by inserting "detailed" before "statement" the first place it appears;

(2) by inserting "and legal" after "factual";

(e) QUANTIFICATION REQUIREMENTS.—Section 607 of title 5, United States Code, is amended to read as follows:

""§ 607. Quantification requirements

""In complying with sections 603 and 604, an agency shall provide—

""(1) a quantifiable or numerical description of the effects of the proposed or final rule and alternatives to the proposed or final rule; or

""(2) a more general descriptive statement and a detailed statement where quantification is not practicable or reliable.

SEC. 5. REPEAL OF WAIVER AND DELAY AUTHORITY; ADDITIONAL POWERS OF THE CHIEF COUNSEL FOR ADVOCACY.

(a) IN GENERAL.—Section 608 is amended to read as follows:

""§ 608. Additional powers of Chief Counsel for Advocacy

""(a)(1) Not later than 270 days after the date of the enactment of the Regulatory Flexibility Improvements Act of 2011, the Chief Counsel for Advocacy of the Small Business Administration shall, after opportunity for notice and comment under section 533, issue rules governing agency compliance with this chapter. The Chief Counsel shall publish such notice and comment under section 533. This chapter (other than this subsection) shall not apply with respect to the issuance, modification, and amendment of rules under this paragraph.

""(1) An agency shall not issue rules which supplement the rules issued under subsection (a) unless such agency has first consulted with the Chief Counsel for Advocacy to ensure that such supplemental rules comply with this chapter and the rules issued under paragraph (1).

""(2) Notwithstanding any other law, the Chief Counsel for Advocacy of Small Business Administration may intervene in any agency adjudication (unless such agency is authorized to impose a fine or penalty under such adjudication) to inform the agency of the impact that any decision on the record may have on small entities. The Chief Counsel shall not initiate an appeal with respect to any adjudication in which the Chief Counsel intervenes under this subsection.

""(c) The Chief Counsel for Advocacy may file comments in response to any agency notice requesting comment, regardless of whether the agency is required to file a general notice of proposed rulemaking under section 533.

(b) CONFORMING CHANGES.—

(1) Section 611(a)(1) of such title is amended by striking "608(b),".

(2) Section 611(a)(2) of such title is amended by striking "608(b),".

(3) Section 611(a)(3) of such title is amended—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (A) as "'3 a small entity' and inserting the following:

""(3) A small entity.

""(4) The Chief Counsel for Advocacy of the Small Business Administration shall consult with the Chief Counsel for Advocacy of the Small Business Administration.

SEC. 6. PROCEDURES FOR GATHERING COMMENTS.

Section 609 of title 5, United States Code, is amended by striking subsection (b) and all that follows through the end of the section and inserting the following:

""(b)(1) Prior to publication of any proposed rule described in subsection (e), an agency making a rule shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel with—

""(A) all materials prepared or utilized by the agency in making the proposed rule, including the draft of the proposed rule; and

""(B) information on the potential adverse and beneficial economic impacts of the proposed rule on small entities and the type of small entities that might be affected.

""(2) An agency shall not be required under paragraph (1) to provide the exact language of a draft of the rule.

""(3) A rule affects the regulatory agenda of the United States; or

""(4) provided by an independent regulatory agency (as defined in section 3502(5) of title 4).

""(c) Not later than 15 days after the receipt of such materials and information provided by an independent regulatory agency (as defined in section 3502(5) of title 4), an employee from the Office of Information and Regulatory Affairs of the Office of Management and Budget shall—

""(1) identify small entities or representatives of small entities or a combination of both for the purpose of obtaining advice, input, and recommendations from those persons about the potential economic impacts of the proposed rule and compliance of the agency with section 602; and

""(2) convene a review panel consisting of an employee from the Office of Advocacy of the Small Business Administration, an employee from the agency making the rule, and in the case of an agency other than an independent regulatory agency (as defined in section 3502(5) of title 4), an employee from the Office of Information and Regulatory Affairs of the Office of Management and Budget to review the materials and information provided to the Chief Counsel under subsection (b).

""(d) Cross-Reference.—Section 3502(5) of title 4, the Office of Information and Regulatory Affairs of the Office of Management and Budget. This section shall include an assessment of the economic impact of the proposed rule on small entities, including an assessment of the proposed rule’s impact on the cost that small entities pay for energy, and a discussion of any alternatives that will minimize significant economic impacts or maximize beneficial significant economic impacts on small entities.

""(e) Such report shall become part of the rulemaking record. In the publication of the proposed rule, the agency shall explain what actions, if any, the agency took in response to such report.

""(f) A proposed rule is described by this subsection if the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget sends a notice of the proposed rule to the Chief Counsel for Advocacy of the Small Business Administration or the agency (or the delegatee of the head of the agency), or an independent regulatory agency determines that the proposed rule is likely to result in—

""(1) an annual effect on the economy of $100,000,000 or more;
“(2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, tribal organizations, or geographic regions;”

“(3) any adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises in foreign-based enterprises in domestic and export markets; or

“(4) a significant economic impact on a substantial number of small entities.

“(f) Any rule with respect to which the head of the section 3502(5) of title 44) to the Administrator of independent regulatory agencies (as defined in

such plan to the Congress, the Chief Counsel and gather their input on existing agency rules.

agency shall include in this section a plan for the purposes of carrying out this section. The

shall be to determine whether such rules should be continued without change, or should be amended or deleted in accordance with the stated objectives of applicable statutes, to minimize any adverse significant economic impacts or maximize any beneficial significant economic impacts on a substantial number of small entities. Such determination shall be made without regard to whether a determination in the annual report required under subsection (d).

“(7) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the interim since publication of the rule.

“(f) The agency shall publish in the Federal Register and on its website a list of rules to be reviewed pursuant to such plan. Such publica-

tion shall include a brief description of the rule, the reason why the agency determined that it has a significant economic impact on a substan-

tial number of small entities (without regard to whether it had prepared a final regulatory flexibility analysis for the rule), and request com-

ments from the public, the Chief Counsel for Advocacy, and the Regulatory Enforcement Ombudsman concerning the enforcement of the rule.”.

SEC. 8. JUDICIAL REVIEW OF COMPLIANCE WITH THE REQUIREMENTS OF THE REGULATORY FLEXIBILITY ACT AVAILABLE AFTER PUBLICATION OF THE PLANNED AGENCY ACTION.

(a) In general.—(1) of such section is amended—

“(A) by striking the semicolon at the end and inserting “; and

“(B) by striking “(5) the term “

“(3) by inserting after paragraph (7) the following:

“(b) C ONFORMING AMENDMENTS.—Paragraph

“(5) SMALL ENTITY.—The term “

“(6) SMALL ENTITY.—The term “

“(7) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the interim since publication of the rule.

“...
The CHAIR. No amendment to that amendment in the nature of a substitute shall be in order except those printed in part A of House Report 112–296. Each such amendment may be offered only in the order printed in the report, by a Member designated in the report, considered read, and not be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. CRITZ

The CHAIR. It is now in order to consider amendment No. 1 printed in part A of House Report 112–296.

Mr. CRITZ. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 10, line 26, insert: “or the cumulative impact of any other rule stemming from the implementation of a free trade agreement.”

The CHAIR. Pursuant to House Resolution 477, the gentleman from Pennsylvania (Mr. CRITZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Pennsylvania.

Mr. CRITZ. Mr. Chairman, I yield myself as much time as I may consume.

Trade is critical to the growth of small business. A quarter of a million U.S. companies export to foreign markets, the large majority of them small and medium-sized enterprises that employ 500 or fewer workers. In fact, according to the U.S. Chamber of Commerce, more than 230,000 small and medium enterprises now account for nearly 30 percent of U.S. merchandise exports. The number of such companies exporting has more than doubled since 1992 and, according to SBA, 96 percent of the firms operate outside of the U.S., representing two-thirds of the world’s purchasing power.

Given this critical role, we need to make sure trade agreements assist small businesses. Trade agreements should help reduce red tape and increase transparency, but too often small businesses lack the resources and foreign business partners available to large companies to navigate through opaque customs and legal systems to reach their customers.

Numerous fees and other nontariff barriers that can be no more than a nuisance to large multinationals can be deal-breakers for small companies. Trade agreements must streamline rules, reduce nontariff barriers, and provide arbitration procedures so that even small U.S. exporters can successfully participate in foreign markets.

Trade agreements must also open up opportunities for small U.S. exporters to compete for foreign government contracts. U.S. companies should be given a fair shake at the important government procurement market in these foreign countries. Such agreements can help to lower the threshold at which contracts must be put out for competitive bid ensuring that even small U.S. companies can be part of the process. This makes contracts for roads, schools, clinics, distance learning, and medical equipment, for example, can be ideally suited to smaller U.S. companies.

My amendment makes sure that small businesses are not forgotten when trade agreements are implemented. It requires that agencies’ regulatory flexibility analyses assess the cumulative impact of any rule stemming from the implementation of a free trade agreement. Doing so will make certain that small firms’ voices are part of the process in these important deliberations.

Being part of the process will enable small firms to benefit from trade agreements and use them as a means to access foreign markets and customers. I urge Members to vote “yes” on this amendment.

I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I claim time in opposition to the amendment even though I do not oppose the amendment.

The CHAIR. Without objection, the amendment.

The amendment aims to require an agency to account for rules implementing the free trade agreements when the agency considers the cumulative impact of a proposed rule. I support free trade because I believe it is in the best interest of American business, workers, and consumers alike.

The gentleman from Pennsylvania and I may differ on this issue, but in the context of this amendment, that is beside the point. It is incumbent on us to make sure that agencies consider the impact of rules implementing the free trade agreements in their regulatory cumulative impact calculations. I don’t think the analysis will show that free trade destroys American small businesses. Quite the opposite is true, in fact. But that isn’t a reason not to do the analysis. We should understand how these kinds of regulations contribute to the cumulative regulatory burden on small businesses.

In conclusion, Mr. Chairman, I do support this amendment and hope to have the gentleman from Pennsylvania’s support for the bill on final passage.

I yield back the balance of my time.

Mr. CRITZ. I urge a “yes” vote on my amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. CRITZ).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MS. JACKSON LEE OF TEXAS

The CHAIR. It is now in order to consider amendment No. 2 printed in part A of House Report 112–296.

Ms. JACKSON LEE of Texas. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 23, add the following after line 24 and redesignate succeeding sections (and references thereto) accordingly:

SEC. 9. EXEMPTION FOR CERTAIN RULES.

(a) In General.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following new section:

“613. Exemption for certain rules

“Sections 601 through 612, as amended by the Regulatory Flexibility Improvements Act of 2011, shall not apply in the case of any rule promulgated by the Department of Homeland Security. The provisions of this chapter, as in effect before the enactment of the Regulatory Flexibility Improvements Act of 2011, shall continue to apply, after such enactment, to any rule described in the preceding sentence.”

(b) Clerical Amendment.—The table of sections for chapter 6 of United States Code, is amended by adding after the item relating to section 612 the following new item:

“613. Exemption for certain rules.”

Page 24, line 13, insert after “5” the following: “other than rules to which section 613 of title 5 applies”.  

Page 27, lines 5 and 6, strike “The agency shall” and insert the following:

“(A) IN GENERAL.—Subject to subparagraph (B), the agency shall:”

Page 27, line 18, strike the quotation marks and second period.

Page 27, add the following after line 18:

“(B) TREATMENT OF CERTAIN RULES.—In the case of any rule promulgated by the Department of Homeland Security, this section shall be applied—

(1) to any rule, to any such rule, in lieu of subparagraph (A).

The CHAIR. Pursuant to House Resolution 477, the gentleman from Texas (Ms. JACKSON LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Ms. JACKSON LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

I rise today to call upon the rational and reasonable thinking of my colleagues on both sides of the aisle and really discuss an amendment that speaks the obvious.

The underlying bill puts into process a regulatory scheme that delays the implementation of regulations. Whether you agree or disagree with that approach, we all recognize that securing the homeland continues to be a top priority for this Nation.

I’m standing alongside some of our first responders looking over one of the Nation’s major ports. Many who live in these areas recognize the vulnerability of America through her ports or aviation or mass transit or highways or bridges or dams.
Every moment after 9/11 is a new moment in this Nation. My amendment simply says to waive the provisions of this bill, H.R. 527, when it deals with homeland security.

I hold in my hand the National Security Council list that identifies the issues that our Homeland Security Department and intelligence communities have to address. The listing is not classified, so I will mention the many tasks that they have to address: terrorism, espionage, proliferation, the motivating questions of economic espionage, targeting the national information structure, cybersecurity. Why would we want to interfere with the movement of regulations to protect the homeland under the promise of this bill?

I ask my colleagues to support the Jackson Lee amendment that would waive the bill’s provisions in light of protecting the homeland.

I reserve the balance of my time.

Mr. SMITH of Texas. I am prepared to close so I will reserve the balance of my time.

Ms. JACKSON LEE of Texas. Mr. Chairman, I yield myself the balance of my time.

The Acting CHAIR. The gentlewoman from Texas, Ms. JACKSON LEE, is recognized for 5 minutes.

Mr. SMITH of Texas. I rise today in support of my amendment to H.R. 527, the Regulatory Flexibility Act of 2011. This bill would amend the Regulatory Flexibility Act, RFA. The bill would expand the number of rules covered by the RFA and requires Federal agencies to perform additional analysis of regulations that affect small businesses. As a senior member of the Homeland Security and ranking member of the Transportation Security Subcommittees, I am very concerned about any legislation that would hinder the Department of Homeland Security’s ability to respond to an emergency, which is why the Department of Homeland Security, DHS, should be exempt from this legislation.

This bill delays the promulgation of federal regulations, and delays a Federal agency’s ability to issue regulations when responding to an emergency to protect its citizens, and in the case of the Department of Homeland Security, it endangers the lives of our citizens.

More than 220 million tons of cargo moved through the Port of Houston in 2010. That cargo has to be inspected. And the port ranked first in foreign waterborne tonnage for the 15th consecutive year. Just imagine a regulation dealing with the scanning or the security of that tonnage to be interfered with by H.R. 527.

If Coast Guard intelligence had evidence of a potential attack on the Port of Houston and they wanted the Department of Homeland Security to address it or they used a regulation or there was a regulation in process, then it would have to be stopped by this legislation.

It is important to recognize that homeland security is not security by appointment. It is not security by ‘let me address regulations by having them vetted by H.R. 527.’

This is a common amendment that simply says, as it deals with the homeland security or the securing of our Nation as we look to be better than what occurred in 9/11 where agencies were not communicating with each other, where the firewall that the system did not work, and we had the heinous tragedy of losing 3,000-plus of our souls in New York City. As we see the franchising of terrorism wherein there is the shoe bomber and the Christmas Day bomber and the Times Square bomber, there was constant fear not to have a fettered Homeland Security Department in a regulatory process that is stopped by overreaching legislation.

This legislation is a job-killer, we already know. Let’s not let it be a killer of Americans because it gets in the way of Homeland Security efforts doing the work that is necessary.

I ask my colleagues to support the Jackson Lee amendment that asks simply for a waiver of this legislation as it addresses the question of securing the homeland and the regulatory scheme that is needed by intelligence agencies, our Border Patrol agencies, our TSA, the FAA, the FAA, the aviation security, our cargo inspectors. As it relates to that work, our front line, let us waive this legislation.

Mr. Chair, I rise today in support of my amendment to H.R. 527, the Regulatory Flexibility Act of 2011. This bill would amend the Regulatory Flexibility Act, RFA. The bill would expand the number of rules covered by the RFA and requires Federal agencies to perform additional analysis of regulations that affect small businesses. As a senior member of the Homeland Security and ranking member of the Transportation Security Subcommittees, I am very concerned about any legislation that would hinder the Department of Homeland Security’s ability to respond to an emergency, which is why the Department of Homeland Security, DHS, should be exempt from this legislation.

This bill delays the promulgation of federal regulations, and delays a Federal agency’s ability to issue regulations when responding to an emergency to protect its citizens, and in the case of the Department of Homeland Security, it endangers the lives of our citizens.

More than 220 million tons of cargo moved through the Port of Houston in 2010. That cargo has to be inspected. And the port ranked first in foreign waterborne tonnage for the 15th consecutive year. The port links Houston with over 1,000 ports in 203 countries, and provides 785,000 jobs throughout the state of Texas. Maritime ports are centers of trade, commerce, and travel along our Nation’s coastline, protected by the Coast Guard, under the direction of DHS.

If Coast Guard intelligence has evidence of a potential attack on the port of Houston, I want the Department of Homeland Security to act immediately to protect my constituents, by issuing the regulations needed without being subject to the constraints of this bill.

The Department of Homeland Security deserves an exemption not only because they may need to quickly change regulations in response to new information or threats, but also because they are still faced with emergency preparedness and response.

There are many challenges our communities face when we are confronted with a catastrophic event or a domestic terrorist attack. It is important for people to understand that our ability to deal with hurricanes directly reflects our ability to respond to a terrorist attack in Texas or New York, an earthquake in California, or a nationwide pandemic flu outbreak.

The Department of Homeland Security simply does not have the time to be hindered by frivolous and unnecessary litigation, especially when the safety and security of the American people are at risk.

According to a study conducted by the Economic Policy Institute, public protections and regulations “do not tend to significantly impede job creation”, and furthermore, over the course of the last several decades, the benefits of Federal regulations have significantly outweighed their costs.

There is no need for this legislation, aside from the need of some of my colleagues to protect corporate interests. This bill would make it more difficult for the government to protect its citizens, and in the case of the Department of Homeland Security, it endangers the lives of our citizens.

In our post 9/11 climate, homeland security continues to be a top priority for our Nation. As we continue to face threats from enemies foreign and domestic, we must ensure that we are doing all we can to protect our country. The Department of Homeland Security cannot respond to constantly changing threat landscape effectively if they are subject to this bill.

Since the creation of the Department of Homeland Security in 2002, we have overhauled the government in ways never done before. Steps have been taken to ensure that the communication failures of 9/11 do not happen again. The Department of Homeland Security has helped push the United States forward in how we protect our Nation. Continuing to make advances in homeland security and intelligence is the best way to combat the threats we still face today.

Hindering the ability of DHS to make changes to rules and regulations puts the entire country at risk. As the Representative for the 18th District of Texas, I know about vulnerabilities in security firsthand. The Coast Guard, under the direction of the Department of Homeland Security, is tasked with protecting our ports of entry. Of the 350 major ports in America, the Port of Houston is one of the busiest.

More than 220 million tons of cargo moved through the Port of Houston in 2010, and the port ranked first in foreign waterborne tonnage for the 15th consecutive year. The port links Houston with over 1,000 ports in 203 countries, and provides 785,000 jobs throughout the state of Texas. Maritime ports are centers of trade, commerce, and travel along our Nation’s coastline, protected by the Coast Guard, under the direction of DHS.

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On any given day the City of Houston and cities across the United States face a wide-spread and ever-changing array of threats, such as: terrorism, organized crime, natural disasters and industrial accidents.

Cities and towns across the nation face these and other threats. Indeed, every day, ensuring the safety of the homeland requires the interaction of multiple Federal departments and agencies, as well as operational collaboration across Federal, State, local, tribal, and territorial governments, nongovernmental organizations, and the private sector. We can hinder the Department of Homeland Security’s ability to protect the safety and security of the American people.

This bill expands the review that agencies must conduct before issuing new regulations and the review they must conduct of existing rules to include an evaluation of the “indirect” costs of regulations, and grants the SBA authority to intervene in agency rulemaking. The measure also expands the ability of small businesses and other small entities impacted by an agency’s regulations to challenge those rules in court.

Under current law, the process already takes as long as eight years to complete. Given the nature of its mission, the Department of Homeland Security is the last agency that needs to be subject to more levels of regulation and scrutiny. Some advocates groups also have expressed concern that by extending the rulemaking process, regulatory uncertainty could increase, which may make it more costly for agencies to seek enforcement through the courts, and thereby reduce the public’s ability to participate in the process. These costs add to the cost of doing business with the Department of Homeland Security, and eat away at the profits of our businesses, particularly our small businesses which often are not as equipped to absorb additional costs. Moreover, many businesses dealing with national security have higher additional costs. Moreover, many businesses dealing with national security have higher costs because of expensive equipment, and as such are already working with lower profit margins.

The prolonged or indefinite delay of these life saving regulations threaten the security, stability and vitality of our society, and the American people. I cannot speak for my colleagues on the other side of the aisle, but I certainly do not want to slow the promulgation of regulations to a drip.

I have offered this amendment to mitigate the uncertainty regarding federal laws and rulemaking in the area of national security because of the increased urgency when dealing with these often sensitive matters. The Department of Homeland Security is the newest Federal agency, and as such already is subject to pioneering levels of oversight and scrutiny. I urge the Committee to make my amendment in order to ensure that life saving regulations promulgated by the Department of Homeland Security are not unnecessarily delayed by this legislation.

Mr. SMITH of Texas. Mr. Chairman, I yield myself the balance of my time.

The bill only requires agencies to do what common sense and current laws dictate, no different from how things are being done right now. The Department of Homeland Security is not exempt from the Regulatory Flexibility Act. Like other agencies, the Department should analyze how a new regulation will affect small businesses before issuing the regulation. If the Department needs to issue a regulation in a true emergency situation, such as involving national security, it can already do so under the “good cause” exception to notice-and-comment rulemaking in the Administrative Procedure Act. This good cause exception would allow the agency to bypass the analysis required by the Regulatory Flexibility Act as well.

As with the other amendment, this bill would exempt the Department from H.R. 527 but not from the Regulatory Flexibility Act, itself. The result of this would be two versions of the Regulatory Flexibility Act at play in the Federal Government—one for the Department and one for everyone else.

Small businesses do not need any more confusion and uncertainty when they are trying to participate in the Federal regulatory process. For this reason, I oppose the amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Ms. JACKSON LEE of Texas. Mr. Chairman. I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. COHEN

The Acting CHAIR. It is now in order to consider amendment No. 3 printed in part A of House Report 112-296.

MR. COHEN. Mr. Chairman, I have an amendment at this time.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Page 23, add the following after line 24 and redesignate succeeding sections (and references thereto) accordingly:

SEC. 8. EXEMPTION FOR CERTAIN RULES

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 613. Exemption for certain rules

"(Sections 601 through 612, as amended by the Regulatory Flexibility Improvements Act of 2011, shall not apply in the case of any rule that relates to the safety of food, the safety of the workplace, air quality, the safety of consumer products, or water quality, this paragraph as in effect before the enactment of the Regulatory Flexibility Improvements Act of 2011, shall continue to apply, after such enactment, to any rule described in the preceding sentence.")."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5, title 5, United States Code, is amended by adding after the item relating to section 612 the following new item:

"613. Exemption for certain rules.

"Page 24, line 13, insert after "5" the following: (other than rules to which section 613 of title 5 applies)

Page 27, lines 5 and 6, strike "The agency shall" and insert the following: "(A) IN GENERAL.—Subject to subparagraph (B), the agency shall":

Page 27, line 18, strike the quotation marks and second period.

Page 27, add the following after line 18:

"In the case of any rule that relates to the safety of food, the safety of the workplace, air quality, the safety of consumer products, or water quality, this paragraph as in effect before the enactment of the Regulatory Flexibility Improvements Act of 2011, shall continue to apply, after such enactment, to any such rule."

The Acting CHAIR. Pursuant to House Resolution 477, the gentleman from Tennessee (Mr. COHEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Tennessee.

Mr. COHEN. I yield myself such time as I may consume.

My amendment would exempt from this particular bill the rules it has to do with related to workplace safety, consumer product safety, air quality, and water quality—things we all hold dear, things that will be jeopardized if this bill passes.

As I noted in my opening remarks, the purpose of this bill is to help agencies avoid costs of regulations, and grants the SBA authority to promulgate rules by adding analytical requirements and numerous opportunities for industry to challenge agency rulemaking. Yet you should be able to challenge agency rulemaking, but courts shouldn’t be able to summarily throw them out based on a lack of knowledge that they have of an area in which the agencies are really expert, but that’s what would happen.

The societal cost of enacting H.R. 527 would be to place public health and safety at risk. As we enter this holiday season, it would be well to remember that the reason we take for granted that the food we eat and the water we drink—and the drinks we drink—at all holiday diners and receptions won’t kill us or sicken us is because of effective rulemaking. Likewise, because of strong regulations, we can take for granted that toys given to our children or grandchildren won’t poison them; but the consequences of failing to regulate can be dire.

In 2006 24-year-old Jillian Castro became gravely ill after eating spinach tainted with E. coli bacteria. Her organs were rapidly deteriorating; her kidneys were failing; her red blood cells and platelets were dropping rapidly; and she nearly died.

According to the best available estimates by public health and food safety experts, millions of illnesses and thousands of deaths each year in this country can be traced to contaminated food.

The Centers for Disease Control and Prevention estimates that foodborne microorganisms have caused 48 million illnesses, 129,000 hospitalizations, and 3,000 deaths. Many of these could be avoided with the proper regulations of food and drug. That’s why I ask that food safety be eliminated from this
bill, because it will be expensive to treat these people, let alone the fact that they will die. The CDC estimates that salmonella alone affects 600 people a year. Just today, the Food and Drug Administration issued a recall of grape cattaloupe because of potential salmonella contamination.

Other recent examples of regulatory failure include the Listeria-tainted cantaloupe that killed 29 people across the country in October. Pedal entrapment issues that cause cars to accelerate uncontrollably resulted in Toyota’s recall of nearly 2 million vehicles. There was Mattel’s recall of nearly a million toys in 2007 because the toys were covered in lead paint. There are other examples of this.

Public health and safety precautions have been on the books for a long time and were passed with bipartisan support. The fact is there were more regulations during President Bush’s term than there were overall in President Obama’s when you calculate the time they’ve been in office. Yet there was no call to cut back when President Bush was in office. It’s only since President Obama has been in office.

The Pure Food and Drug Act was enacted in 1906 by Teddy Roosevelt, then the Food, Drug and Cosmetics Act in 1938. The Clean Air Act and the Occupational Safety and Health Act were enacted in 1970 when Richard Nixon was President. The Clean Water Act was enacted in 1977. They’ve served our country well for many years.

If H.R. 527 is enacted without adopting this amendment, we can no longer take protections from these harms for granted because, in the future, agencies will be hamstrung from passing regulations to protect the public.

I would urge us to pass this amendment and to protect our workers, our consumers, our small businesses, and our small business people when they eat to their health, their lunches and their dinners, when they buy toys for their children and their grandchildren, when they drive their cars, and when they work in their workplaces.

I yield back the balance of my time and ask for a positive vote.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Chairman, even in his regulatory czar, Professor Cass Sunstein, admit that over-regulation hampers job creation. The Regulatory Flexibility Act of 1980 is based on the fact that regulatory compliance is especially costly for small businesses, which are America’s main job creators. In this economy, we have no room for error when it comes to over-regulation.

The bill ensures that all agencies follow the Regulatory Flexibility Act. H.R. 527 does not ask agencies to do anything they would not be doing already right now.

There is no reason to create the blanket exemptions proposed by this amendment. There are no such exemptions currently in the Regulatory Flexibility Act for the categories of rules described in the amendment. Further, the amendment would create tremendous confusion among agencies and small businesses regarding which rules would apply to a future rulemaking. We need less confusion and uncertainty, not more, in the regulatory process.

If the amendment stems from a concern about the ability of agencies to make reasonable exceptions in emergency situations, I would note once again that agencies may avail themselves of the “good cause” exception to the notice-and-comment rulemaking process already in the Administrative Procedure Act. If an agency justifiably invokes this exception, it will not have to conduct the analysis required under the Regulatory Flexibility Act.

For these reasons, I oppose this amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Tennessee (Mr. COHEN).

The question was taken; and the Acting Chairman announced that the noes opposed the amendment.

Mr. COHEN. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Tennessee will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. PETERS

The Acting CHAIR. It is now in order to consider amendment No. 4 printed in part A of House Report 112-296.

Mr. PETERS. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will read the text of the amendment.

The text of the amendment is as follows:

Page 27, insert after line 18 the following:

SEC. 12. EXCEPTION FOR CERTAIN RULES.

Chapter 6 of title 5, United States Code, 212(a)(5) the Small Business Regulatory Enforcement Fairness Act of 1996, section 2341 of title 28, United States Code, and section 2342 of such title, as amended by this Act, shall not apply in the case of any proposed rule, final rule, or guidance that the Director of the Office of Management and Budget determines will result in net job creation. Chapter 6 of title 5, United States Code, 212(a)(5) the Small Business Regulatory Enforcement Fairness Act of 1996, section 2341 of title 28, United States Code, and section 2342 of such title, as in effect before the enactment of this Act shall apply to such proposed rules, final rules, or guidance, as appropriate.

Page 1, in the matter preceding line 6, insert after the item relating to section 11 the following:

Sec. 12. Exception for certain rules.

The Acting CHAIR. Pursuant to House Resolution 477, the gentleman from Michigan (Mr. PETERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Michigan.

Mr. PETERS. Mr. Chairman, I yield myself such time as I may consume.

There is no question that Congress must act immediately to help our Nation’s small businesses succeed, create jobs and boost our economy. Unfortunately, instead of enacting common-sense legislation to extend the payroll tax cuts for middle class families and enacting the American Jobs Act to help small businesses afford new hires and investments, we are today considering the Regulatory Flexibility Improvements Act.

This legislation, while well intentioned, is a step in the wrong direction. In addition to making it more difficult for agencies to take action to protect workers and the public, it will also slow down agency guidance that could help create certainty and spur job creation. This bill will create “paralysis by analysis” by subjecting any action an agency proposes to a lengthy regulatory review process. Every agency guidance issued to small businesses clarifying how well they can comply with existing rules will be slowed down considerably.

This is why I’ve put forward an amendment to improve this bill and to cut through the additional red tape that it creates when it matters most, which is when new jobs are on the line. My amendment simply says that the new administrative hurdles that this bill creates will not apply to any rule, final rule or guidance that the Director of OMB determines will result in net job creation.

While my Republican colleagues keep repeating the story that new regulations are slowing down our economic growth, this simply isn’t the case. A recent study by the National Federation of Independent Businesses of its members found that “poor sales,” and not regulation, is the biggest problem facing businesses today.

Effective regulatory reform can promote job growth and put Americans back to work. As someone living in southeast Michigan, I have seen firsthand the way increased fuel economy standards have made American autos more competitive while also saving drivers money on gas and helping our environment. According to the United Auto Workers and the National Resources Defense Council, these new standards have already led to the creation of more than 100,000 jobs.

Whether it is providing small businesses with the guidance they need so that they can have the certainty while making investment and hiring decisions or enacting environmental reforms to help bring about the next generation of green technology, the Federal Government cannot waste any more time dragging its feet when it comes to job creation.

For these reasons, I urge my colleagues on the other side of the aisle who repeatedly voted against government red tape. But let’s be clear: If they oppose this amendment, they will, in fact, be voting to
create more red tape and stymie small business job creation.

I urge my colleagues to support this commonsense, pro-jobs amendment.

I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise to oppose the amendment.

The Acting CHAIR. The gentleman from Michigan (Mr. PETERS).

Mr. PETERS. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIR. The Chair recognizes the gentleman from Texas.

Mr. SMITH of Texas. Thank you, Mr. Chairman.

First of all, I would like to point out that the National Federation of Independent Business actually does support this legislation; I also would like for the record to show that a recent Gallup poll taken on October 24 of this year said that small business owners themselves cite “complying with government regulations” as their most important problem. Now, that’s why we are here today.

Mr. Chairman, I oppose this amendment because it puts the cart before the horse. The reason we require agencies to conduct regulatory flexibility analysis is so the agencies and the public will know how a new regulation will affect small businesses before the agency issues the regulation.

The amendment would exempt from the Regulatory Flexibility Act any rule that would result in net job creation. We certainly know that regulations can destroy jobs. Even the administration acknowledges that.

Whether regulations can ever truly create jobs is another question all together. Assuming that a regulation could actually create a job, an agency will not know this without analysis first, which is what the bill requires agencies to do.

There is no good reason to transfer this responsibility to conduct this analysis from the agency, themselves, to the Office of Management and Budget, as the amendment proposes.

For these reasons, I oppose the amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the gentleman’s amendment, offered by the gentleman from Michigan (Mr. PETERS).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. PETERS. Mr. Chairman, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Michigan will be postponed.

AMENDMENT NO. 5 OFFERED BY MS. JACKSON LEE OF TEXAS

The Acting CHAIR. It is now in order to consider amendment No. 5 printed in part A of House Report 112-296.

Ms. JACKSON LEE of Texas. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Add, at the end of the bill, the following:

SEC. 12. GAO REPORT.

Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the cost effectiveness of the amendments made by this Act. Such report shall include the following:

(1) A list of all additional costs and resources that each agency will have to expend to carry out this Act and the amendments made by this Act.

(2) The effect of this Act and the amendments made by this Act on the efficiency of the rule making process (including the amount of time required to make and implement a new rule).

(3) To what extent this Act or the amendments made by this Act will impact the making and implementation of new rules in the event of an emergency.

(4) The overall effectiveness of this Act or the amendments made by this Act (including the extent to which agencies are in compliance with the Act or the amendments to the Act).

The Acting CHAIR. Pursuant to House Resolution 477, the gentlewoman from Texas (Ms. JACKSON LEE) and a Member opposed each will control 5 minutes.

Ms. JACKSON LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

I would like to think that our colleagues are in their offices communicating with their constituents and doing much of the work that we do and writing probably other great legislative initiatives, and they are paying attention to this debate and they keep hearing the same “small businesses’” and they want to know why any of us have a disagreement about small businesses when we have, I think, a consensus that small businesses are in fact the backbone of America; they are the job creators of America.

I recall many of us have initiatives. I have an initiative of visiting small businesses. Just a couple of weeks ago, I donned the clothing of a medical practice. I went to a beauty school and practiced. I went on to an energy company. I went on to a small export-import company, and I stood out as a safety officer for a construction company owned by a single mother.

So we all speak the language of small businesses. And you would think that my good friends on the other side of the aisle would have looked more closely at how damaging H.R. 527 is because, for those who may be listening in their offices and others, right now you have a three-agency framework of reviewing regulations dealing with small businesses.

Now you’re going to include that all the agencies have to get into the act in stifling small businesses’ activities and their growth and opportunity. Remember now, right now we have three, and then we’re going to open up the lot so that every agency now has to go through a regulatory process to determine its impact on small businesses.

What is the significant economic impact? Nobody knows. It forces agencies to engage in wasteful, speculative analysis. It imposes an absurd and wasteful requirement on those agencies.

So I have a simple amendment. Ask the question beforehand: What is the economic impact of all of this vast new inclusion of other agencies to come down on our small businesses? It requires my amendment, a GAO study, to tell us what is the impact of this bill and the effect it will have on Federal agency rulemaking. Simple, bipartisan amendment, I ask my colleagues to join me in supporting it.

I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIR. The gentleman from Texas has 2 minutes remaining.

Ms. JACKSON LEE of Texas. I thank the gentleman.

Let me just continue looking for bipartisanship. I am hoping that I can convince my friend from Texas not to desire to have a can of worms, a potpourri of agencies coming out with the hand of oppression on small businesses.

This is a simple question that I’m asking. The GAO, the Government Accountability Office, simply would be asking the question: What is the significance of economic impact of a substantial number of small entities which will greatly slow down the rulemaking process and substantially empower other competitors to small business to throw sand in the gears of rulemaking that will help small businesses, women-owned businesses, minority-owned businesses, disabled veterans?

What is the reason for not agreeing to an important study? It forces agencies to again engage in wasteful, speculative analysis, bandying an assessment of all reasonably foreseeable indirect economic effects.

We can do it ahead of time. Will this kill jobs is the question. It expands judicial review to include all agency activities and not just final action.

Mr. Chairman, can we not find an opportunity to come together on this? I would much rather have a report to tell me how many small businesses will shut down waiting for agency review of the rules that would be helpful to them.

Have we engaged with the Small Business Committee? Has anyone
asked the ranking member of that committee, even the chairman of that committee, who are champions of small business? I don’t think I have seen the chairperson, but I have seen the ranking member, who listens to small businesses across the country. If there was a rule that does that, then maybe, in fact, it will help a small business, this bill kills it.

The small businesses are hanging on for dear life. Pass the rule. Pass the rule. Now you have put in all these agencies, dilly-dallying around trying to be a way to stifle the growth of the small business.

Mr. Chairman, common sense tells Members that it doesn’t hurt to have just this one bipartisan effort to get the answer of the economic impact beforehand. Down in Texas we say, close the barn door before the cow gets out, or the cart before the horse, the horse before the cart. We’ve got all of that. We’ve got confusion.

I am simply having a simple amendment that would allow the GAO to report on how we can better serve our small businesses and create the jobs that are necessary. I ask my colleagues, including Mr. Smith, to support this amendment.

Mr. Chairman, I yield today in support of my amendment to H.R. 527, the “Regulatory Flexibility Improvements Act of 2011.” My amendment would require a GAO study to determine the cost of carrying out this bill and the effect it will have on federal agency rulemaking. In addition, the report must contain information on the impact of repealing the ability of an agency to waive provisions in the Regulatory Flexibility Act when responding to an emergency.

This bill would amend the Regulatory Flexibility Act of 1980 in such a manner that it would result in significant delays in the agency rulemaking processes by mandating multi-agency analyses of both direct and indirect costs for rules proposed or finalized by a single agency.

My amendment simply requires that the Comptroller General, within 2 years after the enactment of the legislation, issue a report to Congress on the cost effectiveness of the changes implemented by this Act.

The report would list all additional costs and resources that each agency will have to expend to carry out the Act and the amendments made by the Act.

It would also show the effect of this Act and its amendments on the efficiency of the rulemaking process, including the amount of time required for agencies to implement a new rule. This study would report on any impact that this Act or its amendments would have on the ability to implement new agencies in the event of an emergency. Lastly, this study would examine the overall compliance of agencies with the Regulatory Flexibility Improvement Act (RFIA).

By requiring that multiple agencies conduct detailed economic analyses of a rule proposed by a single agency, each agency will have to expend time and resources to uncover the indirect economic effects of the proposed rule. This is especially burdensome on a process that is already sufficient in length, as rules currently require a 30 day period after publication prior to effectiveness.

There is one overarching problem with H.R. 527. Although it claims to make improvements, one thing it does not do is provide the needed clarification that the GAO has repeatedly pointed out, and that the agencies have asked for.

In the past, there have been GAO reports showing incidents of agency noncompliance with the current regulatory flexibility rules for rule making. The reports cited that this noncompliance is due largely to confusion surrounding the meaning of “significant economic impact on a substantial number of small entities.” Agencies have stated that they need better clarification of this clause to aid them in determining when rule making analysis and review is necessary.

Another part of this expanded review and analysis called for in H.R. 527 that concerns me is the potential it has to impede upon emergency rulemaking. Every so often, there are instances when an agency has to implement a new rule or regulation in response to an emergency. Under the current law, there is an exception allowing agencies to bypass the usual procedures in the event of an emergency. The provisions of this bill cloud that exception. Furthermore, the rule-making process is made more cumbersome and expensive by requiring multi-agency review. If the purported reason for amending the Regulatory Flexibility Act with this bill is to save the American taxpayers money by including provisions requiring analyses of direct and indirect effects of proposed rules, then it should follow that the costs of implementing such provisions should not outweigh the benefits they provide.

My amendment will ensure just that by requiring the Comptroller General to issue a report to Congress that includes (1) the additional costs and resources that each agency must expend to maintain compliance with this Act, (2) an analysis of the effect that this Act has on the efficiency of the rule-making process, and (3) an analysis of the potential difficulties that may arise in an emergency situation in which an agency must implement new rules.

If the process by which government agencies create rules is changed to require the disclosure of all costs and resources that each agency must expend to maintain compliance with this Act, (2) an analysis of the effect that this Act has on the efficiency of the rule-making process, and (3) an analysis of the potential difficulties that may arise in an emergency situation in which an agency must implement new rules.

I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I yield myself the balance of my time.

I oppose this amendment because it is unnecessary and would result in a biased study by the Government Accountability Office.

The study proposed by the amendment focuses excessively on costs to businesses in the event of a proposed rule, then shouldn’t the Act that makes such changes have its own costs to the American taxpayers disclosed? My amendment will ensure that this disclosure is made to the public upon this legislation’s enactment.

I yield back the balance of my time.

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I oppose this amendment because it is unnecessary and would result in a biased study by the Government Accountability Office.

The study proposed by the amendment focuses excessively on costs to businesses in the event of a proposed rule, then shouldn’t the Act that makes such changes have its own costs to the American taxpayers disclosed? My amendment will ensure that this disclosure is made to the public upon this legislation’s enactment.

I yield back the balance of my time.

Mr. Chairman, I rise today in support of my amendment to this hazardous and radioactive bill called the Regulatory Flexibility Improvements Act.

This amendment, however, favors the idea that the bill places too heavy of a burden on regulators.

Fundamentally, the purpose of the Regulatory Flexibility Act is to reduce the regulatory burden on small businesses, not on agencies. Job creators, not job regulators, are the key to our economic recovery.

Mr. Chairman, for these reasons, I oppose the amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON LEE).

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Ms. JACKSON LEE of Texas. I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas will be postponed.

AMENDMENT NO. 6 OFFERED BY MR. JOHNSON OF GEORGIA

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in part A of House Report 112–296.

Mr. JOHNSON of Georgia. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Add at the end of the bill the following:

SEC. 12. APPLICATION WITH REGARD TO CERTAIN STATUTE.

None of the amendments made by this Act shall apply to any rule or regulation to carry out the FDA Food Safety Modernization Act (21 U.S.C. 3501 note).

The Acting CHAIR. Pursuant to House Resolution 477, the gentleman from Georgia (Mr. JOHNSON) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. JOHNSON of Georgia. Mr. Chairman, I rise today in support of my amendment to this hazardous and radioactive bill called the Regulatory Flexibility Improvements Act.

Now, I want this body to consider my amendment to the bill for the following reason: The FDA Food Safety Modernization Act became law in January of this year, January 4, 2011. It was necessitated by a continuing series of incidents, such as the October 2009 Stephanie Smith incident, which I will tell you a little bit about. She’s a children’s dance instructor from Minnesota. She became paralyzed from E. coli. According to a New York Times article, “The frozen hamburgers that the Smiths ate, which were made
by the food giant Cargill, were labeled ‘American Chef’s Selection Angus Beef Patties.’ Yet confidential grinding logs and other Cargill records show that the hamburgers were made from a mix of slaughterhouse trimmings and a mash-like product derived from scraps that were left over from a plant in Wisconsin. The ingredients came from slaughterhouses in Nebraska, Texas, and Uruguay, and from a South Dakota company that processes fatty trimmings and treats them with ammonia to keep them fresh. Stephanie has sued Cargill, and I know that many of my colleagues on the other side of the aisle would want to limit her ability to recover for this injury through misguided so-called tort reform.

But getting back to this matter, this amendment is simple. It would ensure that Americans have access to safe and untainted food. It would create an exception for any rulemaking that seeks to carry out the FDA Food Safety Modernization Act.

Every year one in six Americans gets sick from foodborne diseases. The FDA Food Safety Modernization Act enables the FDA to better protect public health by strengthening the food safety system.

This bill would make it virtually impossible for Federal agencies to protect public health and safety. Nobody likes to be tied up in redtape, but this bill would bring regulations to a halt and make it virtually impossible to enact new regulations. Currently, rulemaking agencies must make an analysis for every new rule that would have significant economic impact on a substantial number of small entities, such as small businesses.

However, agencies have the authority to waive or delay this analysis in emergency situations. Now, this bill, Mr. Chairman, would require agencies to determine the indirect costs a rule has on small businesses. It repeals the authority of an agency to waive or delay this analysis in response to an emergency that makes timely compliance impracticable or imprudent.

This summer there was a listeria outbreak linked to cantaloupes that sickened 139 people and killed 29. Just today, The Washington Post reports that Consumer Reports released an alarming study that found high levels of arsenic in samples of apple juice. Consumer Reports is now calling on the FDA to set standards for arsenic levels for apple and grape juices.

The Consumer Reports Group is now demanding that parents restrict juice consumption to children up to 6 years old to no more than 6 ounces per day. For older children, it recommends no more than 8 to 12 ounces a day.

Now is not the time to hamper agencies, such as the FDA, that are charged with keeping the American public safe. If there is a legitimate concern that our children may be being harmed, the FDA needs the authority to act quickly and without delay. It’s essential that the FDA have the ability to conduct inspections as well as prevention programs without having to go through speculative paralysis of analysis of a proposed rule, nor should the FDA be forced to justify existing rules.

Mr. Chairman, I urge support for my amendment, and I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment. The Acting CHAIR. The gentleman is recognized for 5 minutes.

Mr. SMITH of Texas. I oppose this amendment because it carves out an exception to the bill for regulations under the Food and Drug Administration.

If agencies were doing the depth of pre-regulatory analysis they are supposed to be doing under the Regulatory Flexibility Act, then we wouldn’t be here today.

Small businesses create jobs, and jobs are the key to economic recovery. To help small businesses—like minority-owned restaurants, for example—create jobs we need to reduce, not increase, the regulatory burden on them.

The FDA is not currently exempt from the Regulatory Flexibility Act, so it makes no sense to exempt the FDA from the bill, either.

This amendment also would create confusion within the FDA by exempting only its responsibilities under the Food Safety Modernization Act from this bill. There should not be two versions of the Regulatory Flexibility Act in play at the FDA.

For these reasons, I oppose the amendment, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Georgia (Mr. JOHNSON). The amendment was taken, and the Acting Chair announced that the noes appeared to have it.

Mr. JOHNSON of Georgia. I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Georgia will be postponed.

\[1600\]

ANOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings will now be postponed on amendments printed in part A of House Report 112–296 on which further proceedings were postponed, in the following order:

Amendment No. 2 by Ms. JACKSON LEE of Texas.

Amendment No. 3 by Mr. COHEN of Tennessee.

Amendment No. 4 by Mr. PETERS of Michigan.

Amendment No. 5 by Ms. JACKSON LEE of Texas.

Amendment No. 6 by Mr. JOHNSON of Georgia.

The Chair will reduce to 2 minutes the minimum time for any electronic vote after the first vote in this series.
Mr. FILNER. Mr. Chair, on rollcall 874, I was away from the Capitol due to prior commitments. Had I been present, I would have voted "aye.")

**AMENDMENT NO. 3 OFFERED BY MR. COHEN**

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Tennessee (Mr. Cohen) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded. A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were 171 ayes 248, not voting 14, as follows:

[Roll No. 875]

**AYES—171**

Ackerman—Hutto
Altman—Hahn
Andrews—Hanabusa
Baca—Hastings (FL)
Baldwin—Heinrich
Bass—Higgins
Recerra—Himes
Berkley—Hinchey
Berman—Hino
Blumenauer—Hochuli
Brady (PA)—Roñ
Brady (FL)—Ronñ
Capps—Israel
Caspiano—Jackson (IL)
Carson (CA)—Jackson Lee (TX)
Castro (FL)—Johnson, R. B.
Chu—Kaptur
Cicilline—Keating
Clarke (MI)—Kildee
Clarke (NY)—Kucinich
Clay—Langervin
Cleaver—Larson (WA)
Clyburn—Larson (CT)
Cohen—Lee (CA)
Connelly (VA)—Levin
Conyers—Lewis (GA)
Costello—Lipinski
Courtney—Losèzbak
Crispus—Lowey
Crowley—Lujan
Cumminings—Lynch
Davis (CA)—Maloney
DeLauro—Matsui
DeLaney—McCarthy (NY)
Doggett—McCollum
Diestelkircher—McDevitt
Dingell—Meeks
Doggett—McMorris
Edwards—Mehan
Ellison—Michaud
Engel—Miller (NC)
Fattah—Miller, George
Fudge—Miller, E.
Garamendi—Moran
Gonzalez—Murphy (TX)
Green, Al—Napolitano
Green, Gene—Neal
Grijalva—Olver

**NOES—268**

Adams—Alexander
Aderholt—Amanat

**NOT VOTING—16**

Bachmann—Fl"ner
Bartlett—Hartzler
Chu—Frank (MA)
Cleaver—Giffords
Deutch—Gonzalez
Doyle—Grijalva

**NOT VOTING—14**

Mr. BISHOP of Georgia changed his vote from "aye" to "no." So the amendment was rejected.

**ANNOUNCEMENT BY THE ACTING CHAIR**

The Acting CHAIR (during the vote). There is 1 minute remaining.

Mr. BISHOP of Georgia changed his vote from "aye" to "no." So the amendment was rejected.
The result of the vote was announced as above recorded.

Stated for:
Mr. FILNER. Mr. Chair, on rolloc 875, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted "aye."

AMENDMENT NO. 4 OFFERED BY MR. PETERS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. PETERS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 2-minute vote.

The vote was taken by electronic device, and there were—ayes 179, noes 243, not voting 11, as follows:

(Roll No. 876)

AYES—179

Ackerman Ackerman
Altmire Altmire
Andrews Andrews
Baca Baca
Baca, G. Green, G.
Baca, S. Green, S.
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Barrios Barrios
Bennett Bennett
Berman Berman
Berman, H. Hastings, (FL)
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So the amendment was rejected.

The result of the vote was announced above.

Stated for:
Mr. FILNER. Mr. Chair, on rollcall 877, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted "aye."

AMENDMENT NO. 6 OFFERED BY MR. JOHNSON OF TEXAS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Georgia (Mr. JOHNSON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded. A recorded vote was ordered.

The Acting CHAIR. This will be a 2-minute vote.

The vote was taken by electronic device, and there were—aye 170, noes 250, not voting 13, as follows:

(Roll No. 878)

AYES—170

Ackerman  Green, Gene
Altman  Grijalva
Andres  Napolitano
Andreas  Gutierrez
Akin  Rahm
Altmire  Hanabusa
Amash  Rohrabacher
Amodei  Pearce
Austria  Pence
Bachus  Graves (MO)
Barbieri  Petri
Barrow  Griffith (VA)
Barton (TX)  Pitts
Bass (NH)  Poise (TX)
Benishek  Pompeo
Berg  Poulsen
Bigger  Price (GA)
Blair  Reagan
Bilirakis  Reed
Bilirakis (WA)  Reed
Bishop (GA)  Reinhardt
Bishop (UT)  Rehberg
Blank  Heroft
Blacker  Rokita
Blackburn  Rigell
Boner  Rivera
Bono Mack  Roby
Boren  Roe (TN)
Boehlert  Rogers (AL)
Bosstone  Rogers (MI)
Boucher  Rohrabacher
Brady (TX)  Roybal
Brooks  Roe (NC)
Broun (GA)  Ros-Lehtinen
Buchanan  Ross (CA)
Burgess  Ross (FL)
Burton (IN)  Royce
Calvert  Runyan
Campbell  Ryan (WV)
Carnesecchi  Scalise
Capito  Schilling
Cardona  Schneck
Carter  Schrader
Cascardi  Schwertler
Casas  Scott (NC)
Chabot  Scott, Austin
Chaffetz  Sensenbrenner
Chapman  Sessions
Coble  Shuler
Colman (CO)  Shuster
Collin  Simpson
Conaway  Smith (ME)
Cooper  Smith (NJ)
Cravaack  Smith (TX)
Crawford  Southerland
Crenshaw  Stearns
Culberson  Stivers
Davis (NY)  Stivers
Davis (VA)  Sullivan
Dent  Terry
DeLauro  Thomas (CT)
DeLauro  Thompson (CA)
Dies  Thompson (TX)
Dold  Tipton
Dreier  Turner (NY)
Duncan (SC)  Turner (OH)
Duncan (TN)  Upton
Eilers  Webster
Emerson  Welberg
Farenthold  Webster
Fincher  Webster
Finley  Wester研究所
Fleischmann  Whitefield
Flores  Whitfield
Fortenberry  Wittman
Fox  Wolf
Frank (AZ)  Womack
Frelinghuysen  Woodall
Gallo  Yoder
Garrett  Young (AK)

NOT VOTING—11

Bachmann  Hartley
Bartlett  Haulsey
Conyers  Schmidt
Deutch  Grijalva

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 30 seconds remaining.
The result of the vote was announced as above recorded.

Stated for:
Mr. FILNER, Mr. Chair, on rollcall 878, I was away from the Capitol due to prior commitment to my constituents. Had I been present, I would have voted "aye."

The Acting CHAIR (Mr. GARDNER). The question is on the amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The Acting CHAIR (Mr. GARDNER). Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BISHOP of Utah) having assumed the chair, Mr. GARDNER, Acting Chair of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H.R. 527) to amend chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act), to ensure complete analysis of potential impacts on small entities of rules, and for other purposes, and, pursuant to House Resolution 477, reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment reported from the Committee of the Whole?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT
Ms. LORETTA SANCHEZ of California. Mr. Speaker, I have a motion to recommit the bill to the Committee of the Whole.

The SPEAKER pro tempore. The question is on the amendment to the amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The SPEAKER pro tempore. The motion to recommit in the nature of a substitute is noncontroversial and aims to provide incentives to small businesses to hire veterans. Amendment to H.R. 527 that, if passed, will allow the bill to be brought back promptly to take a vote for final passage. Mr. Speaker, this final amendment is noncontroversial and aims to do one simple thing: to protect the incentives that assist small businesses to hire veterans. This amendment comes at a very critical time for our small businesses and for our veterans.

Several weeks ago, this House did something that most of America doesn’t believe. We came together, all of us—Republicans and Democrats. We voted on a bill, and we passed a bill together, unanimously, the VOW to Hire Heroes Act of 2011.

The bill pushes key provisions, like providing small businesses with incentives so that they will hire veterans who have been unable to find employment. As a new law, the tax credits that we offer in that VOW bill would require additional regulations to be implemented in order for small businesses to begin to hire our veterans. Our veterans need jobs—not tomorrow, but now. Yet this bill, the one we are considering right now, sets up many new hurdles and delays for new regulations. Now those hurdles delay the implementation of the VOW to Hire Heroes Act.

In a little more than 2 weeks, we went from a 422-0 vote with that VOW Act to now potentially hindering our small businesses from hiring veterans.

However, we have a chance to fix that. We have a chance to fix that right now, and we have a chance to fix it and to bring back this vote promptly, to bring this bill and vote it today. So I ask my colleagues, especially those on the other side, what are your priorities? I know what my priorities are. My priorities are to small businesses and my priorities are to our veterans who have fought for this Nation. Mr. Speaker, if my colleagues on the other side believe that small businesses are what create the jobs in America, then we can fix this bill by voting for my amendment. If you believe that our veterans should not have to fight for a job after having fought for our country, then we can fix this bill by voting for my amendment.

If my colleagues believe that the over 250,000 unemployed veterans under the age of 35 deserve a job, then we can fix this bill by voting for my amendment.

I know what this side of the aisle believes. We know what the choice is. It’s about small businesses creating jobs and hiring these brave men and women.

We want our small businesses to have those incentives they need to hire our veterans now, not next year or the following year—now. We need jobs now.

The bill itself raises a lot of regulations and hurdles to new implementation, but if we can fix the bill, and we can help our veterans and our small businesses. It’s our duty here in Congress to look after those who have looked after the people of this country.

My final amendment does this by ensuring that we allow those regulations that are needed to protect these incentives for the small businesses who want to hire veterans. I would have no doubt—I would never think that my colleagues on any side of the aisle would want to intentionally hinder the hiring of veterans, especially after I saw that unanimous vote right before Thanksgiving. Remember that—we finally did something together.

So I ask all of you, let’s do the right thing. Will you stand with our veterans and small businesses and protect those incentives that we voted for 2 weeks ago? If you believe it’s the right thing to do, then you will vote for this amendment.

If you believe that a 21 percent unemployment rate for our young male veterans between the ages of 18 and 24 is too high, then you will vote for my amendment to ensure those incentives to hire our veterans will be in place, and that we will want to make sure that my colleagues on the other side of the aisle: a "yes" vote on my amendment will not prevent this bill from being voted on today.

If adopted, it will be incorporated into the bill and voted on for final passage.

I ask my colleagues to do the right thing, to fight for protecting the incentives that will allow our veterans to be hired by small businesses.

Regardless of how either aisle feels about the underlying bill, I know this chamber can make the right choice by voting "yes" on my amendment.

Mr. GOWDY. Mr. Speaker, I rise in opposition to the motion to recommit.

The Acting CHAIR. The gentleman from South Carolina is recognized for 5 minutes.

Mr. GOWDY. The President in this very Chamber said we should have no more regulation than is necessary for the health, safety, and security of the American people. Mr. Speaker, the President in this very Chamber conceded overregulation has stifled innovation and chilled growth and jobs. Professor Cass Sunstein, hardly a conservative acolyte, said we must take aggressive steps to eliminate unjustified regulatory burdens, especially in today’s economic environment.

Mr. Speaker, 48 percent of the payroll in this country comes from small businesses, two-thirds of all the jobs created in the last two decades come from small business. Small businesses, Mr. Speaker, is the backbone of this economy and the single best way for all Americans, veterans included, but all Americans, to experience the majesty of the American Dream. The jobs created in the last two decades come from small business. Small business, Mr. Speaker, is the backbone of this economy and the single best way for all Americans, veterans included, but all Americans, to experience the majesty of the American Dream.

So one would think that our colleagues would storm the aisle to join us in providing relief to small business, including veterans. One might think our colleagues would help us rush to form a phalanx against an over-reaching regulatory apparatus.

So, Mr. Speaker, let’s stop using veterans as political footballs and start
helping all Americans, including veterans. The Regulatory Flexibility Improvement Act of 2011 is a logical reform. It simply asks agencies to do the kind of pre-regulatory analysis they should have been doing anyway. Frankly, the bill seeks to enact much of what the President claims having it wants with respect to regulatory reform, since small business creates most of our jobs.

Since regulatory compliance costs are higher for them than for larger competitors, Congress passed the RFA to require agencies to analyze regulations in advance. Hardly a revolutionary idea, Mr. Speaker. Know the consequences of your actions before you act, especially when it comes to having a chilling effect on job creation.

But the experience over the last 15 years has shown the law needs to be reformed, Mr. Speaker, and updated because agencies aren’t getting the message.

This bill requires agencies to do what they should be doing anyway, which is to calculate the impact of their regulations on job creators beforehand, to make sure all agencies follow the rules, not some of the time, not when they feel like it, but all of the time.

Mr. Speaker, our fellow citizens want to work. They want to meet the needs of their families. They want to meet their societal obligations, and we should be doing everything in our power to make sure regulatory agencies ‘measure twice and cut once.’ Our job requires and this bill enforces ‘measure twice and cut once.’

And our job requires and this bill enforces that regulatory agencies should be doing everything in our power to make sure regulatory agencies on job creators beforehand, to make sure agencies aren’t getting the message.

For this reason, Mr. Speaker, I urge my colleagues to oppose the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question was taken; and the motion to recommit was rejected.

The vote was taken by electronic device, and there were—ayes 188, noes 233, not voting 12, as follows:

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<th>Roll No. 879</th>
<th>AYES—188</th>
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ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote), There is One minute remaining.

1801

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BACHUS. Mr. Speaker, on Mr. rollcall No. 880 on final passage of H.R. 527, I was on the House floor, but inadvertently missed the vote. Had I been recorded, I would have voted "aye".

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall No. 880, I was away from the Capitol due to prior commitments to my constituents. Had I been present, I would have voted "no".

GABRIEL ZIMMERMAN MEETING ROOM

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and agree to the resolution (H. Res. 364) designating room HVC 215 of the Capitol Visitor Center as the "Gabriel Zimmerman Meeting Room", on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. FLEISCHMANN) that the House suspend the rules and agree to the resolution.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 419, nays 0, not voting 14, as follows:

[Ballot No. 881]

YEAS—419

Acheampong, Fred
Ackerman, Steve
Adler, Bob
Adler, Mark
Adler, Richard
Adler, Ted
Alexander, Steve
Alam, William
Albany, Andrew
Albright, Scott
Allen, Adam
Allen, Dan
Allen, Steve
Allison, Scott
Altmire, Jason
Amash, Andy
Anderson, Bear
Anderson, Dave
Anderson, Ian
Anderson, John
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Anderson, Peter
Anderson, Steven
Andrews, Justin
Andrews, Peter
Andrews, Tom
Angie, Chell
Angel, Jennifer
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Anthony, Morgan
Anthony, Tom
Anthony, Tony
Anthony, Troy
Anthony, Tom
Antonello, Mark
Antonello, Rich
Antonuccio, Tony
Aquila, Mike
Aquilino, Andy
Applegate, Todd
Applegarth, Ken
Appleby, John
Arata, Frank
Arcara, Alan
Arcara, Mark
Archibald, Steve
Argall, Mark
Arias, Joe
Arias, Matthew
Arata, Frank
Armstrong, Bill
Armstrong, Steve
Arnold, Frank
Arnold, Ian
Arnold, Tim
Arnold, Todd
Arora, Vinod
Arpaia, Helsinki
Arpke, Alex
Arredondo, John
Arroyo, David
Arsenault, Tom
Aronen, Tim
Arum, Shevek
Asante, Peter
Assante, Peter
Atkins, Kevin
Atkinson, John
Atkinson, Paul
Athey, David
Ayers, Michael
Aycliffe, David
Ayres, Jordan
Aytes, Tom
Azar, Neil
Baca, Rob
Bach, David
Bach, Paul
Bachman, Steve
Bachman, Todd
Bacon, John
Bacon, Scott
Badger, Doug
Badiani, Joe
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Mr. PALAZZO. Mr. Speaker, this weekend the 10-2 University of Southern Mississippi Golden Eagles are going to be traveling to Houston, Texas, to win the Conference U.S. Championship Game. As a fourth generation Golden Eagle, I would like to place a friendly wager with the House from Houston, Texas—a gallon of Mary Mahoney’s famous seafood gumbo—that we will walk away victorious.

Ms. JACKSON LEE of Texas. Will the gentleman yield?

Mr. PALAZZO. I yield to the gentlewoman from Texas.

Ms. JACKSON LEE of Texas. I am a proud Cougar, and as you well know, Cougars are silent, fast, and deadly. We welcome Southern Miss to Houston, Texas, the 12-0 Cougars, and we plan to give you all the barbecue you can eat as we celebrate the victory of the great Cougars, University of Houston, academic and athletic champions. It’s a pleasure to place this wager with you tonight. Cougars—ready to pounce on you.

Mr. PALAZZO. Well, our Golden Eagles’ talons are going to be out. They’re going to be ready. They’re going to be sharp, and we’re going to rip you all to shreds. I accept your wager.

Ms. JACKSON LEE of Texas. Peace in the valley. Victory for the Cougars.

POSTAL REFORM LEGISLATION

(Mr. CRAWFORD asked and was given permission to address the House for 1 minute.)

Mr. CRAWFORD. Mr. Speaker, in fiscal year 2011, the United States Postal Service brought in $65.5 billion in revenue but spent $70.6 billion. When counting a $5.5 billion mandatory payment to fund retiree health benefits, which they would have defaulted on already were it not for the extensions on the payment, the postal service ran a deficit of $10.6 billion.

In an attempt to cut costs, the postal service has announced that it’s considering closing over 3,600 post offices, the large majority of which are rural. By the postal service’s own numbers, they would only save $200 million annually if they were to close each of these post offices.

This is kind of like asking a family of four that makes $65,700 a year and adds $10,600 in credit card, and then only $4,000 in interest in a year, if people want new leadership in the House, isn’t interested in creating jobs for the American people. But now, if people want new leadership in the House, if they want a Congress that will finally focus on job creation, they’re foiled by restrictive election laws designed to suppress the vote. Guess which populations are disenfranchised by strict photo ID requirements and other barriers to political participation?

It’s not the wealthiest 1 percent. It’s not the affluent and the comfortable. It’s not, frankly, the base of the Republican Party. It’s disproportionately communities of color and low-income families who are having their rights undermined and even stripped away. These laws, passed in name of national security, after State, are underhanded. They’re an attempt to consolidate political power. They are unfair, undemocratic. And voting rights are among the most precious privileges that we have as citizens, and they must be protected.

LARRY MUNSON

(Mr. AUSTIN SCOTT of Georgia asked and was given permission to address the House for 1 minute.)

Mr. AUSTIN SCOTT of Georgia. Mr. Speaker, as a University of Georgia graduate and lifelong Bulldog fan, I’d like to pay tribute to a fallen legend in the Bulldog Nation. Last week, Larry Munson passed away at the great age of 89.

From an announcer for Major League Baseball to a U.S. Army medic during World War II, Larry Munson was a leader and a hero. However, he’ll best be known for his time spent as a radio football announcer for the Georgia Bulldogs.

For over 40 years, his passionate and authentic sportscasting set him apart from every other sports broadcaster. In fact, many of his phrases have become a part of Bulldog fan lore. From Herschel Walker running over people, to Kevin Butler’s 100,000-mile field goal, Larry Munson’s radio calls will live as some of the most memorable in college football.

Georgia Bulldog fans will never forget the sugar falling out of the sky and the houndail boot. Thus, with the Georgia Bulldogs and the LSU Tigers to square off this weekend in the SEC Championship, I end with the words Bulldog fans are used to hearing from Mr. Munson each and every game day: “As we prepare for another meeting between the hedges, let all the Bulldogs
faithful rally behind the men who now wear the red and black with two words, two simple words which express the sentiments of the entire Bulldog Nation: Go Dawgs.”

DEMANDING RELEASE OF ALAN GROSS FROM CUBAN PRISON
(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, today is the second anniversary of the unfair and brutal incarceration by the Cuban regime of Alan Gross, an American citizen; and I urge his immediate release.

Alan Gross is 62 years old and, in a trumped-up trial, was given 15 years in prison. Alan Gross has worked in international development in over 50 countries through the past several years and was in Cuba to aid the tiny Jewish community with telecommunications and Internet services when he was arrested and accused of being an American spy. This is a new low even for the Cuban regime. This is a new low even for the Castro brothers.

Alan Gross’s wife and family need him. His mother was just diagnosed with inoperable cancer, and his daughter was also diagnosed with cancer. They need him back.

We demand him back. He is an American citizen, and we are watching and waiting for every tiny community in Cuba. And I demand his immediate release.

ECONOMIC RECOVERY
(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I think there are four things the United States of America needs to do to turn the economy around.

Number one, we need to balance the budget. We can do this on a bipartisan basis just by reducing the duplications in government and the overlap between State functions and Federal functions; also getting through the waste, and then trimming off 1 percent over time to bring revenues and spending at the same level. We’re both now spending at 28 percent. Revenues historically have been at 18 percent. Common sense says you need to balance those out.

Number two, we need to get rid of the regulatory overload on businesses that are creating the jobs right now. Change regulations from an “I gotcha” mentality to one that “we’re here to help because we’re in it together,” for worker safety, environmental protection or whatever. We can do a lot just by changing the attitude of the regulator.

Number three, we need tax reform, tax simplification so that taxes are fair. The Tax Code needs to be a half an inch deep and miles and miles wide so that everyone is participating. Let’s get rid of the underbrush, all the loopholes.

Number four, and finally we need to drill our own oil. We cannot keep importing 65 percent of our oil. We need to have an all-of-the-above energy policy.

FIXING MEDICARE REIMBURSEMENT RATE
(Mr. MURPHY of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MURPHY. Mr. Speaker, I rise today to speak on behalf of the 600,000 Medicare beneficiaries in Connecticut and the thousands of physicians who care for them. We need to take up a bill in this Congress over the next several weeks to finally fix the flawed Medicare sustainable growth rate formula.

Since 2003, for almost a decade, physicians have been dealing with the uncertainty that comes with scheduled annual rate reductions. They’re staring at a 28 percent reduction right now. That means about $28,000 per year per Connecticut physician.

If this were to happen, it would happen at the worst possible time. With all the baby boomers coming on to the Medicare rolls, there would be a lot of physicians who just couldn’t take Medicare patients longer. They’d likely have to lay off workers at a time when we already have 9 percent unemployment in Connecticut and across the Nation.

This is unacceptable and we have to do something about it. So over the next several weeks, let’s fix this once and for all. Let’s stand together as a Congress and put an end to this outdated system and provide some certainty and security for America’s seniors and America’s physicians.

URGING SENATE ACTION ON JOBS LEGISLATION
(Mr. MICA asked and was given permission to address the House for 1 minute.)

Mr. MICA. Mr. Speaker and my colleagues, it’s time for the other body to act.

The Republican-controlled House of Representatives has a plan for putting Americans back to work. We’ve moved on more than 20 pieces of legislation that now sit idly in the other body. We have provisions that will empower small businesses—the great job creators of America. We have provisions that will fix the Tax Code to help create jobs. We have provisions that will help manufacturing to have jobs in America, not overseas. We have provisions that will encourage entrepreneurship and growth and maximize American energy production. And all of these measures sit over in the other body.

I call on the leadership of the other body and all Members to get this legislation moving forward. There are millions of people without jobs, and they need us to act not later but now.

And finally, I call on them to help finalize a 4 1/2-year-old, with more than 21 extensions, FAA bill that still languishes. It’s time to stop the nonsense and get America back to work.

Let’s pass these bills held hostage.

CONGRESSIONAL PROGRESSIVE CAUCUS
The SPEAKER pro tempore (Mr. MEEHAN). Under the Speaker’s announced policy of January 5, 2011, the gentleman from Minnesota (Mr. ELLISON) is recognized for 60 minutes as the designee of the minority leader. Mr. ELLISON. Mr. Speaker, thank you very much.

My name is KEITH ELLISON, cochair of the Progressive Caucus, and I do hereby claim this Special Order hour on behalf of the Progressive Caucus.

Right away, I’d like to introduce my goodwill friend from the State of Georgia, Congressman HANK JOHNSON, who has served with distinction along with me since 2007. Congressman JOHNSON is the whip of the Progressive Caucus.

Tonight we’re going to be talking about jobs, income inequality, and issue and we want to pass this issue on behalf of the Congressional Progressive Caucus.

Our Web page is right here at the bottom of this document that I’m showing, Mr. Speaker. So we encourage people to sign up and get ahead of us.

In the very beginning of this hour, I want to recognize my friend from Georgia so that he can make some introductory remarks about the importance of jobs, just as soon as he’s ready to take it on.

If the gentleman is prepared to make some opening and preliminary remarks about the importance of jobs, economic justice in the American middle class, I would like to yield to the gentleman to take it away there.

Mr. JOHNSON of Georgia. I thank the gentleman from Minnesota, my junior in the House. When I say that, I mean we’re both now serving in our third terms. We will be officially recognized, I guess if we’re fortunate to make it back for the 113th Congress, that will be our fourth term. We will be seniors, and we will be permanent seniors as long as the voters allow us to be. And we certainly want to do what the voters want us to do here.

What the voters of the Fourth Congressional District of Georgia tell me over and over and over again, day in and day out, 24-7, is that jobs is the top issue. They want the President’s job creation bill. They don’t understand why simple proposals that will create jobs and reinvigorate
our economy are something that we can't come to grips with here on the House floor. And I tell them to keep the faith, but I also tell them where the problem lies. It is not with the President. It's not with the Democrats in the majority party. It is with my friends on the other side of the aisle, the Tea Party-Grover Norquist Republicans who want to balance the budget. Their main issue is balancing our budget. And certainly our budget needs to be balanced, and that's something that we should do.

It's not our first priority.

Our priority right now, and I agree with the people of the Fourth District, it should be jobs. And if we don't create jobs, if we leave people on unemployment or unemployment having expired, that means less money circulating in the economy. If there's less money circulating, less economic activity, less job creation. And so there's a lot that we can do, but our budget needs to be balanced, and that's something that we should do.

I mean, you guys could go down there and talk. You could debate the issues. Some of us wanted to pinch a penny a little harder, some of us wanted to, but that happened by your bootstraps a little more. You liberals want to help everybody.

That's what he says about me. But the point is we could find a way to get along.

Today the moderate Republican, I'm looking for him. I can't wait to have him show up, because I cannot see anybody who has the spirit of cooperation that we could cut a deal with that would balance fiscal discipline on the one hand and the need to help and respond to the needs of Americans on the other hand. We see people who are carrying forth an extreme ideological agenda that is all around tax breaks and roll tax deductions are extended, and that revolves around unemployment being ignored, that revolves around all of these things.

They say "Jobs." People shouldn't be confused, Congressman Johnson. You will hear Republicans say "jobs." You just won't see them do anything about jobs, because if they want to do something about jobs, we could pass the American Jobs Act right away.

We could help make sure those payroll tax deductions are extended, and we could make sure unemployment benefits are extended, but we're just not seeing any of that.

What we are seeing is described on this board right here, which is the Republican no-jobs agenda. They've got a no-jobs program. They're saying, Get rid of the Environmental Protection Agency, which protects the water and our lungs; make sure we are subject to toxic, hazardous waste and pollution; and cut taxes for rich people. Then somehow, magically, we'll end up with jobs. That's not going to give anybody a job.

Mr. JOHNSON of Georgia. It certainly will not create any jobs. There is a false perception that has been bought into wholesale, unanimously, by my Tea Party-Grover Norquist Republican friends, and that is that deregulation somehow creates jobs.

Now, I know what kind of jobs are created when you deregulate the health and safety of food, water, air quality, and pollution. We create what happens when you don't have any regulations. It means you're going to have more people going to the doctor because of unsafe and unhealthy conditions—adulterated food, water. It means you're going to have more—

Mr. ELLISON, Asthma.

Mr. JOHNSON of Georgia. People in the mortuary business who are trying to determine the cause of death for people. You will have more cleanup workers, workers who are dispatched to clean up toxic sites. You'll create those kinds of jobs. Yet, as for the kind of high-level, 21st century jobs that this country needs in order to be the leader of the world economy in this global environment that we're in, there is not one measure that the Republicans have introduced that will stimulate the creation of those kinds of jobs.

So what we're doing, Congressman Ellison, is just creating conditions of great suffering so that people will vote against President Obama next November. The stated goal of my friends on the other side of the aisle—their main, central goal—is to make sure that President Obama is a one-term President. They don't care about how much pain they inflict on the American people, on the 99 percenters—and 47 percent of them are millionaires, so they don't have to worry. It's just to serve a political purpose.

Mr. ELLISON. The gentleman mentioned that the stated goal of the Republicans was to make President Obama a one-term President. This is not just political rhetoric. Mr.水晶 MENGWERN. And I say, I know in front of a computer can Google it and look it up—said that was his goal, which was to make President Obama a one-term President.

I think the goal of a Member of Congress ought to be to try to figure out how to look after the best interests of the congressional districts that they represent. I think that ought to mean jobs, health, safety, education. Trying to defeat the President should never be anyone's goal. I can guarantee you it was not my goal. Even though I did not think that his administration was the best administration for America, my first goal was not to get rid of President Bush. It was one of my goals. But I will tell you, my central goal was to try to promote peace and justice, economic opportunity and prosperity, not to try and defeat somebody else. The fact is that the Republicans have neglected the economy, and they've neglected the middle class. It really is too bad.

So, on this issue of paying for the extension of the payroll tax deduction, I just want to say that there is $1,000 that Americans don't have to pay in their paychecks when they get them every 2 weeks or every month, which is because of the payroll tax cut. If that expires, they'll see 1,000 more bucks over the course of a year that they'll have to pay.

Mr. JOHNSON of Georgia. Starting January 1.

Mr. ELLISON. Starting January 1, it's going to come out of their checks.

Now, Democrats have said, Let's ask the most well-to-do Americans—

Mr. JOHNSON of Georgia. The top 1 percent.

Mr. ELLISON. And they don't have to pay based on their first $1 million;
it’s just after their first $1 million—to toss a little back to the American people so that we can extend the payroll tax cuts for working class people.

Mr. JOHNSON of Georgia. But Grover Norquist doesn’t want them to do it.

Mr. ELLISON. Grover Norquist said no. They signed a pledge.

Mr. JOHNSON of Georgia. They signed it 20 years ago.

Mr. ELLISON. They signed it. They signed it not to the American people, but to Grover Norquist.

Mr. JOHNSON of Georgia. Who does he represent?

Mr. ELLISON. Do you represent him? Mr. JOHNSON of Georgia. I don’t represent him, and he doesn’t represent me or the folks that predominate my district. I’ve got a 99er district.

Mr. ELLISON. I’ve got a 99er district as well.

The thing that really gets me is that, if Grover Norquist lived in my district, I would feel duty-bound to at least listen to him because I listen to everybody in my district. But to sign a pledge to him to subvert the interests of the 99 percent is an outrageous thing.

Mr. JOHNSON of Georgia. All the while, Congressman ELLISON, pitting Americans against each other, trying while, Congressman ELLISON, pitting the 99 percent is an outrageous body in my district. But to sign a pledge to him because I listen to everybody in my district. But to sign a pledge to him to subvert the interests of the 99 percent is an outrageous thing.

Mr. ELLISON. Right, divide and conquer.

Mr. JOHNSON of Georgia. That’s the way it is.

So right now, Congressman ELLISON, I feel like I have to say this because you’re such a great example of a true American patriot, one who lives life in accordance with your inner ideals. We have the freedom in this country to do so, but there are those right here in this Congress who would try to turn the American people against you and people like you because of the religion that you have chosen to follow.

Mr. ELLISON. That’s right.

Mr. JOHNSON of Georgia. They don’t have any idea that your dad is a Republican.

Mr. ELLISON. Yes.

Mr. JOHNSON of Georgia. They don’t have any knowledge of how you grew up and what kind of values you were taught and what kind of family you had. They just want to condemn you because you are a Muslim. They want to make you a threat to America, a threat to our military, and make a threat of them engaged in the military who happen to practice the faith of Islam. It plays into this decision to put Americans through this suffering so that they will then vote against President Obama and the Democrats so that the Republicans can then throw the welcome mat out like they have done for the large corporate interests and wealthy individuals in order to control public policy in America.

Mr. ELLISON. The gentleman makes an excellent point. I mean, let me put it like this:

How are you going to get the 99 percent to vote for the exclusive interests of the 1 percent? Or a better question: How are you going to get 50 percent plus one to vote for the interests of the 1 percent? You’ve got to keep them divided. You’ve got to keep them confused. You’ve got to keep them asleep. You’ve got to keep them disliking each other for no legitimate reason.

Mr. JOHNSON of Georgia. So you hold hearings on issues that are false issues.

Mr. ELLISON. Yes.

Mr. JOHNSON of Georgia. You create controversy where there is none.

Mr. ELLISON. Right.

Mr. JOHNSON of Georgia. This is a game that, certainly, many people see is being played, but I wish far more people saw and understood what is actually taking place in their House of Representatives. I believe that it’s one reason we have two groups of 99ers—the Occupy Wall Street and the Tea Party movement, those who are dissatisfied with how things are going in America.

Mr. ELLISON. I do hope that we can help the people understand that their interests lie with each other, right? So whether or not you’re a Muslim, Christian, Jew, Buddhist, Hindu, Bahai, a person who doesn’t practice any faith but is just spiritual, an atheist—or whatever you may happen to be—the fact is we all breathe the same air; we all occupy this same small planet; and we have to find a way to live here. Whether you are black, white, Latino, Asian, no matter whether you’re from the South or from the North, no matter whether you were born in America or you came here, no matter whether you’re straight or gay, or no matter who you may be, you’re an American.

When you and I stand up in this very room every morning and we say the Pledge of Allegiance, we say, in that Pledge of Allegiance, with these very simple words, “and liberty and justice for all.” Justice is the same for all Americans, I urge Americans to look for the common good, the things we all share.

How can we come together around a common narrative of a shared reality as Americans so we don’t look at each other as you’re a this and I’m a that, and I don’t like you because of this historical thing and all of this kind of stuff. Let’s find a way to unite our people; because if we can unite our people, Congressman JOHNSON, we can stand up and advocate for policies that are to the best good of the American people.

The American people will be wide awake and clear that our economic interests lie with each other, and we will not vote a program to give tax cuts to millionaires simply because we have been convinced that people of a different—people who pray on a different day that we do or pray in a different way than we do, or have a different appearance than we do somehow are our enemy.

You know, we’ve got to build human solidarity. This is what we’ve got to do. And the one thing I like about the Occupy movement is you go there and you see people of all colors, all cultures, all faiths. You go there and you see people, even people of different income groups.

Was a group that we had at our hearing, which we had just a few days ago, which there is a videotape on, on our Web site, USCongress.org, and they were calling themselves the Patriotic Millionaires. Now these are people who used the American free enterprise system, came up with a good idea, sold it, people bought it, and they did well in the marketplace.

Now, this is a good thing, but their attitude is not, yes, America, you have public schools which educated our workers, you had publicly funded roads which allowed me to drive here, to drive there. You have the police department, which protects my business.

You have the military, which protects our whole country. America, you’ve done all this stuff for me, but all this money is just mine, and I’m not giving any to anyone. They didn’t say that. They say, you know what, to whom much is given, much is expected and they don’t mean doing their fair share for America. That’s the Patriotic Millionaires; that’s the spirit that helped this country become a great country; and it’s a spirit we need today.

Mr. JOHNSON of Georgia. I do believe that you are 100 percent correct on that, and I want to give a shout out to those millionaires who are socially conscious. There are so many people who are afflicted and who are just eaten up with greed, and they already have more money than they can possibly spend in this lifetime; yet they have an insatiable quest for more and more and more.

They are the ones who are supporting people like Grover Norquist and like Dick Armey.

Mr. ELLISON. FreedomWorks.

Mr. JOHNSON of Georgia. Who is a proponent of the Tea Party movement; and those are the people, the Koch brothers, those kinds of interests that benefit from our system of government.

But then, ironically, they would support and encourage those who want to do away with government. They want to strip government of its power to regulate. They want to do away with government’s power to protect and to create fairness and prosperity. And it is just basic. I don’t care how rich you are, but if you’re riddled with envy and with the need for more, you know, you just can’t be satisfied, you are going to be unhappy.

And the person who is unemployed but doing their best to find a job and take care of their family and despite all obstacles is willing to do with half a crumb that they have extended to their neighbor because their neighbor is in the same shape, we’re all in this together. Those are the types of ideals that we used to have in this country, we used to exemplify. But now it’s this
culture of greed and avarice and self-satisfaction. Reminds me of the old days of the Roman Empire.

Mr. ELLISON. Or even the old days of the robber barons, like the 1890s, you know, 1900. This was a time when industry in America was young, and there was no right—labor unions, there were no environmental protections and people would, if you lost your hand on a punch press, you just were out.

Mr. JOHNSON of Georgia. So be it.

Mr. ELLISON. If you actually tried to get a fair wage from your boss, you just could be arrested or thrown into jail or whatever. And if you got sick based on the smog that the smokestack was pumping out, then you just died young, I guess.

But then America went through some changes; and we said, you know what, workers are going to have the right to organize. That’s a good thing. Our air is going to be clean. Companies are going to abide by some of our environmental regulations.

And there became an American consensus where we said, yeah, you know, we’re a mixed economy, which means that we have a strong public sector, but we have a strong private sector too. And the private sector, you be innovative, you come up with good products, services that people need, and by all means we hope you do well, but after you do well we need you to toss something back.

Mr. JOHNSON of Georgia. Give back.

Mr. ELLISON. For the common good.

And what we have now is we have people who say, I don’t care about the common good. And here is the thing—

Mr. JOHNSON of Georgia. Every man for himself.

Mr. ELLISON. Every man for himself.

Mr. JOHNSON of Georgia. Only the strong survive.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair must ask that the Members yield their time in a more orderly fashion so that the court reporters are able to make the appropriate transitions.

Mr. JOHNSON of Georgia. Fair enough.

Mr. ELLISON. Thank you, sir.

And so we are now at a time, we have now approached the time where there are some people who become well-to-do whose attitude is that they want to shrink government to the size you can drown it in a bathtub. This is what Mr. Norquist has said. That’s a quote from him.

His vision of America, like the Koch brothers, they do oil refineries and stuff; and you drive by some of these plants and they smell awful, and you know that nothing good can be coming out of those smokestacks, but they want a condition in America. Their vision is that if a person from the government says, you know what, there’s a lot of people getting sick around here, you can’t just spew that stuff off that smokestack, we’re going to regulate that stuff and some of that stuff you’re going to pay for the costs and the harm that you’ve caused to people as you go making money on that factory you have.

They have a vision where that factory owner will say, Mr. Government, get you out of here. I’m going to call your boss. I gave a campaign donation to your boss, and we’re going to just make you.

And if we can’t get your boss to back up off of us, we’re just going to sue you back and dump a ton of paperwork on you, and you don’t have enough lawyers, you know, for your government agency to defend the public interest; so we’ll just drown you, and we’re just going to be able to do whatever we want to do.

This is the kind of condition they want to create. They want an environment where the government is too small to tell them, you cannot pollute the air. You cannot abuse people’s civil rights. You cannot hurt people’s interests, the public interest this way. And that’s the kind of condition they are creating.

I yield to the gentleman.

Mr. JOHNSON of Georgia. I could not have said it better; and I will say, so that I don’t repeat what you’ve said, that when we do have a strong government, then government is there to protect the interest of all of the people, those who are the so-called job creators, who haven’t been creating a lot of jobs here for the way. I don’t know why they still have that title, because all the jobs have been moving offshore, out of America and leaving these workers here without jobs.

We’re doing ourselves a disservice by cutting government and cutting our ability to clean up the mess that has been created through decades, now, of deregulation. It has caused us to be a society where we spend more money on health care, but we’re the sickest people in the industrialized nations.

And the same people who profit, those who are the so-called job creators, they have a psychology of a win-lose.

Mr. ELLISON. What you’re describing is a win-win situation. But some people have a psychology of a win-lose. They think in order for me to do well, you have to do poorly. But the truth about the universe we live in and a strong economy is that if I do well and I’m creating prosperity in the world through good products and services, then you get money by hiring you, then you have some money and you will bring me value and we will see the economy grow and we can all be a little more prosperous. But some people think, well, if you get something, then I don’t have something, so they just hoard. This is a very, very poor strategy to pursue.

Mr. JOHNSON of Georgia. If the gentleman would yield, what do we when we create job growth and when we spend the wealth, it means that we’re able to pay down that deficit, that debt that we have. We are able to clear that out. America is certainly not in a crisis as far as debt is concerned. We borrow a little bit at 2 percent, so it’s much cheaper than that. And while that cheap money is available, we should be borrowing that money and investing it in our own economy, in our infrastructure, in our research and development for medical care delivery, energy production, our education system from the buildings on down to the lowest piece of equipment that’s in there, the teachers who teach our children. We should be investing in those areas. We’ll see this economy turn around rather quickly, and we’ll see that debt disappear quicker than most people believe that it will.

Mr. ELLISON. I just would like to say something very important here. It’s common for our colleagues on the other side of the aisle to say we’re broke, we’re broke. They get up and say we’re broke all the time. It’s like one of their favorite things to say. The truth is we’re not broke. America is not broke. This is create a certain sense of crisis and urgency to scare people into favoring a program of austerity which they propose.

But I think it is important to note that two-thirds—two-thirds—of American corporations don’t pay any taxes at all. Two-thirds pay none. And I just want to point out to Americans, Bank of America: Oh, my God, we got a bailout from the government. The American people got a call from Merrill Lynch; we bought Merrill Lynch; we bought Countrywide. It’s not a good deal. We’re going down. Save us, please. Through the Congress, which is the people’s House, they got their bailout.

Now, the assumption was that Bank of America would then turn around and pay the money back and then help people with their mortgages and help improve the economy. What they actually did is they didn’t pay any taxes and they laid off 30,000 people. Bank of America: Oh, my God, we didn’t pay any of Federal taxes. I’ve got more money in my pocket right here than they paid in taxes.
Boeing, despite receiving billions of dollars from the Federal Government in taxpayer giveaways, Boeing didn’t pay a dime in U.S. Federal taxes.

Citigroup. Citigroup deferred income tax for a third quarter in 2010, amounting to a total of zero. At the same time, Citigroup has continued to pay its staff lavishly. John Havens, head of Citigroup’s investment bank, is expected to be the bank’s highest paid executive for the second year in a row with compensation of $9.5 million. They say it all.

ExxonMobil, they paid no taxes. In fact, I think we give them money. Big Oil tax dodgers use offshore subsidiaries in the Caribbean to avoid paying their fair share. Although ExxonMobil paid $15 billion in taxes in 2009, not a penny of it went to the American Treasury. It went elsewhere. This is the same year that the company overtook Walmart as a Fortune 500 company. Meanwhile, the total compensation of ExxonMobil’s CEO is about $29 million.

We say we’re broke. What we’re doing is we’re not collecting enough revenue because we think that corporations are job creators. And, of course, they’re not creating any jobs, as you pointed out. But we’re operating on some faulty assumptions.

General Electric. In 2009, General Electric, the world’s largest corporation, filed more than 7,000 tax returns and paid nothing to the government in taxes. GE managed to do this with aid of a rigged Tax Code that essentially subsidizes companies for losing money and allows them to set up tax havens overseas. With the Republicans’ aid in Congress whose campaigns they finance, they exploit our Tax Code to avoid paying their fair share.

And who do Republicans blame? The middle class. They say that the middle class is the problem. They say tax breaks for billionaires, which is the GOP plan, tax breaks for huge corporations, which is the GOP plan, huge bonuses for big CEOs; but who is it who our friends in the Republican caucus think is responsible for all of the problems? Well, it’s public employees.

I just want to point out something very important before I yield to the gentleman.

The Republicans now have said they will propose a plan to extend the payroll taxes by cutting the Federal Government workforce 10 percent. And by giving—get this, Congressman—a means testing for Medicare, food stamps, and unemployment insurance benefits. That’s going to get a lot of money. But public employees are who they think should bear the brunt of the refusal of the corporate elite from paying taxes.

They say that teachers should pay, that cops should pay, firefighters should pay. Unemployment benefits should be cut. Small business investment, no. Investment in the National Institute of Health and Research, we should cut back on that. Schools, they should have to pay. Clean energy, we can’t afford that. That’s what they say. Health care, can’t afford that. Infrastructure investment; I come from a city where I–35, the Interstate 35 bridge over the Mississippi River fell into the river, and 13 Minnesotans died. 100 got severe back injuries, all because of deferred, delayed maintenance. Infrastructure investment is not just a job creator; it is a public safety issue. And, of course, college affordability. They want to cut programs that make it more affordable to go to college.
The brute and the burden of balancing the budget is not and should not be on our public employees, our everyday heroes, the people who take care of our kids, the people who look after our younger people, the folks who look after us, the police department. Who are you going to call? Firefighters.

I thank the gentleman for allowing me to elaborate on this point because I want to say something that, on the one hand, they say we’re broke. We’re not. What we are is we don’t ask the wealthiest among us to help out. And what they offer as a solution is to cut the people who give a good quality of life to the average Americans—our public employees.

I yield to the gentleman.

Mr. JOHNSON of Georgia. Thank you.

Many Americans watched in horror as the drama unfolded on the I–35 bridge, the aftermath of crashing into the waves of water below and taking our multi-pole o-cars and taking our lives and causing people to be injured, and also resulting in an economic detriment to that area that needed that bridge in order to continue to conduct business. We can look at it serenely on the TV from a distant location, but we shouldn’t be shying away from the thing that happened to you guys in Minnesota can happen to us in Georgia with our own bridges that are in disrepair due to deferred maintenance.

This is something that can happen not just in Georgia, not just in Minnesota, but all across the land. And it doesn’t have to be that way, because as President Obama has proposed in the American Jobs Act—or as a part of the American Jobs Act—there is money—a small amount, but any amount is better than none—for infrastructure. I think it’s $50 billion. That infrastructure, in addition to helping with our public safety issues—health, safety, and well-being of the people—would also create jobs. So we’re killing more than one bird with one stone by passing the American Jobs Act.

Not one of my friends on the other side of the aisle has been able to put forth any rationale for not considering any part of that Jobs Act. We did, I’ll tell you what. Last week having to do with veterans. They just could not find it within their hearts to avoid voting for that. But if there was some way that they could, they would have.

They are insisting that the tax cuts to the working people of this country, the payroll tax, they want that to be paid for. But nobody said anything last year about paying for the extension of the Bush tax cuts.

Mr. ELLISON. Right.

Mr. JOHNSON of Georgia. Nobody said anything and nobody is saying anything because they want those tax cuts to become permanent while they at the same time would vote to impose a balanced budget amendment, which really would just simply lock in an unfair tax rate or a tax system that is unfair, would lock it in and make it much more difficult to change it.

So, Congressman, these are issues that I’m pleased to sit here and discuss with you. I look forward to further dialogue from both people on this side of the aisle, and those on the other side of the aisle, because when it’s all said and done, we’re all in the same boat together.

Mr. ELLISON. I want to say that it’s been a real pleasure to spend this last hour with you, Congressman JOHNSON. We in the Progressive Caucus believe in one America—all colors, all cultures, all faiths. We believe in promoting human solidarity, not making Americans fear each other. We believe in economic prosperity and justice for working and middle class people. We believe in environmental sustainability, and we absolutely believe in peace with our Nation and other nations. We are always going to promote diplomacy and dialogue and development over war.

We are the Progressive Caucus. I will allow the gentleman to offer a final word. If I could just say, my name is Keith Ellison, I’m the co-chair of the Progressive Caucus. Look us up on the Web.

The final word will go to Congressman Johnson. After that, we will yield to the Republican side to spend some hour with you. I look forward to further dialogue from both people on this side of the aisle.

Mr. JOHNSON of Georgia. I just want everyone to know that even though I stand up and talk about the Grover Norquist-Tea Party Republicans, I admire the Tea Partiers because they got up off of their duffs because they were upset about how things were going. They were misled in terms of thinking that the health care reform was not going to be good for them. It’s good for them. And they will soon find out that they will continue to say—that the things that we have done are good for them and their attention will be diverted from this President to their pocketbook. And so I look forward. I admire them for their activism. I love these people. I respect them. When I talk about you being a Dick Armey-Tea Party Republican of the Grover Norquist ilk.

With that, I will close. I believe that my friends on the other side of the aisle are ready to delude you with some information.

Mr. ELLISON. Mr. Speaker, I yield back the balance of my time.
GOP DOCTORS CAUCUS—MEDICARE SENIORS AND OBAMACARE

The SPEAKER pro tempore. Under the Speaker’s announced policy of January 5, 2011, the gentleman from Louisiana (Mr. FLEMING) is recognized for 60 minutes as the designee of the majority leader.

Mr. FLEMING. Thank you, Mr. Speaker.

I come before this House tonight to talk about a very important issue—it’s been important for years, and it’s going to be even more important as an increasing part of the debate—and that is health care, and particularly health care for our seniors. We’ve got lots going on. ObamaCare, of course, was passed in 2010, and we’re running into all sorts of problems. Of course, I and my Republican colleagues here tonight voted against it.

I’m joined tonight, by the way, by two of my colleagues, Dr. PHIL ROE, an obstetrician from the great State of Tennessee, and Dr. SCOTT DESJARLAIS, obstetrician from the great State of Louisiana.

I thought I would just give a brief introduction about Medicare and how that fits into the budget. I know that Dr. Roe is going to talk in more detail about Medicare.

No speaker would be complete without a chart, and I have several tonight. This is one I think that’s important for everybody to understand. This pie chart breaks up spending for the Federal budget. As you will notice, the vast majority of this pie is in what we call permanent mandatory or so-called entitlement spending and interest. What makes up a large part of mandatory spending is Social Security, Medicare, and Medicaid. This size of this pie, this section of the pie, is growing. In fact, if you recall, back in the nineties, we actually balanced the budget. The last time we balanced it, I think was in the late nineties. It was a lot easier to do back then because entitlement spending, permanent spending, was not in place to the extent that it is today. It was growing, but not as big.

What is the difference between mandatory spending and discretionary spending, which is the other two pieces of this pie? Mandatory means that if you qualify for a certain type of service or payment, whether you’re on Medicare, Medicaid, whether you earned it or not, if you qualify for it, the government must pay. No matter who shows up on the door, people show up on the government must pay. So, therefore, the government cannot per se control that cost.

Discretionary cost, on the other hand, is split into two: defense, which is around $600 billion to $700 billion a year; and nondefense discretionary, which is what we run the government on. That we can adjust, although we’ve not done a good job in controlling this. In fact, that’s increased probably 25 percent just in the last 2 years under President Obama.

But I want to illustrate for you what the problem is, and that is that the entitlement spending, which we don’t control, with an aging population and the fact that it’s dependent on government spending, is growing at a much faster rate than our revenues and inflation.

This is a chart that outlines where we are today with Social Security, Medicaid and Medicare, the part of entitlement spending. Now, let me say, first of all, Social Security is down here in the purple, and you notice that it slants upward and then it flattens out. Social Security is not our problem. Let me repeat that: Social Security is not our problem.

And people who are on it or will be on it, in my opinion, have nothing to worry about. Now, we may have to tweak it, we may have to adjust it, but you’ll notice that the cost really rises relatively slowly, and that’s just a matter of demographics. And we can adjust this, as we have in the past, and make this sustainable. There are other ways to do it, in terms of allowing Social Security recipients to invest some of their money and so forth, but that’s beyond the discussion tonight.

The next group in green is Medicaid and other health care. You’ll notice it’s going up faster. And Medicaid is health care for the poor. And then finally in red you see Medicare, and you see how that-explodes upward continuously. Medicare alone will completely displace all the budgetary spending eventually if we don’t bring that under control. And that would mean we’d have to give up on government itself, we’d have to give up on a national defense—everything—unless we begin to control that.

Now, at the rate things are going, Medicare will run out of money, become insolvent by 2020. And that is straight from the CBO, the Congressional Budget Office. I think we have another way to look at it is that our spending is now equal to 15 percent of the total Federal spending is Medicare, blowing out of control. What has made this worse is ObamaCare actually cut $900 billion, that is, half a trillion dollars, out of Medicare to use for subsidies for middle class health care plans.

So let me repeat: Medicare is running out of money; it’s exploding through the roof. And what does ObamaCare do? The Medicare cuts that it actually cuts money out of it and depletes it of money in the future so that it becomes insolvent. And here’s where the cuts are: $315 billion for Medicare Advantage, which is the private health care version of Medicare, $112 billion, which was taken from hospitals, $30.7 billion from home health, $14.6 billion from nursing homes, and $6.8 billion from hospice care. These are very real cuts.

And the only explanation that the other side gave us, our Democrat friends, is that somehow we’ll cut out fraud, waste and abuse. Well, let me warn you, any time a politician tells you he’s capable of doing that, watch out, because I’ve never seen it done and I don’t expect to see it done in the future. Because, you see, in order to cut out the massive fraud, waste and abuse, you have to spend even more money to find all the bad actors. The best way to do away with waste and abuse is to make the system much smaller, perhaps even privatize it, and make the system accountable rather than a Big Government bureaucracy, which wastes money, whether we’re talking about the Department of Defense or Medicare. So that should give you kind of a beginning of where we are with Medicare.

Let me just close my opening remarks by saying that there’s basically two options when it comes to making Medicare again solvent and available for us in the future. There is a Republican plan, which would allow you, if you are currently on Medicare or 10 years from becoming on Medicare, to buy in as if it is. And it is sustainable, as far as the CBO tells us, indefinitely.

However, we would have to reform that for younger adults today who will be senior citizens by opening up the insurance market-place for seniors to buy insurance, and then let government help them with what we call “premium support,” and allowing competition in private care to drive the cost down and raise the level of service. In fact, what we in Congress have today is the very same thing.

The Democrats, their plan is this: goose egg, no plan whatsoever. Under their plan—or non-plan—Medicare runs out of money in 8 years. And they’ve failed to present an idea, much less a bill, as we have, that would even solve that. Well, that gives you an idea of some of our opening discussion.

First tonight, I want to introduce my good friend, PHIL ROE, Dr. PHIL ROE, as an obstetrician, and thank him for some comments about the financing of Medicare and other things as well.

Mr. ROE of Tennessee. I thank you, Dr. FLEMING, and I appreciate you hosting this hour tonight and a chance for us to discuss in detail the health care of this Nation.

You know, about 4 or 5 years ago I made a decision, after 31 years of practice, to think about running for Congress. And one of the reasons was I knew that the health care issue was going to be huge in the debate in this Nation’s future. And, boy, has that turned out to be prophetic.

Secondly, the thing that I noticed in my patients when I practiced, the single biggest factor for both Medicare patients and my other private patients and patients without health insurance, was it was too expensive; it cost too much money to go see the doctor and go to the hospital. If it were more affordable, more of us would have health care coverage.

Thirdly, we had a group of patients in my practice that couldn’t afford expensive health insurance premiums.
They both worked. Let’s say it was a carpenter, perhaps his wife worked at a local diner or at a local retailer that may not provide health insurance coverage, and they make $35,000 or $40,000 a year, but they could not afford $1,000 a month for health insurance coverage. And, dear God, we have a liability crisis in this country.

The other thing that we’re going to get into a little later in this discussion today—and this is the absolute sacrosanct in health care—is that health care decision making is I’m going to say this a couple of times—health care decisions should be made between a patient and the doctor and that patient’s family. It should not be made by an insurance company, and it should not be made by the Federal Government. And we’re going to talk a little bit later about the Independent Payment Advisory Board that will be making those decisions in the future.

Do we need health care reform in America? Absolutely. Do we need this type of health care reform? Absolutely not. It’s a disaster. And we’ll go into that a little later about what my major concern is for my patients that I left in Johnson City, Tennessee, which was how to access a Dr. S COTT DESJARLAIS, who is family practice primary care physicians. And the group I have at home that I’m in that I left to come here had over 100 people to access. How are they going to access those?

Well, let’s go look at where we were in the sixties when I was a young college student, which was that we had a group of people, my grandparents and so forth, who would be retiring. And at that point in time, because their insurance was tied to their employment—if they had health insurance coverage—there was no way for them to get any coverage. They couldn’t buy it; there was no provider for them to the Federal Government then got involved in this by forming Medicaid and Medicare in 1965.

Our Medicare program in 1965 was a $3 billion program. There was no Congressional Budget Office at that time, but the estimates were that in 25 years—so in 1990—this program was going to be a $15 billion program. The actual number was $110 billion. They missed it by seven times. And in your initial talking here, if you had placed in that graph, Dr. FLEMING, interest on the national debt—the one you showed with Medicare, Medicaid and Social Security—by 2020 or 2022, even at current interest rates, it will absorb the entire Federal budget. And that is why we are having this discussion today, to save Medicare.

I want to mention just briefly, because we’ll kick this off later, in the current health care bill there have been many changes to Medicare. There are increased taxes on medical devices. The President said the other day—and we’re going to talk about it next week, I think, and debate the payroll tax—about how he was a tax cutter. Well, I would suggest that the President read his own health care bill because there are massive tax increases in that bill.

The Independent Payment Advisory Board is a bureaucratically appointed board, 15 people appointed by the President and—Republican President appointing them and I don’t want a Democrat President appointing them—approved by the Senate to do what? To look at this Medicare, as we’ve pointed out, with millions of combinations of each day and—as Dr. FLEMING pointed out—$500 billion to $550 billion less going into the system. More people going in, people living longer—much longer, which is a very good thing—we’re looking at a catastrophe for our Medicare program if we don’t make some proactive changes now.

And how can you talk about how can you fix a system that everybody in this Chamber knows is broken—all 435 of us know it—if you can’t even discuss it, if you’re accused of dumping Grandma off a cliff if you even talk about a system that—I personally am on Medicare. Right now I’m a Medicare recipient, so I have a vested interest in seeing that this program works for current seniors.

I was at Furman University Monday night speaking to a group of college students on health care. It was a privilege to be there. It’s a great college. A big turnout of young people. And it was embarrassing for me to look at those young people who are just beginning their careers and to think that we’re going to not leave them the same access to care that I have available to me right now.

If you look at these numbers, Dr. FLEMING, you see that it is not sustainable, so we have to have this conversation. I want to thank you for holding this 1-hour.

I see we have numerous other colleagues here tonight.

Mr. FLEMING. I thank the gentleman.

We have also been joined, in addition to Dr. Scott Desjarlais, by Dr. Phil Gingrey, also an OB-GYN; Nurse Ann Marie Buerkle; and Nan Hayworth, an ophthalmologist from New York. So we’ve got a full cadre. If anybody here has a headache or, certainly, a heart attack, I think they would be very well taken care of on the floor of the House.

With that, I’m going to ask Dr. Desjarlais to talk to us a little bit. I think you have an interest in some of this discussion on IPAB and perhaps other things I’d love to hear what you have to say, sir, on that.

Mr. Desjarlais. Thank you, Dr. FLEMING. And I, like Dr. Roe, appreciate you holding this tonight because I think there’s so much fear, frustration, and confusion among our Nation’s seniors that it’s really all we’re going on. There’s a lot of misinformation out there. And I think it’s good that we, as health care providers, can get together and help clear up some of the misinformation because, as Dr. Roe said, we should never let the government or bureaucrats get between the doctor and the patient. That’s a very important relationship, and I think most all patients want a personal relationship.

How did we get into this mess? It’s really kind of mind boggling that it has come this far. And as you stated earlier, the Democrat plan is doing nothing; and we know that the consequences of that are, the Secretary of CMS, Mr. Foster, has said Medicare will be bankrupt by 2020. So we cannot afford to do nothing. And we got into this mess really just by kind of the head-in-the-sand approach that sometimes occurs here in Washington.

As Dr. Roe mentioned, Medicare was initiated in 1965, and at that time the life expectancy for a male was 68. Well, thankfully, through good medicine, good follow-up, good care, better drugs, better techniques, the life expectancy has now increased at least by a dozen years. But that being said, there really wasn’t any planning for that increase. A program that was designed for, on average, 3 years of coverage is now 12 years more, and so that’s part of the problem.

A second big factor is we all knew about the baby boomers. Everyone knows about them. And the bottom line is they have started hitting the system at an alarming rate. Ten thousand baby boomers members every day are entering the Medicare system. Again, something that we’ve all seen coming, but it wasn’t accounted for in terms of cost; and Dr. Roe explained how it was underestimated greatly what it would cost in the first place.

We know that people pay into Medicare because that is going to be their health care plan when they retire. That’s what was promised to them. So we can’t do nothing.

Paul Ryan’s plan, we laid out that those 55 and older won’t have to worry about it. We know that we can’t do nothing, so those 55 and under will have to make changes, as you discussed, and I’m sure we’ll discuss more. But for those seniors out there that are concerned that the Republican plan is cutting them off or killing Medicare as we know it simply isn’t true. We’re trying to preserve, protect, and save it for future generations as well as take care of them.

Right now you can take an average couple who makes $80,000 a year and they pay, over a lifetime, about $109,000 in Medicare taxes into the program. But with health care costs the way they are now, the average extraction for that same couple is $434,000.

Mr. FLEMING. If the gentleman will yield on that point, I want to be sure that that’s not missed, and that may be the most important statement made tonight. I believe you said that, through a lifetime, a Medicare recipient will pay in an average of $100,000 or so dollars but will take out, on average, $300,000.
So what we really have with Medicare is somewhat of a subsidy system which does not subsidize according necessarily, to need. My point in saying that is: Warren Buffett, today, because he’s over 65, qualifies for Medicare, and if he gets care, I assume would be subsidized for people over 65. And so we’re going to have to look at: Is there a way in the future that we can even this out, where we’re not necessarily subsidizing for those who are capable of paying some of their own costs?

Mr. DESJARLAIS. Right.

As you say, it’s clear that $1 in for $3 out doesn’t add up by anybody’s math, even Washington’s math. So those factors make it very clear that Medicare is on an unsustainable path.

I find it very frustrating that so many people are living in fear right now with this misinformation. And if any of the other Members—I’m sure they experienced, as my office did, the AARP here, a few weeks ago, had seniors calling Congressmen to say, you know, Don’t cut our Medicare. They’re referring to the SGR cuts, which actually pertains to the doc fix. But the seniors are confused thinking that their Medicare was actually going to be cut 30 percent or 29, 27 percent, whatever it is. And so when they were calling my office, I was glad to tell them, Yes, we get it. That actually is a cut to physician reimbursement.

But what it does to seniors, more concerning, is that it’s going to limit their access to care, because physicians right now are in a position where they can’t afford the overhead to even keep their practices open.

I think it was good that the AARP brought that to their attention, but it certainly is great that we have the opportunity tonight to clear that up for them and what Medicare did for both of them was precisely the same.

I just couldn’t quite understand that, especially when I thought about the little room in Rockland who’s on private insurance, two-paycheck family, baby, barely scraping by, paying far more in their premiums than someone in Medicare and having to raise children. It was her insurance premiums that paid for the little old lady who was poor and the multimillionaire.

We’re going to have to do something about that to make the economics of this system work. It is unsustainable, as we know.

Dr. GINGREY. I would like to ask you if you could give us a few words, wisdom on what your perspective of where we are with health care, ObamaCare, Medicare, and all the other things I’m thinking about.

Mr. DESJARLAIS of Georgia. I thank the gentleman from Louisiana, Dr. FLEMING, for yielding, Mr. Speaker, and I thank our leadership for giving us this hour to focus in on Medicare and ObamaCare. And I guess, the Patient Protection and Affordable Care Act. We all know it to be the Unaffordable Care Act.

But I think it’s very important, Mr. Speaker, and instructive for the folks back home, especially our seniors, to look at this chart, as a member of Congress. And look at the Members who are health care providers. In this House of Representatives, there are 335 Members, and 21 of them on the Republican side are health care providers: nurses, doctors, psychologists, dentists.

On the Democratic side of the aisle, three. You look at the other body, at the Senate, and you see four doctors on the Republican side. None on the Democratic side.

So as we get into this season, this political season, of course the Presidential election cycle, Mr. Speaker, you know, we all know, that we’re already seeing the ads. I think Dr. DESJARLAIS referred to this about cutting Medicare 30 percent. Don’t let Congress cut Medicare 30 percent.

And I think those statistics are pretty darn telling in regard to who cares more about our seniors. Many of us, in fact, have practiced so long that we’re seniors. Thank God we’ve got good health and vigor and enthusiasm for giving up what has been a wonderful profession, whether we were nurses or doctors or whatever, but caring for people and the compassion that goes with it, to come to Congress, come here inside the Beltway and really work on behalf of our seniors, work on behalf of getting the health care policy right.

But particularly in regard to our senior citizens and the millions that depend on Medicare either because of a disability or their age.

And I thank the gentleman from Louisiana for managing the hour tonight on behalf of our leadership to make sure that these points are made and
made very clear to the American people, particularly our seniors.

Mr. FLEMING. I thank the gentleman. Dr. GINGREY serves on the House Energy and Commerce Committee, a committee that has oversight and jurisdiction in this area, and it is extremely important, looking at a lot of legislation that is coming down the pipe.

Next, I want to turn to another of our freshmen. We’ve had a wonderful cadre of freshmen we appreciate so much and a wealth of physicians and dentists as well bringing in their years of experience, and it is very important. I want to express the gratitude to our colleague from Georgia, the gentleman was asking about our vote on Medicare. We know how important it is. I want to make it very clear that any of us want to do is to protect Medicare. I want to preserve and expand Medicare, who receive Medicare and who have loved ones who depend on Medicare; that Medicare is, unfortunately, as our colleagues have discussed, running out of funds.

When we think about payroll taxes, and we hear a lot about payroll taxes in the budget, what’s called a “liability system,” which is very costly, to cover lawsuits for malpractice. We should, indeed, do everything we can to prevent malpractice, but lawsuits in this country are very expensive.

Mr. FLEMING pointed this out—it is really important in terms of the funds it has.

Ms. HAYWORTH pointed this out—it is really important. I think and may have heard Representative HAYWORTH pointed out—this is really not an option. She talked about those dates—2024, maybe, but probably closer to 2021—when part A becomes fiscally insolvent. If we do nothing, what would happen is our seniors under the Medicare program would take a 22 percent cut in their benefits package, or else we would have to raise the payroll tax 22 percent.

I’ll yield back after making this comment as I think this is important.

Medicare was enacted as an amendment to the Social Security Act in 1965. I guess it’s title XVIII. We didn’t have all of the information we needed. As Dr. FLEMING has been saying, situations were changing and the knowledge of our constituents was changing and the knowledge of our patients was changing.

The Medicare funds that were built up have now started to be depleted, and they’re going to run out, it’s projected, anywhere from 2024 to now 2020. What we all know is that the estimates are probably off the mark. So, to take an extra $575 billion out of Medicare is the last thing we want to do.

It’s very important for everybody to understand that because, although there are workers in this country who are contributing their payroll taxes now—and those are going to help fund Medicare—when those folks become retirees, Medicare is going to be very different in terms of the funds it has. That Medicare trust fund is going broke.

So folks have been thinking about—Dr. DESJARLAIS in particular men- tioned it. I think—and may have heard three letters, SGR, about the doc fix. What is that? What does that mean?

When patients go to visit their doctors and when they receive Medicare, as Dr. FLEMING was saying, our Medicare patients have market value depend on Medicare, and our seniors are very grateful to have a Medicare program, but to provide Medicare in the United States is very expensive. We have staff that we have to pay. We have overhead. Everybody who has a business—and I had my own practice, a small business—has rent and supplies and staff and insurance to pay.

One of the unique aspects of America that is, in terms of our medical care is that we don’t have what’s called a “liability system,” which is very costly, to cover lawsuits for malpractice.

Ms. HAYWORTH. Absolutely. Ms. HAYWORTH of New York, and would be very interested to hear what you have to say this evening.

Ms. HAYWORTH. Thank you. Mr. FLEMING, and I add my thanks to our distinguished colleague from Georgia in gratitude for your hosting and managing this session tonight.

We had a Medicare telephone town hall today with our constituents in the beautiful Hudson Valley. We had a Medicare administrator with us because it’s open enrollment season for Medicare throughout the country. I believe, up through December 7. So we were quite grateful to have a Medicare administrator with us who helped answer some of the questions about some of the complexities of Medicare because there are a number of them, as you might imagine.

But the did ask one question that was conspicuous because the gentleman asked me, and it’s one that we’ve all been asked, as Dr. DESJARLAIS was saying not long ago, “NAN, why are you against Medicare?” I explained to my constituent that gosh, sir, it’s exactly the opposite. I want to preserve and protect Medicare. I want to make it secure and sound. This is very important to all of us, to me as a doctor. I had the privilege of practicing for 16 years. I’m an opthamologist. So many of my patients were seniors. I’m the daughter of two elderly parents, both of whom rely on their Medicare benefits. So the last thing that I would want to do is to harm Medicare. We know how important it is.

More specifically, this nice gentleman was asking about our vote on the budget this past spring. And as all of us here know and as our listeners may recall, the American public, for at least 2½ years for the Senate to pass a budget. They did give ours 47 more votes than we were very grateful to have a Medicare program, but to provide Medicare in the United States is very expensive. We have staff that we have to pay. We have overhead. Everybody who has a business—and I had my own practice, a small business—has rent and supplies and staff and insurance to pay.

That Medicare trust fund is going broke. Make changes to Medicare so that it may not be fully aware, we did pass a budget this past spring. As all of us here know and as our listeners may recall, the American public, for at least 2½ years for the Senate to pass a budget and, it generated, and it generated, and it generated, and it generated.

Next I would like to recognize Dr. HAYWORTH, NANNY HAYWORTH from New York, and would be very interested to hear what you have to say this evening.

Mr. FLEMING. If the gentlelady would yield, I think Dr. GINGREY has something he would like to add.

Ms. HAYWORTH. Absolutely. Ms. HAYWORTH of New York, and would be very interested to hear what you have to say this evening.

Mr. FLEMING. If the gentlelady would yield, I think Dr. GINGREY has something he would like to add.

Ms. HAYWORTH. Absolutely. Ms. HAYWORTH of New York, and would be very interested to hear what you have to say this evening.

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Ms. HAYWORTH. Absolutely. Ms. HAYWORTH of New York, and would be very interested to hear what you have to say this evening.
and strengthen it for those who are already on it—it would not do anything in regard to them but would be a phased-in change for our children and grandchildren so they’ll have it like we’ve had it.

I thank the gentlelady for letting me interrupt briefly.

Mr. FLEMING. Since we are beginning to run a little short on time—and I want to make sure we get to all of our doctors and nurses—I’m going to recognize Ms. BUERKLE, a very excellent nurse, and she is a wonderful addition to our freshman class.

Ms. BUERKLE. I thank my colleague from Louisiana.

Mr. Speaker, I just want to say what an honor it is to be here tonight on the floor with my colleagues and the members of the Doctors Caucus.

I do stand here as a nurse and also as the daughter of a 90-year-old mother. So Medicare for her, I know how she depends on the system.

One of the things we didn’t talk about and one of my roles in life was as an attorney, as an attorney who represented a large teaching hospital. About 2 weeks ago, I joined with some of my colleagues in the House, and we talked about what this health care law is going to do to our hospitals. When our hospitals and our doctors are affected by reimbursements, by Medicare cuts, that really affects our seniors. That affects their access to care.

So the first thing I want to do tonight as a health care professional and as someone who cares deeply—and I think that’s the beauty of this tonight, of our getting together as people who have invested their lives in health care, who love people, who care about people. This isn’t a Republican or a Democratic issue. This is an American issue because health care affects all of us. This is a group of people who really believe that there is a better way, that there are a much better way to provide access to health care in our country without jeopardizing that access and without jeopardizing the quality of care that our country has to offer.

So the first thing I want to do tonight is reassure our seniors that we are talking about protecting and allowing the Medicare system to continue on. What they need to understand is that the health care law has changed Medicare forever. Medicare is different now than before the health care law passed. The health care law cuts, Mr. Speaker, $500 billion from Medicare.

I just want to make clear on this graph what happens to Medicare reimbursements from 2012. You can see where we are. It’s a minus, a cut of 9.7 percent; but here in 2018, the cuts to Medicare and the reimbursements to our hospitals are down 28.6 percent. I’ve had all the hospitals in my district come to me, and they were proponents of the cuts. They were advocating for Medicare. They’ve come to me and they’ve said, This health care law is going to bankrupt us because not only is the health care law affecting their Medicare reimbursements; it’s affecting their disproportionate share reimbursements, which keeps many hospitals afloat that treat indigent patients and that treat Medicaid patients. It also affects their GME and their I&M, which is what Medicare pays for. Last Special Order we had in regards to how we’re going to keep our teaching hospitals and keep all of our hospitals viable.

So I just want to leave the message tonight with the American people that we care deeply about health care and about the quality of health care; but we are very concerned about this health care law, and it’s why we voted to repeal it several months ago. One of the first things we did when we came to Washington was to repeal the health care law and because we know what it will do to our seniors and to our health care providers.

I thank my colleague for organizing our time here tonight on the floor. Again, we just want to reassure the American people that we care about our seniors and that we want to make sure they have access to quality care, to good health care.


dated 1950

Mr. FLEMING. I thank the gentlelady for a very compelling discussion, both as a health care provider and nurse, but also as a daughter of an elderly mother. Those words are very heartfelt, and obviously it means as much to you that we protect Medicare and health care in general as it would anybody. There’s no reason why, just because you’re a Member of Congress, that you would love your mother any less, so I think those are important words.

We’re going to move now from a nurse to a surgeon. Dr. BENISHEK from Michigan has joined us this evening, and let’s hear from you, Doctor, and see what you have to tell us.

Mr. BENISHEK. Thank you, Mr. Speaker, it’s my pleasure to be here this evening to join my colleagues to talk about Medicare.

As you may know, before coming to Congress, I served as a general surgeon in my district for the last 30 years, and many of my patients were on Medicare. And as a practicing physician, I often expressed to my patients—and my understanding wife—about our broken health care system here in America. In fact, that’s one of the reasons I decided to get more involved in the political process and actually run for Congress.

Most Americans don’t understand that Medicare will be bankrupt within the decade if we don’t do something to fix it. I didn’t make this up. The actuaries at Medicare and Medicaid Services actually provided this number. You know, I think if you ask most 65-year-olds just beginning to use Medicare, most would be very worried to learn that their primary health care provider was projected to be bankrupt within the decade.

In fact, according to a recent Social Security Trustees report, Medicare insolvency is expected to see a 22 percent benefit cut or workers should expect to see a 22 percent hike in their payroll taxes unless some action is taken. The bottom line is, if action isn’t taken today, seniors in the program today, not to mention those looking to retire in the near future, begin to lose their benefits.

Despite these facts, the other side of the aisle has spent the last 6 months attacking us, often saying that House Republicans’ attempt to protect and preserve Medicare was, in fact, destroying it.

Are you kidding me? Accusing myself and my fellow physicians in the House of wanting to end Medicare? We spent our careers caring for Medicare patients and are proud now to call them constituents.

The real truth of the matter is that President Obama was elected in 2008 with the promise of hope and change. He did accomplish change in America’s health care system, but don’t think it’s the kind of change that Americans bargained for.

Mr. Obama’s health care law cut $575 billion from an already ailing Medicare reserve. The next item of Mr. Obama’s health care bill is the Patient Protection and Affordable Care Act. Mr. Speaker, I ask you: What type of patient protection cuts $14.6 billion from nursing homes, $112 billion from hospitals, and $135 billion from Medicare Advantage?

While I’m on the record extensively for balancing the budget, I do not believe that our health care system should be made affordable on the backs of America’s seniors. This $500 billion in cuts made by ObamaCare were not bad enough, this bill did nothing to address the nearly 28 percent cuts to physician payments scheduled for January 1 of 2012. I believe in providing access for America’s seniors, not taking it away.

I am happy to announce here tonight that I’m working with members of the Doctors Caucus, House leadership, and Members across the aisle to develop legislation that will solve this issue once and for all. Mr. Speaker, tonight I call on all my colleagues to work together to ensure America’s seniors that America will continue to be there for them in their time of need.

I have made a pledge to seniors in my district that I will not support any changes to Medicare benefits for those 55 years of age or older. It is my belief that for those age 54 years of age or younger, some reforms will be necessary to guarantee that Medicare remains solvent in the long term for our children. Mr. Speaker, are we here tonight to show that, as physicians, we want to preserve Medicare for the future. 
I thank Dr. FLEMING for organizing this Special Order hour.

Mr. FLEMING. I thank the gentleman from Michigan.

Again, we’re getting a world of experience here tonight, all the way from OB–GYNs to pediatricians, from our physicians, nurses, so much in the way of words of wisdom, and we have so much on our side of the aisle with Republicans, as my friend points out, a dearth of available physicians, health care workers on the other side of the aisle. It seems a shame that we were completely closed out of the creation of and passage of the health care reform act, which certainly suggests that we need to go back and do it.

We also are joined tonight by our colleague from Arizona, Dr. GOSAR, who is a dentist and a very valued member, as well, of the conference. I would love to hear from you this evening.

Mr. GOSAR. Dr. FLEMING, thank you so very much for organizing this hour and being able to have a fireside chat with the American public about health care and what really is coming about and what actually is going on with a broken health care system. I also want to take the time to educate, to understand the American people understand what it is about a vibrant economy that actually helps our Medicare system.

Now, I know the holidays are coming up and we’re going to be discussing, giving a continuation of a tax holiday for many Americans, about the thousand dollars for an individual on their FICA, on their witholding tax, and to employers; but I also want to take the time to explain to the American public that there is a cost involved here. And part of that cost when a witholding tax is taken out goes into Social Security and partly to Medicare, and part of this is particularly Medicare part A, the hospitalization act, which is the closest thing to insolvency of all parts of Medicare.

Now, we lost 5 years, particularly on Medicare part A, the hospitalization act, just from the years of 2010. We have yet to start looking at the disastrous parts of the economy to 2011 to be added into the insolvency. But what ends up happening is this takes a further hit in the numbers and amount of money that is actually part of the equation for our seniors in Medicare, so it’s something we have to be aware of these issues better. And when you couple that with this administration taking—I call it stealing—over $500 billion away from the current Medicare program to build another entitlement, that’s just not right.

I came into Congress because I was concerned about health care. As a dentist, I love seeing a smiling face, because a smiling face tells me something about vibrancy, about health, and participating in the great things that this life gives us. But it also tells me that it has to be a participating sport and that what we have to have is a patient taking care of and being involved actively in the choices and decision processes in their health care, and that’s what I want to see.

I’m flabergasted, to be honest with you, that we see a program rectifying Medicare, or attempting to, through ObamaCare, and that the SGR fix of the physician fix completely separate. It doesn’t make sense to the average person why these aren’t all integrated and part of the same equation.

I also want to remind the American people, this is not an easy solution. We didn’t do our due diligence like we had talked about earlier. We didn’t change with the times as we grew older. We changed our participation and age and the variables that we had.

We also enveloped technology, unbelievable things that no one in 1965 could have even imagined, they could have dreamed but couldn’t have actually imagined. And that’s what the other part is that we also have to look—and that’s what is happening back in my neck of the woods is the primary care doc who was that gatekeeper, they’re no longer around. They either are associated with a hospital or a federally qualified health center—if you can get them to see you. And that’s the part that also makes me tell the American public we have got another problem.

You were involved in this Joint Committee that had Democrats and Republicans, 12 of them, trying to figure out some type of a debt solution for $1.2 trillion.

I want to remind the American people there’s another consequence in this, not only to our military, but to our health care providers as well, because the sequestration, when it goes through, is also going to tap, once again, the providers who are no longer being able to afford to see patients, and our hospitals, particularly those rural hospitals that will be going out of business. So they won’t have access to care. We won’t have the ability to be a part of our own health care because there won’t be a health care provider out there.

This is the dynamics that we have to look at. This is the equation that is so immense. What I have always said is that the playing field is level and all of the participants are actually there, increasing the competition, making sure the public health and the private health are all in balance, and then making sure we have some tort reform.

We have to be able to the American people to give closing comments. I want to remark the American people, we’re paying for the health care bill. This has been done on a completely partisan basis.

I have to kind of chuckle. I have never seen a Republican or a Democrat attack each other. I have never personally operated on a Republican or a Democrat cancer in my life. These are people problems, as Congresswoman BUEKLE said a moment ago. These are people problems that affect all of us in this country.

What we wanted to do, as I stated when we started, was to make the cost of care go down. This is not going to do this. Look, this is very simple. When we talked about the IPAB, and I think one of the greatest frustration I had when I came to Congress, and Dr. ROE for some parting comments.

Mr. ROE of Tennessee. Dr. FLEMING, thank you. I was just looking here, over 200 years of experience. What a diverse group. We have nursing, dentistry, family practice, OB–GYN, surgery, and so on. I think one of the greatest frustrations I had when I came to Congress, and Dr. GINGREY has been here longer than you and I have, and one of the things that I noticed in the health care debate that we had, now going on 3 years ago, was this: with nine physicians, M.D.s in the U.S. Congress, in the 111th Congress, not a single one of us was consulted about this health care bill. This was done on a completely partisan basis.

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What we wanted to do, as I stated when we started, was to make the cost of care go down. This is not going to do this. Look, this is very simple. When we talked about the IPAB, and I think one of the greatest frustrations I had was that we never got to discuss the Independent Payment Advisory Board because it is so detailed, but just very briefly, this is how it works.

Several of us have pointed out that $575 billion was taken out. Three million seniors a year going into Medicare, reaching Medicare age, and this group, this group of bureaucrats up here appointed, and I don’t want them appointed by a Republican or a Democrat. I think Congress ought to be accountable to the American people about what happens to Medicare, not push it off to some bureaucrats that are going
to make these decisions, and then we say, oh, I'm sorry, we can't do anything when care is denied because when you have $575 billion less, and 3 million more people added per year, that's 30-something million people in 10 years, you know what that leads to. Mr. FLEMING.

It leads to a rationing of care. Decreased access. And if you have decreased access to your primary care provider, it means decreased quality of your care, that's a great idea. That's what's going to happen with this plan. That's why it's imperative, not just Medicare, but that we overturn the Affordable Care Act because it's not good medicine for patients.

If we simply had included in the debate, this would not be a plan that you had to run through and get rid of the 1099 form, the IPAB. It's a bipartisan bill now with 214 bipartisan co-sponsors. Those folks realize it's a bad idea, a bad plan, and on and on.

One of the good parts of the Affordable Care Act, let's point it out, it costs more money, but allowing a 26-year-old to stay on their parents' health care plan, that's a great idea unless your parents are not paying the bill. Currently, if a young person, 22 or 23 years old, gets health care, they'll pay one-sixth what I do. Now what happens with this, it has to be a three-to-one ratio, so their health insurance plan costs double.

We could go on and on about the inconsistencies. I think the previous Speaker, the current minority leader, had his love to take the bill let's pass it and then find out what's in it. Well, I read it, as most of us physicians did, and we found out all of the things that were in there that were not good for our patients. We're just now discovering it's going to be more costly for businesses out there, and we need to have an entire hour on that.

Mr. FLEMING. I thank the gentleman. Before I recognize another Member in the last minute or two that we have here, that's a great idea that we are going to be having a lot more of these sessions. So we've just started. We've just scratched the surface. We're running out of time, so just to wrap things up, we have just barely scratched the surface. And these are not all the physicians or health care workers we have on our side. There are others here who could have been here, but had some other commitment tonight, but will be here next time.

I would love to take more on IPAB. Even many Democrats see that was a very big mistake. It will be one way that you can get the door closed on your health care and getting the right sort of care in the future.

I think everyone who was here tonight, and I look forward to doing it again very soon. God bless you all. I yield back the balance of my time.

REPEAL OBAMACARE

The SPEAKER pro tempore (Mr. GOWDY). Under the Speaker's announced policy of January 5, 2011, the gentleman from Iowa (Mr. KING) is recognized for 30 minutes.

Mr. KING of Iowa. Mr. Speaker, it's an honor to be recognized to address you here on the floor of the United States House of Representatives. And I want to say that I appreciate the presentation that came from just some of the great team of doctors that we have here, especially on the Republican side of the United States Congress. I occasionally sit with these learned individuals, and I find I'm grateful that the American people have been able to review their presentation here tonight, looking at the numbers and the dollars that have come out of the health care because of this great burden of ObamaCare.

You know, I was thinking of the necessity for us to continue to remind Americans, ObamaCare is right now the law of the land. It is the law of the land. And until such time as this Congress recognizes that the Supreme Court should find it to be completely unconstitutional, it will remain the law of the land.

Mr. Speaker, the American people need to be reminded that even though it's creating uncertainty, people are realizing what ObamaCare is doing, a few people at a time, it is an insidious creep of a malignant tumor that is metastasizing and consuming American liberty, and it has to go.

If we look back at the special elections in Ohio 2 or 3 weeks ago, on it were several ballot initiatives. The second ballot initiative was one that rejected the collective bargaining initiative that had been initiated by Governor Kasich. It was a tough loss for Governor Kasich. I think he was right, but he lost in the ballot place because there was a liberal-heavy, union-heavy turnout in the State of Ohio for that special election night 2 or 3 weeks ago. And by 61 percent, the Kasich-initiated ballot initiative that limited collective bargaining was shot down by a union-heavy, liberal-heavy turnout. And they spent a lot of money in Ohio to turn out that type of a base.

But in the same ballot, the next item down, ballot initiative No. 2 was collective bargaining. No. 3 was a constitutional amendment to amend the Constitution of the State of Ohio to protect Ohioans from ObamaCare, to be able to reject the individual mandate and a whole series, about three different points there, to amend the constitution to protect Ohioans from the ObamaCare mandate.

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And, with a union-heavy, liberal-heavy turnout in Ohio in which 61 percent said “no” to Governor Kasich on collective bargaining, sixty-six percent of that voting universe voted to protect Ohioans from ObamaCare and to reject ObamaCare amending their State constitution. That's a serious step, to step forward and amend the State constitution. But they did so in an effort to reject ObamaCare in the State of Ohio.

Now, Mr. Speaker, that is a resounding rejection, that two out of every three people that went to the polls rejected ObamaCare. I will tell you that those American people did so if they're reminded that it exists out there. And there are two things that protect the American people, two stops along the way that can keep ObamaCare from becoming the perpetually unconstitutional law of the land, and that would be when the Supreme Court hears the case and yields a decision. I would remind you, Mr. Speaker, that there is no severability clause in all 2,600 pages of ObamaCare. No severability clause.

What that means to the lay person is this: If a component of ObamaCare is found unconstitutional by the Supreme Court, then all of ObamaCare is thrown out by the Supreme Court. There's no provision that stipulates that if a component is unconstitutional, the other components will stand on their own.

That is not just an ignorant omission on the part of the people that drafted and promoted and voted for ObamaCare. They knew it didn't have a severability clause in it. I knew it didn't have a severability clause in it. That means every Member of Congress had the opportunity to know that it didn't have a severability clause. So Congress, unwillingly and unfortunately passed an ObamaCare piece of legislation that didn't provide that if a part of it is found to be unconstitutional, the balance of it would be found to be constitutional. And the important component of that is, Mr. Speaker is this. If a part is found unconstitutional, it's all unconstitutional, and all 2,600 pages of ObamaCare then, by a Supreme Court decision, will be rendered null and void.

Yes, Mr. Speaker, there are exceptions to those types of decisions by the Supreme Court. But generally speaking, the court honors and respects a willful decision of the legislative branch. If that willful decision is that there be no severability clause, the Supreme Court should understand that that wasn't an accident. It was an unintentional omission. It was a willful omission because the drafters and the proponents of ObamaCare, of which I am not one, understood that a part of it is found to be unconstitutional, the rest of it collapses anyway of its own weight.

The components of this that prop up ObamaCare are cutting $575 billion out of Medicare to fund other parts of ObamaCare and then ending Medicare Advantage. The individual mandate that's in there, all of this is delicately drafted to try to find a way to argue that it could be paid for. And only last night they discovered that the CLASS Act in ObamaCare can't sustain itself. The numbers that they had advanced to try to pass it aren't sustainable. And so the administration
has decided they’re not going to move forward with the CLASS Act, this piece that is, let’s say, retirement home insurance funded out of ObamaCare. They thought that was going to cause them to go out of business; they found out that it was going to cost money. So they’ll drop that.

This Congress has passed a couple of repeal of pieces of ObamaCare. One of them is, out of this House at least, is the 1999 squelch form piece of ObamaCare. So it’s been taken apart to some degree. And the underpinnings of ObamaCare are starting to cause it to crumble. If the Supreme Court finds any part of it unconstitutional, Mr. Speaker, they will be well aware that no severability clause does not indicate an omission by accident on the part of Congress; that somehow the Supreme Court would re-create on a decision by the Supreme Court. They need to know it was a willful decision, it was premeditated, it was thought out, and the decision was no severability clause because ObamaCare, if any part of it is taken out by it being found unconstitutional—and I believe there are about four areas where it is unconstitutional—then all parts of ObamaCare must go.

I appreciate the doctors that came to the floor tonight to educate the American people on the bad components of ObamaCare. I would like to encourage, Mr. Speaker, the American people to find out what we are focused on repealing 100 percent of ObamaCare: ripping it all out by the roots and leaving not one vestige of it left behind, not one particle, not one sign of its DNA. Because if we leave any component of ObamaCare, it will grow back on us like the roots of a bad weed and/or the virus, or the malignant tumor, as I said. I would ask the doctors this. You take out a malignant tumor. If you leave part of it, it will grow back. I don’t want to leave it as part of the malignant tumor of ObamaCare. I want American liberty to thrive. So ObamaCare must go.

Ohio loans have rejected it by roughly a 2-1 margin—66 percent. And Ohio is middle America. If you’re going to win the Presidency, you must win Ohio. President Obama knows that. That’s why he visits Ohio as often as he does with Air Force One. Or, did we call that fundraiser one. He visits these fundraisers, he’s been on Air Force One now be- cause they believed that they would get a better tax base and get a better return than they were from the individual that owned the land.

Now, it directly and clearly violated, in my opinion—and I’ll put my opinion up against any Supreme Court Justice these degrees with degree in particular—the clear language in the Fifth Amendment of the Constitution that protects our property rights and is an essential pillar of American exceptionalism, the right to property.

This Constitution has to mean what it was understood to mean at the time of ratification. It has to mean what the clear words mean in this Constitution. It can’t be anything else. We can’t take an oath to anything else, and we can’t be bound by a later interpretation to the Constitution that someone else makes unless there is a clarity that’s added to the understanding of the plain meaning and the plain words and the original text of the Constitution and the amendments as they were ratified.

What did they mean when they were ratified? Mr. Speaker we had a Supreme Court in the State of Iowa that concluded that they could find rights in the State constitution that were “up to this point unimagined.” Seriously, judges wrapped in black robes—no longer any wigs—sitting there saying this is for a shopping mall or a strip mall because they believed that they would get a better tax base and get a better return than they were from the individual that owned the land.

I’d give an example of this. In fact, the discussion came up today in the Judiciary Committee with Congresswoman Sensenbrenner of Wisconsin’s bill that goes back to protect the property rights within the States and prohibits Federal funds going into certain projects that violates that sense of inherent and the literal language of the Fifth Amendment of the United States Constitution.

The famous Kelo decision, Mr. Speaker, I recall that unfolding here in about 2005 or 2006. It was the city council of New London, Connecticut, had decided that they would condemn property that was owned pri- vately through eminent domain and then hand that property over to another private interest to be developed for a shopping mall or a strip mall because they believed that they would get a better tax base and get a better return than they were from the individual that owned the land.

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down through the generations and the ages, this contract with American citizenship—with lowan citizenship in that case—can be breached because they have found rights that were up to this point unimagined? Heretofore unimagined?

What kind of guarantee can there be, a court that can discover new rights out of their imagination and declare that no one else had the imagination to discover those rights, but they had the vision, divine rights that were in this Constitution but not discovered before? That says there’s no guarantee whatsoever. That says this Constitution becomes just one of two things: it becomes an artifact of history with no meaning whatsoever, or it’s a shield that the Justices can use to protect themselves from the criticism of the unwashed masses, those laypersons that think that they can’t read this clear language and understand it.

Mr. Speaker, I’ll say the people I represent can read the Constitution. They do understand it. They understand what it means. And they can make the argument with the Supreme Court Justices if they were not intimidated. If they read and understand the language of the Fifth Amendment, read the language, “Nor shall private property be taken for public use without just compensation.”

What does “for public use” mean if a local government can confiscate private property and hand it over to another private entity for the purposes of private use? That means they have violated the Constitution. And the bill before the Judiciary Committee today, thanks to Chairman SMITH and former Chairman JIM SENSENBRENNER, fixes that to some degree; but it doesn’t repair this Constitution that is so sacred to all of us that we take an oath to it. And so I’ll continue my oath and pledge to protect the Constitution, Mr. Speaker, and continue to make this point that we have to have constitutional legislation come before this Congress; that when someone brings a bill called ObamaCare to this floor—2,600 pages—that violates so many of the components of the constitutional guarantee, let alone sapping the vitality from this very vigorous American culture that we are, the American people rise up. They rose up in tens of thousands, came to the Capitol and surrounded the place, jammed the place so heavily that people had trouble getting in and getting out. It was a glorious thing to see, Mr. Speaker, that the American people love their liberty enough that they would come from all 50 States to jam this Capitol to say to us, do not do this. Do not commit this affront to the Constitution. Do not usurp American liberty. These are God-given rights.

And who takes them away? This Congress gave them away—by then-Speaker PELOSI and HARRY REID in the Senate and Barack Obama. The ruling troika imposed ObamaCare on us, and the American people have rejected it soundingly by sending now 89 freshman Republicans to the House of Representatives. And every one of them pledged to repeal ObamaCare. And all but two of them—because they hadn’t had a chance to do so yet, they’re the special election-married Republican in the House and every single Republican in the Senate voted to repeal ObamaCare. And it was bipartisan. Some of the Democrats in the House voted to repeal ObamaCare.

The next Congress sent it. It’s been sent in the State of Ohio; it’s been sent by the polling. It goes on and on and on: repeal ObamaCare. Now, every Presidential candidate on the Republican side is running on repealing ObamaCare. Every one of them will sign the repeal if they’re elected President and sworn into office. Now, I’d like to see us put the repeal of ObamaCare, if we can’t get it passed this Congress, send to the next President to be signed. And even if the Supreme Court throws it out, and even if the current President is reelected, there needs to be a repeal that goes to second-term President and that goes to the general public, and throws all of ObamaCare out. It still exists within the code and it still needs to be repealed.

And the next Congress, being an honorable Congress, needs to send a repeal to the next President to be signed. And even if the Supreme Court throws it out, and even if the current President is reelected, there needs to be a repeal that goes to second-term President and that goes to the general public, and throws all of ObamaCare out. It still exists within the code and it still needs to be repealed.

And I pray that we’re able to put the repeal of ObamaCare on the podium, on the west portico of the Capitol. Janu- ary 20, 2013, having passed the House and the Senate, not messaged to the White House, messaged to the podium on the west portico of the Capitol, moments—maybe the instant after the next President takes office. And at the words “so help me God,” I’d like to see the next President sign the repeal before he or she shakes the hand of Chief Justice Roberts, who will be delivering the oath of office to the next President of the United States. We have constitutional responsibilities that we have to live up to. We give an oath. ObamaCare violates that Constitution.

And we have some other things going on here in this government that violate the spirit of the statutes that the American people have pushed through here. And one of them is this. It’s the advocacy, Mr. Speaker, of this: I’ve got a memo in my hand. It’s dated 13 April, 2011, from the Chief of the Chaplains of the Navy to Chaplains and Religious Program Specialists. It says this: Go ahead, you Navy chaplains. You go ahead and conduct same-sex marriage services on our military bases anywhere where it’s not otherwise illegal.

That’s the summary of it. It says that facility usage is determined by local policies. And the Region Legal Service Office, the RLSo, should be consulted to ensure compliance with existing laws and regulations, absent some existing statute, however. This is a change to previous training that stated same-sex marriages are not authorized on Federal property. This memo says they are now authorized on Federal property in direct contradiction with the Defense of Marriage Act, DOMA, that was passed by this Congress, signed into law, clearly is the law of the land.

I mean, we have, apparently, a directive from the Commander in Chief of the United States military, Barack Obama. He surely has to be the one that has ordered the Navy, you shall send out a memo here to direct the chaplains to conduct same-sex marriages on the bases unless there is some other law that gets in the way. I think that this kind of activity is an affront to the people that elected us. It’s existent by the Constitution within the legislature. This is not an executive decision. This is a decision of the legislature.

We passed the Defense of Marriage Act. I testified to defend the Defense of Marriage Act over in the United States Senate a month or so ago. And if the Senate were able to pass a repeal of the Defense of Marriage Act, it still has to come to the House, where I’m confident it would not pass. And I don’t think it’ll pass the Senate either.

But in any case, we have a defiance of Federal policy set by the Congress, signed by the President of the United States, from the Office of the Chief of the Navy Chaplains, dated 13 April 2011, that says, don’t be biased by sexual orientation when you’re conducting weddings. Go ahead and marry same-sex people on these military bases anywhere where it doesn’t otherwise violate a law.

That tells me that that goes worldwide, bases everywhere. I suppose it’s probably not happening in a base in Kuwait. They might frown on such a thing, but I don’t know, and it’s hard to get the facts on this.

But it’s hard for me also to imagine a Marine—a Navy chaplain marrying a couple of marines, let’s say a same sex couple of marines, whichever sex it might be. And this is going on in the United States and on bases in the country and it needs to come to an immediate halt.

This Congress has acted on this. This House has sent the message, and of course you have the Senate on the other side, run by HARRY REID, one-third of the former ruling troika that now becomes a shield for the President of the United States and the person who carries the water for the President, protects him when he doesn’t want to have the confrontation himself. They’ve gone the other way. Now there’s a stricture put out of the code. If the Senate language passes the House, they’ll stricken the language that prohibits bestiality in the
Regarding chaplain participation, consistent with the tenets of his or her religious organization, a chaplain may officiate a same-sex, civil marriage: if it is conducted in accordance with the laws of the state which permits same-sex marriages or union; and if the chaplain is, according to applicable state and local laws, otherwise, permitted to officiate that state's marriages. While this is not a change, it is a clearer, more concise and up to date articulation. Again, consult the Chaplain Legal Service Office (RLSO) to ensure compliance with existing laws and regulations.

3. The revised Chaplain Corps Tier 1 training is available on the Navy and Marine Corps DADT websites. Those websites are found at: Navy—http://www.dadtrepeal.navy.mil; Marine Corps—http://www.marines.mil/portal/page/portal/MAR/CHAPLAIN/DADT. All prior versions of the curriculum should be replaced by the current 11 April 2011 version.

4. If you have any questions or require additional information please contact Chaplain Doyle Dunn at (703) 614-4437/doyle.dunn@navy.mil or Chaplain Michael Gore at (703) 614-5506/michael.w.gore@navy.mil.

M.L. TIDD, Rear Admiral, CHC, U.S. Navy.


From: Commander, Walter Reed National Military Medical Center

Subj: Wounded, Ill, and Injured Partners in Care Guidelines

Ref: (a) NAVMED Policy Memo 10-015

1. Purpose. To provide guidelines with respect to the presence and participation of partners in care as defined by the Family, Significant Other, and friends of Wounded, Ill, and Injured (WII) patients. The presence of partners in care wish to visit the WII population will need to be approved by the Warfighter Patient Care Coordination Center (WPCC) Office of Distinguished Visitation utilizing the “Gold Line” (855) 875-GOLD (4635) and will arrange their visit to fall between the hours of 1000–1600 daily unless otherwise arrangements have been arranged through the WPCC. It is requested, to foster the “Patient and Family Centered Care” milieu within the Inpatient environments, visitors refrain from scheduling visits during inpatient quiet hours of 1300–1400 daily.

4. Policy. In keeping with the “Patient and Family Centered Care” philosophy of WRNMMC, families are considered partners within the health care team and are encouraged to provide care for their loved ones maintaining good personal health without constraint of set visiting hours.

a. Intensive Care Units. Primary next of kin (PNOK) may visit at any time. Other
partners in care may visit if accompanied by the PNOK.

d. Exceptions. Visits before or after the established hours of 1000–1500 and during impa
tient, 1300–1400 for other patients. Visitors in care will be reviewed on a case by case basis through the WFCC, attending physi
cian, and charge nurse.

5. SI Patients. Visitation for the SI and VSI patients who are not WII will be

determined by the PAO and signed

Portability and Accountability Act docu
tmentation provided by the PAO and signed

Health Insurance

must be accompanied by an adult.

may refuse visitors at any time.

ods, accountability, and delivery.

WII will be coordinated through the WFCC

ation, or donation delivery.

be referred to the WFCC for patient visits.

outside the established visiting hours will need prior approval from the WFCC. To

sure an optimal experience, these visits will be

been scheduled five (5) days prior to the

planned date; impromptu or last minute vis
ts to the WFCC. These WII visits include

the following partners in care: a. Family

b. Leadership of Title 36

ements.

c. Members of the:

(1) Executive

(2) Legislative—to include Professional

(3) Judiciary

d. Active duty General, Flag, and Senior

Executive Service (SES)

e. Celebrities and sports personnel vetted

care through the Staff Judge Advocate (SJA).

f. Members of the press vetted through the

Public Affairs Office (PAO).  
g. Other partners in care who represent

committees who wish to visit the WII from the Veterans of Foreign Wars, American Le
gion, Fleet Reserve Association, Marine Corps League, Army League, and other simi

lar organizations shall be referred to the WFCC for WII visits.

h. Leadership of the Military Coalition and

National Military Veterans Alliance.

i. Out of town visitors or visitors who can
n not come during normal visiting hours shall be

referred to the WFCC for patient visits.

j. Partners in care representing verifiable

501(c)(3) benevolent organizations wishing to

 interacts with the WII and or provide goods or services shall be directed to the WFCC. These

organizations will not be allowed unfettered access to the inpatient environment for the

purposes of information gathering, solicita
tion, or delivery.

(1) All donations of goods or services to the

WII will be coordinated through the WFCC

utilizing approved processes, setting metho
da, accountability, and delivery.

7. Exceptions. SI, VSI, and WII patients

may refuse visits at any time.

8. Partners in Care Guidelines

a. All non-family visits must be scheduled

five (5) days in advance.

b. Group size will not exceed five (5).

c. All partners in care, under the age of 18,

must be accompanied by an adult.

d. Photographs may not be taken before,
during, or after the visit without express permissi
n
Health Insurance Portability and Accountability Act docu
mentation provided by the PAO and signed

by the patient or PNOK if the patient is in
capacitated. At no time will personal identi
ifiable information (PII) or protected health

information (PHI) be recorded, retrans

mitted, and/or utilized in any manner with

out the express written consent of the pat

ient or their PNOK if incapacitated.

e. Due to dietary restrictions and infec

tious disease protocols, the distribution of

home produced baked goods to the patients,

families, or staff members is prohibited.

f. No religious items (i.e. Bibles, reading

material, and/or artifacts) are allowed to be

given away or used during a visit.

9. Release of Patient Information. All pa
tient information will be released in accord

ance with reference (a).

C.W. CALLAHAN,

Chief of Staff.

Mr. Speaker, I yield back the balance of

my time.

LEAVE OF ABSENCE

By unanimous consent, leave of ab

sence was granted to:

Mr. DOYLE (at the request of Ms.

PELOSI) for after 4:30 p.m. today on ac

count of medical reasons.

ENROLLED BILL SIGNED

Karen L. Haas, Clerk of the House,

reported and found truly enrolled a bill

of the House of the following title,

which was therupon signed by the

Speaker:

H.R. 394. An act to amend title 28, United

States Code, to clarify the jurisdiction of the

Federal courts, and for other purposes.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I

move that the House do now adjourn.

The motion was agreed to; accord
ingly (at 8 o'clock and 37 minutes

p.m.), the House adjourned until to

tomorrow, Friday, December 2, 2011, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive

communications were taken from the

Speaker’s table and referred as follows:

4067. A letter from the Congressional Re

view Coordinator, Department of Agri

culture, transmitting the Department’s final

rule — Importation of French Beans and

Runner Beans From the Republic of Kenya

into the United States [Docket No.: APHIS-

2010-0011] (RIN: 0579-AD39) received No

vember 4, 2011, pursuant to 5 U.S.C. 801(a)(1)(A);

to the Committee on Energy and Commerce.

4068. A letter from the Chief, Planning

and Regulatory Affairs Branch, Department of

Agriculture, transmitting the Department’s final

rule — Applying for Free and Reduced

Schools Program (CSP) Grants for Replica

and Expansion of High-Quality Charter

Schools [CFDA Number: 84.222M] (RIN: 1855-

ZA08) received November 4, 2011, pursuant to

5 U.S.C. 801(a)(1)(A); to the Committee on Edu-

cation and the Workforce.

4070. A letter from the Program Manager,

Department of Health Services, transmi

ting the Department’s final rule — Head

Start Program (RIN: 0797-AC14) re

ceived November 10, 2011, pursuant to 5 U.

C.S. 801(a)(1)(A); to the Committee on Edu-

cation and the Workforce.

4071. A letter from the Director, Regula
tions Policy and Management Staff, Depart
ment of Health and Human Services, transmi

ting the Department’s final rule — Bever

ages: Bottled Water Quality Standard; Ex

tended an Allowance for di(2-

ethylhexyl)phthalate [Docket No.: FDA-1993-

N-0259 (Formerly Docket No.: 1993N-0088)] re

ceived November 4, 2011, pursuant to 5 U.S.

C.S. 801(a)(1)(A); to the Committee on Energy and

Commerce.

4072. A letter from the Chief, Policy, and

Rules Division, Federal Communications Commissi

ion, transmitting the Commission’s final rule — Amendment of Part 15 regarding

new requirements and measurement guide

delines for Access Broadcast over Power Line

Systems; Order on Access Broadcast over Power Line Systems [ET

Docket No.: 04-37] [ET Docket No.: 03-104] re

ceived November 5, 2011, pursuant to 5 U.

C.S. 801(a)(1)(A); to the Committee on Energy and Commerce.

4073. A letter from the Chief of Staff, Media

Bureau, Federal Communications Commission,

transmitting the Commission’s final rule — Standardized and Enhanced Disclo

sure Requirements for Television Broadcast Licensee Public Interest Obligations; Ex	

tensions and Video Accessibility Act of 2010; Ap	

plementing Sections 255 and 251(a)(2) of the

Communications Act of 1934, as Enacted by

the Twenty-First Century Communications

Act and Technical Amendments [FNS-2007-0023]

rule — Importation of French Beans and

Runner Beans From the Republic of Kenya

into the United States [Docket No.: APHIS-

2010-0011] received November 4, 2011, pursuant to 5 U.

C.S. 801(a)(1)(A); to the Committee on Energy and Commerce.

4074. A letter from the Chief of Staff, Media

Bureau, Federal Communications Commission,

transmitting the Commission’s final rule — Amendment of Section 73.622(i), Post-

Transition Table of DTV Allotments, Tele

vision Broadcasting Services of the City of	

Miami, Florida [MB Docket No.: 11-140] re

ceived November 7, 2011, pursuant to 5 U.

C.S. 801(a)(1)(A); to the Committee on Energy and Commerce.

4075. A letter from the Deputy Chief, CGB,

Federal Communications Commission, transmit	

ning the Commission’s final rule — Ang	

giers for Christ Ministries, Inc.; New Begin	

ning Ministries; Petitioners Identified in Ap	

pendix A: Interpretation of Economically Burdensome Standard; Amendment of Sec	

tion 79.1(f) of the Commission’s Rules; Video	

Programming Accessibility; [CGC-00065] [CGB-CC-0007] [CGC Docket No.: 06-181] [CG Docket No.: 11-175] received November 7, 2011, pursuant to 5 U.C.S. 801(a)(1)(A); to the Committee on Energy and Commerce.

4076. A letter from the Chief, Broadcast	

Division, Wireless Telecommunications Bu	

reau, Federal Communications Commission, transmit	

ning the Commission’s final rule — Implementation of Sections 716 and 717 of

the Communications Act of 1934, as Enacted by the Twenty-First Century Commu	

nications Act and Technical Amendments to the Commission’s Rules Imple	

menting Sections 255 and 251(a)(2) of the

Communications Act of 1934, as Enacted by the Twenty-First Century Commu	

nications Act and Technical Amendments [FNS-2007-0023] [CGC-00065] [CGB-CC-

0007] [CGC Docket No.: 06-181] [CG Docket No.: 11-175] received November 7, 2011, pursuant to 5 U.C.S. 801(a)(1)(A); to the Committee on Energy and Commerce.

4077. A letter from the Assistant General	

Counsel for Regulatory Services, Depart	

ment of Education, transmitting the Depart	

ment’s final rule — Final Priorities, Re	

quirements, and Selection Criteria; Charter
REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MICA: Committee on Transportation and Infrastructure. H.R. 2645. A bill to amend title 49, United States Code, to provide for enhanced safety and environmental protection in pipeline transportation, to provide for enhanced security for the transportation of the Nation’s energy products by pipeline, and for other purposes; with an amendment (Rept. 112-267, Pt. 1), Referred to the Committee of the Whole House on the state of the Union.

Mr. HASTINGS of Washington: Committee on Natural Resources. S. 555. An act to authorize the Secretary of the Interior to lease certain lands within Port Pulaski National Monument, and for other purposes (Rept. 112-298), Referred to the Committee of the Whole House on the state of the Union.

Mr. HASTINGS of Washington: Committee on Natural Resources. H.R. 1158. A bill to authorize the Secretary of the Interior in the State of Montana, and for other purposes; with an amendment (Rept. 112-299), Referred to the Committee of the Whole House on the state of the Union.

Mr. HASTINGS of Washington: Committee on Natural Resources. H.R. 2172. A bill to facilitate a proposed project in the Lower St. Croix Wild and Scenic River, and for other purposes; with an amendment (Rept. 112-300), Referred to the Committee of the Whole House on the state of the Union.

Mr. HASTINGS of Washington: Committee on Natural Resources. H.R. 308. A bill to direct the Secretary of the Interior to enter into an agreement to provide for management of the free-roaming wild horses in and around the Currituck National Wildlife Refuge, and for other purposes; with an amendment (Rept. 112-301), Referred to the Committee of the Whole House on the state of the Union.

Mr. NUGENT: Committee on Rules. House Resolution 479. Resolution providing for consideration of the bill (H.R. 10) to amend the Marine Mammal Protection Act of 1972 to allow importation of polar bear trophies taken in sport hunts in Canada be- cause that major bear was determined to be a threatened species under the Endan- gered Species Act of 1973; with an amendment (Rept. 112-308), Referred to the Committee of the Whole House on the state of the Union.

Pursuant to clause 2 of rule XIII the Committee on Energy and Commerce discharged from further consideration. H.R. 2845 referred to the Committee of the Whole House on the state of the Union, and ordered to be printed.

Pursuant to clause 2 of rule XIII the Committee on Agriculture discharged from further consideration. H.R. 2172 referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. RAHALL (for himself, Mr. DEFAZIO, Mr. COSTELLO, Ms. NORTON, Mr. NADLER, Ms. BROWN of Florida, Mr. FILER, Mr. SMITH, Mr. JOHNSON of Texas, Mr. CUMMINGS, Mr. BOW- WELL, Mr. HOLDEN, Mr. CAPUANO, Mr. BISHOP of New York, Mr. MICHAUD, Mr. CARMAN, Mr. LIPINSKI, Mr. ALTMIER, Mr. WALZ of Minnesota, and Mr. COHEN):


801(a)(1)(A); to the Committee on Ways and Means.

4078. A letter from the Federal Register Liaison Officer, Department of Commerce, transmitting the Department’s final rule — Fee for Filing a Patent Application Other than by the Electronic Filing System (Dock- et No. 11-00568) [3309-A1AC7] received November 15, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4079. A letter from the Assistant Secretary Legislative Affairs, Department of State, transmitting the Department’s final rule — Visa Waiver of Immunizations for Individuals Entit- lished to Special Tonnage Tax Exemption received November 15, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4080. A letter from the Chief, Trade and Commercial Regulations Branch, Department of Homeland Security, transmitting the Department’s final rule — Authority to Order the Cook Islands to the List of Nations Enti- tled to Special Tonnage Tax Exemption received November 15, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4081. A letter from the Program Manager, Department of Homeland Security, transmit- ting the Department’s final rule — Medicaid Program; Part A Premiums for CY 2012 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Enti- tements for Medical Assistance received November 3, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4082. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service’s final rule — 2012 Limitations Adjusted As Provided in Section 415(d), etc. [Notice 2011-80] received November 8, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.


4084. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service’s final rule — Appleton v. Commissioner, 135 T.C. 461 received November 8, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.


4086. A letter from the Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service’s final rule — Information reporting of mortgage inter- est received in a trade or business from an individual [Rev. Proc. 2011-55] received November 8, 2011, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

H.R. 3533. A bill to ensure that transportation and infrastructure projects carried out using Federal financial assistance are constructed with steel, iron, and manufactured goods that are produced in the United States, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HANNA (for himself and Mr. MULVANEY): H.R. 3534. A bill to amend the Railway Labor Act to direct the National Mediation Board to apply the same procedures, including voting standards, to the direct decertification of a labor organization as is applied to elections to certify a representative, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. REHBERG: H.R. 3535. A bill to improve outcomes for child care assistance for military families; to the Committee on Transportation and Infrastructure.

By Mr. CARTER (for himself, Mr. BISHOP of New York, Mr. HINOJOSA of Texas, Mr. HOLDEN, and Mr. RUBIO): H.R. 3536. A bill to afford the Secretary of State the authority to act as a party of interest in regrading the Keystone XL pipeline; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Foreign Affairs, Energy and Commerce, and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RYAN: H.R. 3537. A bill to amend section 5001 of title 31, United States Code, to allow an occupancy fine to be imposed on government officials in possession of material, nonpublic information, and officers and employees of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Securities and Exchange Commission; to the Committee on Oversight and Government Reform.

By Mr. JOHNSON of Illinois: H.R. 3538. A bill to amend title 49, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in that State; to the Committee on the Judiciary.

By Mr. MCCINTOCK: H.R. 3539. A bill to amend the Federal Water Pollution Control Act to limit citizens suits against publicly owned treatment works, to provide for defenses, to extend the period of a permit, to limit attorneys fees, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. PITTS (for himself, Mr. PETRI, Mr. HINOJOSA, Mr. HOLDEN, and Mr. RUBIO): H.R. 3540. A bill to amend title 50, United States Code, to allow additional transit systems greater flexibility with certain public transportation projects; to the Committee on Transportation and Infrastructure.

By Mr. TURNER of Ohio: H.R. 3541. A bill to provide for an occupancy preference for veterans in housing projects developed on property of the Department of Veterans Affairs with assistance provided under the Department of Housing and Urban Development program for supportive housing for very low-income elderly persons; to the Committee on Financial Services.

By Ms. WATERSTON (for herself, Mr. CONYERS, Ms. SCOTT of Virginia, Ms. LEE of California, Mrs. CHRISTENSEN, Mr. FRANK of Massachusetts, Mr. GRJALVA of Nevada, Mr. WILSON of Florida, Mr. CLARKE of Michigan, Ms. NORTON, Mr. CLAY, Ms. BROWN of Florida, Mr. RANGEL, Mr. DAVID of Illinois, Mr. HASTENES of Florida, Mr. JACKSON of Illinois, Ms. RICHARDSON, Mr. JOHNSON of Georgia, Ms. MALONEY, Ms. LEWIS of Georgia, Mr. CLEAVER, Mr. WOOLSEY, Mr. AL GREEN of Texas, Mr. PAYNE, Mr. ELLISON, Mr. FILNER, Mr. GUTTIERREZ, Mr. HONDA, Ms. SCHAKOWSKY, Mr. BLUMENAUER, Mr. WATT, and Mr. SERRANO): H.R. 3542. A bill to amend section 5011 of title 23, United States Code, to authorize the Secretary of Transportation to enter into agreements with the States for the purposes of Federal financial assistance for transportation projects and other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GRIJALVA: H.R. 3543. A bill to amend section 5011 of division B of the American Recovery and Reinvestment Act of 2009 to extend the temporary increase in Medicaid FMAP through the end of fiscal year 2012; to the Committee on Energy and Commerce.

By Mr. JOHNSON of Illinois: H.R. 3544. A bill to amend title 18, United States Code, to provide a national standard in accordance with which nonresidents of a State may carry concealed firearms in that State; to the Committee on the Judiciary.

By Mr. CRENSHAW (for himself, Mr. JACKSON of Illinois, Mr. KING of New Jersey): H.R. 3545. A bill to amend title 49, United States Code, to allow additional transit systems greater flexibility with certain public transportation projects; to the Committee on Transportation and Infrastructure.
CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 7 of rule XII of the Rules of the House of Representatives, the following statements are submitted regarding the specific powers granted to Congress in the Constitution to enact the accompanying bill or joint resolution.

By Mr. RAHALL:
H.R. 3533. Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 1 and Clause 18 of the Constitution.

By Mr. HANNA:
H.R. 3534. Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 1 and Clause 18 of the Constitution.

By Mr. POLIS:
H.R. 3535. Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8 of the Constitution.

By Mr. JOHNSON of Georgia:
H.R. 3536. Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8 of the United States Constitution, specifically Clause 18, the necessary and proper clause.

By Mr. CANSECO:
H.R. 3539. Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8 of the United States Constitution, specifically Clause 18, the necessary and proper clause.

By Mr. CARBER:
H.R. 3540. Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 1 of the United States Constitution.

By Mr. FRANKS of Arizona:
H.R. 3541. Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8 of the United States Constitution.

By Mr. GRIJALVA:
H.R. 3542. Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 1 of the United States Constitution.

By Mr. JOHNSON of Illinois:
H.R. 3543. Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 1 of the United States Constitution.

By Mr. FITTS:
H.R. 3545. Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 1 of the United States Constitution.

By Mr. TURNER of Ohio:
H.R. 3546. Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 1 of the United States Constitution.

By Mr. MCCAULIFFE:
H.R. 3547. Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 1 of the United States Constitution.

By Mr. WATERS:
H.R. 3548. Congress has the power to enact this legislation pursuant to the following:
Article I, Section 8, Clause 1 of the United States Constitution.

ADDITIONAL SPONSORS TO PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:
H.R. 139: Mr. HASTINGS of Florida, Ms. SPIERER, and Ms. NOVOSLAVY.
H.R. 266: Mr. RANGEL.
H.R. 267: Mr. RANGEL.
H.R. 329: Ms. BERKLEY.
H.R. 333: Mr. MCCOTTER, Ms. DEGETTE, and Mr. CARTER.
H.R. 367: Ms. BLUMENAUER.
H.R. 368: Mr. HARRIS, Mr. PAULSEN, Mr. BROWN of Georgia, Mr. PARENTHOLD, Mr. BISHOP of Utah, and Mr. FLORES.
H.R. 414: Mr. RYAN of Ohio.
H.R. 420: Mr. SCOTT of South Carolina and Mr. BASS of New Hampshire.
H.R. 452: Mr. SIMPSON and Mr. GARDNER.
H.R. 512: Mr. KILDER.
H.R. 531: Mr. HIMES.
H.R. 555: Mr. NADLER.
H.R. 593: Mrs. ROBY and Mr. KLINE.
H.R. 618: Mr. DUTCH.
H.R. 651: Ms. HAHN.
H.R. 985: Mr. BURKE.
H.R. 781: Mr. McDERMOTT and Ms. HERRERA BEUTLER.
H.R. 719: Mr. GENE GREEN of Texas.
H.R. 721: Mr. GODOY, Mrs. HARTZLER, Mr. HERGER, Mr. GOWDY, Mr. SMITH of Nebraska, and Mr. GRAVES of Georgia.
H.R. 808: Ms. HAHN.
H.R. 835: Mr. HERSEN of Arizona.
H.R. 880: Mr. LATHAM.
H.R. 885: Mr. FRANK of Massachusetts.
CONGRESSIONAL RECORD — HOUSE

December 1, 2011

H. Res. 462: Mr. HULTGREN.
H. Res. 475: Mrs. BLACK, Mr. BROWN of Georgia, Mr. GOWDY, Mr. BURTON of Indiana, Mr. WALBERG, and Mr. GUTHRIE.
H. Res. 476: Mr. MCINTYRE.

H.R. 3470: Mr. Renacci.
H.R. 3480: Mr. Ribble, Mr. Flores, Mr. Ross of Florida, and Mr. Quayle.
H.R. 3481: Mr. Ross of Florida.
H.R. 3485: Ms. Eshoo and Mr. Blumenauer.
H.R. 3519: Mr. Filner.
H.R. 3522: Mr. Brady of Pennsylvania.
H.J. Res. 8: Mr. Higgins.
H.J. Res. 78: Mr. Heinrich and Mr. Gene Green of Texas.
H.J. Res. 88: Mr. Jackson of Illinois and Ms. Pingree of Maine.
H.J. Res. 91: Mr. Cooper, Mr. Landry, and Mr. Shuster.
H. Con. Res. 83: Ms. Fudge, Mr. Davis of Illinois, Mr. Inslee, and Mr. Capuano.
H. Con. Res. 87: Mr. Kиссell.
H. Res. 462: Mr. Hultgren.
H. Res. 475: Mrs. Black, Mr. Brown of Georgia, Mr. Gowdy, Mr. Burton of Indiana, Mr. Walberg, and Mr. Guthrie.
H. Res. 476: Mr. McIntyre.
The Senate met at 9:30 a.m. and was called to order by the Honorable JEFF MERKLEY, a Senator from the State of Oregon.

PRAYER

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

Let us pray.

O God, our Father, we look to You this day for help. Without Your help our Senators can see the ideal but cannot reach it; they can know the right but cannot do it; they can seek the truth but cannot fully find it; they can recognize their duty but cannot perform it. Empowered by Your might, help them to reach beyond guessing to knowing and beyond doubting to certainty regarding Your purposes.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEFF MERKLEY 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, December 1, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEFF MERKLEY, a Senator from the State of Oregon, to perform the duties of the Chair.

DANIEL K. INOUYE, President pro tempore.

Mr. MERKLEY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks the Senate will be in morning business until 11 a.m. Following that morning business, the Senate will resume consideration of the Defense Department authorization bill. This will be postcloture debate. We expect to complete action on the Defense bill today. We will give everyone as much notice as we can when we have votes coming.

Additionally, yesterday I filed a motion to proceed to S. 1917, a middle-class tax cut. If no agreement is reached, this vote will be tomorrow morning.


The ACTING PRESIDENT pro tempore. The clerk will read the measures at the desk due for a second reading.

Mr. REID. Mr. President, there are six measures at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the measures by title for the second time en bloc.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 30) to provide for the resolution of the outstanding issues in the current railway labor-management dispute.

A bill (S. 1930) to prohibit earmarks.

A bill (S. 1931) to provide civilian payroll tax relief, to reduce the Federal budget deficit, and for other purposes.

A bill (S. 1932) to require the Secretary of State to act on a permit for the Keystone XL Pipeline.

Mr. REID. I object to any further proceedings in regard to these matters. The ACTING PRESIDENT pro tempore. Objection having been heard, the measures will be placed on the calendar.

PAYROLL TAX CUTS

Mr. REID. Mr. President, yesterday on the Senate floor my friend the Republican leader said he supports an extension of the payroll tax cut that had been enacted last year. There has been an extreme change of heart here. On the Sunday shows the assistant leader, my friend, the junior Senator from Arizona, said Sunday: Not a chance they would work to extend this payroll tax cut. Then, as late as Tuesday, my friend the Republican leader said it would not “do a thing to help the economy.” Obviously there has been a change of heart since then by the leaders of the Senate Republicans.

But I noted yesterday that my friend was very careful to say only that he supports existing cuts, not that he supports our plan to cut taxes for 160 million workers in every business in the country.

Last night I found out why. I was disappointed to see the Republicans’ alternate proposal was actually a backdoor route to protect the very rich while shortchanging the middle class and small businesses. Should we be surprised at this? That is what has been going on this past year. Our proposal would provide relief for American families and extend existing tax cuts to benefit businesses. The Republican proposal rejects this new tax relief and
doesn’t provide a penny of additional tax cuts for working families and it does nothing for small businesses—the job creators the Republicans claim to care so much about.

They seem to think our plan to put $1,500 in the pocket of every American, with rare exception, and give small businesses the boost they need to hire new employees goes too far. They are willing to fight for ever deeper tax cuts for the wealthy, but when it comes to the middle class, Republicans here in the Senate—not Republicans generally, but Republicans here in the Senate—believe the status quo is good enough for struggling families. The Republican plan goes directly against the budget agreement we reached in the summer, the so-called Budget Deficit Reduction Act, where we raised the debt ceiling and those things we worked on. It took 3 months. Their plan goes directly against that plan that we made, which is now the law of the country. While Democrats have been working tirelessly to create new jobs, the Republican plan goes in precisely the opposite direction. Instead of creating jobs, it would cost jobs. The report is out today that during the month of October there were 206,000 private sector jobs created. Under their plan, the Republicans’ plan, many more middle-class families around the country would lose their jobs. That includes Americans dedicated to public service, hard-working people committed to keeping our streets safe—for example, an FBI agent, Drug Enforcement officer, food safety workers, highway construction workers. They want to devastate those folks. That is how they want to pay for this tax cut. It is not anything that is going to help the economy. It hurts the economy.

They are going after jobs that we need so desperately. Do the Republicans believe—I guess so, because that is what their legislation is all about—that the way to revive the economy is to lay off more FBI agents or fire more Border Patrol officers? These cuts will not revive the economy, they will only slow it down and cost more jobs. But, remember, the role of the Republicans here in the Senate is to defeat Barack Obama. It doesn’t matter what it does to middle-class families, obviously.

While targeting the middle class, Republicans do nothing to build back on excessive subsidies for many large corporations that benefit from government contracts. This is almost hard to comprehend. The Republicans started it, and it caught fire during the Republican control of the Presidency. There are more than 5 million government contractors. The Republicans propose to do nothing to cut back on excessive subsidies for many of these large corporations that benefit from government contracts. This is almost hard to comprehend. The Republicans started it, and it caught fire during the Republican control of the Presidency. There are more than 5 million government contractors. The Republicans propose to do nothing to cut back on excessive subsidies for many of these large corporations that benefit from government contracts. Employees at some of these taxpayer-supported corporations are being paid more than $700,000 a year while many public servants struggle to make ends meet. The Republicans want to whack these people who work to keep us safe in many different ways while they let these people go untouched.

The Republicans are uninterested in going after these high-income earners. As usual, the only real target of this Republican effort is the middle class. It is wrong. Americans believe, across the country, that the middle class is hurting. I have said—I will say it again—the only people in America who believe that the richest of the rich should not contribute a little bit to help our economy are the Senate Republicans. The Republicans outside this body do not feel that way. America’s middle class has been hurting for a long time. They are the people who are struggling. They are the ones who need help, not these multimillionaires, and not large, profitable government contractors.

The Republican proposal is unacceptable. It will not pass the Senate. We can do better and we must do better. Would the Chair announce the business of the day?

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now be in a period of morning business until 11 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, the majority controlling the first half and the Republicans controlling the final half.

The Senator from Washington is recognized.

MIDDLE-CLASS TAX CUT

Mrs. MURRAY. Mr. President, I come to the floor this morning to urge my colleagues to support the middle-class tax cut bill that would extend and expand the payroll tax relief for our families and small business owners. This legislation is straightforward. It should not be controversial. At a time when so many of our hard-working middle-class families continue to struggle in this very tough economy, this bill would cut their Social Security payroll tax in half, from 6.2 percent to 3.1 percent. That means a tax cut for 160 million working families a break. In fact, it was this issue that prevented the Joint Select Committee on Deficit Reduction from coming to a deal.

On the Democratic side we put forward serious compromises on the table to get to a balanced and bipartisan deal, but our Republican counterparts refused to allow the wealthiest Americans to pay a single penny more in taxes and insisted that the middle class and seniors and most vulnerable Americans bear the burden of this crisis and it was not fair then; it is not fair now. This bill is fully paid for by asking millionaires, who earn more than $1 million a year, to pay a little bit more, a small step toward a fair share. It is not drastic. It does not close the loopholes and shelters that Republicans have been fighting hard to maintain. It does not touch the Bush tax cuts for the rich they have been protecting. It doesn’t end the tax breaks for the oil and gas industry that they won’t allow us to simplify adds a 3.25-percent tax on incomes over $1 million a year. That means if someone earns $1.2 million in a single year they only owe an additional 3.25 percent on that last $200,000.

A time when so many families are struggling, we think this is a fair thing to ask the wealthiest Americans, who survived so well, to continue to give working families a break.

My vote sets us on the right choice. Do you vote to extend tax cuts for middle-class families and small businesses that have been struggling in this economy or do you vote to protect the wealthiest Americans from paying 1 cent more toward their fair share? I know where I stand. I feel very strongly that we owe it to middle-class families across this country to extend this tax cut. I think it would be a whole lot easier if our Republican colleagues focused their tax cuts for the middle class as they are for tax cuts for the wealthiest Americans and corporations.
I urge my colleagues to support this legislation and extend tax cuts for the families who need them most. I yield the floor.

RECOGNITION OF THE MINORITY LEADER

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

PAYROLL TAX EXTENSION

Mr. MCCONNELL. Mr. President, yesterday, Republicans, led by Senator HELLER, introduced what we believe is a much smarter approach to extending the temporary payroll tax cut than the one proposed by Democrats involving permanent tax hikes on job creators.

Similar to Democrats, we think struggling American workers should continue to get this temporary relief for another year. There is no reason folks should suffer even more than they already are from the President’s failure to turn this jobs crisis around. But there is also no reason we should continue to get this temporary relief for another year. There is no reason we should continue to get this temporary relief for another year. There is no reason we should continue to get this temporary relief for another year.

Here is another way we think folks such as Warren Buffett can offset the relief we are giving working Americans through our largest among numerous temporary extension of payroll tax cuts, which would also incorporate legislation from Senator THUNE, that would allow people who want to voluntarily help pay for health coverage for their families on their tax return. There would actually be a new line right on Warren Buffett’s tax returns enabling him or anybody else, for that matter, to give as much as they want. That way those who want to go that route can feel they are contributing in a way they want to contribute, and small business owners who want to help our economic and fiscal situation by growing their businesses and creating jobs can do that too without Washington dictating one way or the other.

This is the kind of balanced plan Americans are looking for. It is focused on helping middle-class Americans without asking them to fund benefits for the very wealthy and it does so without hamstringing the economy—as the Democrats would—with a permanent tax on job creators. Bear in mind what they are doing here is “paying for a temporary payroll tax relief with a permanent tax on job creators.” It also helps rein in the bureaucracy in Washington.

Millions of Americans have had to go without or to live with less over the past few years. Yet all they see here is that Washington just keeps getting bigger and bigger and richer. It is about time Washington took the hit for a change. We think this is a plan that those who are fed up with Washington and Wall Street can embrace but, as I have said before, we are never going to turn this economy around as long as we are focused on these temporary measures.

Yesterday, I outlined our vision for a tax-reform plan that restores basic fairness, helps put businesses on a level playing field, and puts our tax rates in line with our competitors overseas. That is the kind of thing that will get this economy charging again and we will press on for it. Meanwhile, we will also continue to point out what this administration is doing to prevent job creation right now.
MIDDLE CLASS TAX CUT ACT

Mr. CASEY. Mr. President, I rise to speak about the issue of job creation and also supporting our small businesses and strengthening our economic recovery.

One of the fundamental questions I have been asked in Pennsylvania—and I think most Senators on both sides of the aisle have been asked repeatedly, not just in the last couple of days or weeks but for many months now—is a very fundamental question: What are you doing as a Member of the Senate to create jobs or to at least create the conditions under which jobs will be created? What are you doing in your votes, in the actions you take in Washington for jobs? What does that mean? Sometimes we have a better answer than other times. Today, and certainly in the last couple days—and I think we will be debating this for a number of days—this is one of those times when that is a good thing—we will have a better answer to that fundamental question: What are you doing as a public official to create jobs in America?

One of the ways we can kick-start the economy and get job creation moving in the right direction again is by passing legislation such as the legislation that I have introduced, the Middle Class Tax Cut Act. It is now before the Senate, as the Presiding Officer knows, and we have been talking about it already, but we have more work to do on this today and some voting to do today on this legislation.

The legislation is fully paid for and will accomplish two important objectives. No. 1, it will strengthen the economy to support middle-income families, and specifically the way we do that is by providing middle-income families with a cut in the payroll tax, which means take-home pay that will help make ends meet for that worker and that family, but it will also have an impact by boosting demand throughout our economy. No. 2, we will cut payroll taxes for small businesses to help them grow and create jobs.

Here is what most people are confronted by today, not just by the big numbers. There are more than 14 million people out of work across America. In Pennsylvania, the latest number for October was more than 500,000 people out of work. To be exact, it is 513,000 people out of work. That number has fluctuated. Thank goodness it started again to go below half a million, but then it bumped again to almost 525,000 so it is at least is moving away from that number.

When half a million people are out of work in a State, you can imagine the hurt the families are feeling, the lives of struggle and sacrifice in our midst, and that is why we have to do something to jump-start the economy and create jobs.

I think the American people also want us to do this in a bipartisan way and we can and we should. We came together at the end of 2010 and passed a tax bill which was bipartisan. Then the Republicans went on a media blitz about the 2 percent that one side or the other did not like, and vehemently so, but we came together in a bipartisan way to pass a tax bill at the end of last year. We need to do the same thing again.

We need to work together, Democrats and Republicans, and get a result for the American people. This is something we can do right now—not 6 months from now, not a year from now but right now—to help our families and to create jobs. There is broad agreement that more needs to be done to support the economic recovery. We have to create more jobs, and we have to kick-start the engine of economic growth.

While we added nearly 2.8 million private sector jobs in the past 20 months, we continue to face significant economic challenges. Unemployment across the country, as we all know, is still at about 9 percent, and long-term unemployment remains at 40 percent or every 10 workers. And in Pennsylvania, employers have been jobless for 6 months or more. We know that gross domestic product—so-called GDP—grew at less than 1 percent, the annual rate, for the first half of the year. And a month ago, the third quarter of gross domestic product growth was recently revised downward. Initially 2.5 percent, it was revised downward to just a 2 percent annual rate. So it is self-evident that we have to do something right now about jobs.

With a weak labor market and only modest economic growth this year, it is clear we have to act right now.

Payroll tax cuts and credits are powerful tools to help bring more people into the workforce and provide economic relief for middle-income families. The current 2 percent payroll tax cut for working Americans that is in place now has played an important role in sustaining the economic recovery. By the end of this year, 121 million families will have received an average tax cut of more than $930 based upon last year’s action we took to cut the payroll tax. That was a good decision, but, if anything, we need to continue that as well as expand it, and I will go forward.

The number of families benefiting from this current payroll tax cut is very large because anyone who receives a paycheck benefits from a cut in payroll tax. Anyone who receives a paycheck gets this cut. Cutting payroll taxes immediately increases the take-home pay of everyone who gets a paycheck.

Compared to reducing the tax rates for the top 1 percent of the American people, middle-income money goes to middle and lower income Americans, who are likely to spend it, if we keep the payroll tax cut in place, and, of course, we want to expand it as well. Because take-home pay is greater, people have more money in their pockets— as I said, more than 930 bucks this year. This additional take-home pay will result in more spending. When we spend that at a level—and a lot of families are spending more money now to get through the holiday season—that boosts demands for goods and services and that leads to job creation. This is not theory. This is not some untested theory or hope. We know this works. We did it in 2011, and we will have to do more in 2012.

The employee side of this—and I will divide this into employee and employer for a second—the employee tax cut expires at the end of this year, as I mentioned. Without congressional action, employees’ share of the payroll tax will return to 6.2 percent of earnings, up from the current 4.2-percent level. So we have a payroll tax that has been cut from 6.2 to 4.2. That is in place. But if we do nothing, if we don’t act, if we don’t pass an extension of the 4.2 percent, it will go up to 6.2 percent, and it will be a tax increase for families across the board. If we fail to act, these middle-income families will see their payroll tax cut disappear at the end of the year. Let me make this clear, if we don’t act by the end of December, middle-income families will lose this payroll tax cut that is in place now.

What does this mean? Well, it means basically losing between 900 bucks and 1,000 bucks. And this is take-home pay for workers and their families.

This is a very tough time for families, as I mentioned before, with high unemployment and so many stresses, economic stresses and pressures on their lives. Families who are already facing both declining wages and stubbornly high unemployment, families who are struggling to pay for housing, make car payments, pay the food bill, pay for college tuition, whatever it is that they do that means making ends meet, are still having a terribly difficult time.

Losing this tax cut would also undermine the recovery by reducing consumer spending. Numerous economists and forecasters have highlighted the dangers to the economy of allowing this payroll tax cut to expire. Independent analysts estimate that letting a 2-percent employee tax cut expire would reduce gross domestic product growth by up to two percent in 2011. And last year, Mark Zandi, from Moody’s, in an article from September 9 of 2011 entitled “An Analysis of the Obama Jobs Plan,” made that same point. If we don’t continue the payroll tax cut, we will have an adverse impact on economic growth. Goldman Sachs Global ECS Research had a similar conclusion. So this isn’t just about individuals losing a payroll tax cut that is in place now, this is about harming in a very adverse way our economy’s ability to grow in a substantial way.

Let me talk for a moment about the legislation before us, the Middle Class Tax Cut Act which I introduced.
The ACTING PRESIDENT pro tempore. The Senator’s time has expired.

Mr. CASEY. I ask unanimous consent for an additional 5 minutes.

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

Mr. CASEY. I thank the Chair.

Let me talk for a moment about the legislation. The legislation before us, as I said before, would both extend and expand the payroll tax cut that is in place right now.

First of all, for employees, we cut it in half. So instead of paying a 6.2-per cent payroll tax, the employee, the worker, would pay just 3.1 percent. That has a sizable impact on the economy when we do that—1,500 bucks in the pockets of the average worker in America. Approximately 160 million American workers are impacted and as many as 6.7 million in Pennsylvania. So we would not only keep in place the payroll tax cut for workers, but we want to expand it so it is fully cut in half.

Secondly, I wish to speak for a moment about the employer side of this because that wasn’t part of last year’s effort. I introduced the payroll tax credit for employers to encourage employers to hire and accelerate the pace of the recovery. A number of folks on both sides of the aisle have worked on this. The ideas of those kinds of tax credits in those kinds of bills we introduced in the Congress of what we are trying to do today. This legislation incorporates elements of my and others’ earlier legislation to provide businesses with quarterly incentives to increase their payrolls.

I wish to highlight a couple of elements of the legislation before us.

First, this bill cuts payroll taxes in half for 98 percent of U.S. businesses. These businesses have taxable payrolls of $5 million or less. They will see their payroll taxes cut in half, as I said before, for the worker as well as the business.

Some people say: OK, that is 98 percent of businesses. That is good news. What about the other 2 percent who have higher incomes?

Those businesses that have taxable income above $5 million will still get a payroll tax cut from 6.2 percent to 3.1 percent on the first $5 million of their taxable payroll. So they get it up to that level. That is a huge help to small businesses across the country and even some businesses larger than that.

The Joint Economic Committee, of which I am the chair, recently released a report that indicated that small business lending remains well below pre-recession levels both in the number of loans and the dollar value of those loans. So a lot of small businesses still cannot get access to credit. This payroll tax cut legislation will help those companies substantially to be able to get access to credit.

Finally, I wish to make a point about the legislation as it relates to eliminating the employer’s share of the Social Security payroll tax on the first $50 million of increased payroll in 2012. This isn’t just a cut, this is an elimination if they do one of three things: if they are hiring more workers; if they increase the hours, which is another way to get the benefit; thirdly, if they are boosting pay.

This legislation is one of the best ways to create jobs, one of the best ways to kick-start our economy.

I will conclude with this. If we look at the real-world of communities across Pennsylvania or across the country, means that if we pass this legislation, for median family income in Pennsylvania, the benefit is $1,535, a little more than $1,500. So whether people go to small rural counties or big cities or suburban communities, wherever it is across a State such as ours, workers will be able to put roughly $1,500 in their pockets for this season coming up when people need some help, and small businesses will be substantially positively impacted by this legislation.

We need to pass this legislation. We need to do it now to help our workers, to help our businesses, and to grow the economy and create jobs.

Thank you, Mr. President.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

CERP REFORM

Mrs. McCASKILL. Mr. President, I have offered an amendment to the Defense authorization bill that unfortunately we are not going to get a chance to vote on, but I want to begin talking about it because I think this is something we need to do as we appropriate money for our military for the next year.

I wish to start by saying that I support the mission in Afghanistan, but after years of work on wartime contracting issues and looking at the way we have spent money through contracting in both Iraq and Afghanistan, I have come to a stark and real conclusion about the money we have wasted and continue to waste in this effort.

We are building infrastructure in Afghanistan that we cannot secure and that will not be sustained. Since 2004, the Defense Department—just the Defense Department, not the State Department—has spent more than $6.9 billion in Iraq and Afghanistan on humanitarian stabilization projects that include infrastructure, energy, and road construction.

Primarily, this has occurred through what is known as the CERP fund. “CERP” stands for “Commanders Energy Response Program.” This began as an effort in the war against insurgencies, the counterinsurgency effort, the COIN strategy. This began as an effort to go around the Commander on the ground would have money they could directly access to do small neighborhood projects, to win the hearts and minds, to secure a neighborhood, to stabilize a community.

These projects were envisioned, when I first came to the Senate, as fixing broken panes of glass in a shopkeeper’s window. This program has morphed into something much larger than that. It was envisioned at the beginning of the counterinsurgency effort in Iraq. These $100 projects, $1,000 projects, are now hundreds of millions of dollars. In fiscal year 2010, more than 90 percent of the spending in CERP was for projects over $1 million. At its highest in 2009, the authorizations for CERP spending in Afghanistan and Iraq reached $1.5 billion. And—this is the kicker—the military building large infrastructure projects has not shown a measurable impact on the success of our mission.

I have stacks of studies, and I am such a wonk; I have actually read all of these studies. These are just a few of the studies that have been done by inspectors general, by special inspectors general, by the IG, by the inspector general, by the Wartime Contracting Commission. The Senator from Missouri.

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On the ground would have money they could directly access to do small neighborhood projects, to win the hearts and minds, to secure a neighborhood, to stabilize a community.
CERP.” It has now been documented that they want to go even larger and even bigger with these large multi-million dollar projects. I cannot stand by as we spend billions on roads, electrical grids, and bridges in Afghanistan, knowing the incredible need we have of defense in exactly that kind of investment.

These projects are not being built in a secure environment. We are paying off people to try to keep the contractors safe. And it has been documented that billions of the money has gone right into the hands of our enemy. That must be stopped.

These projects, in many if not most instances, cannot be sustained. I can give a number of examples. But all you would have to do is travel around Iraq and see the empty, crumbling health care centers built with American taxpayer dollars, the water park that is a twisted pile of rubble that is no longer operational, all of the investments that were made that are production of electricity generation that were blown to bits.

I can give specific examples in Afghanistan. How about hundreds of millions of dollars spent on a powerplant—the so-called dueling powerplant—nobody there knows how to operate it. And they cannot afford to operate it, so it stands by as an empty, hulking potential generator for backup power, while they buy cheaper electricity from a neighboring country.

For the first time, the Department of Defense has requested and received $400 million in authorization in this new Afghan Reconstruction Fund. We should limit our military to the small projects that CERP was originally intended for, not produce contracts to major, multinational corporations.

All of these reconstruction funds should be pulled, and my amendment would do just that. We would pull all of this money out with the exception of projects under $50,000. That would be as much as $700 million that we could immediately put directly into the highway trust fund in this country. That is what my amendment does. It will transfer that investment from a non-secure environment, in areas these projects cannot be sustained, to the very needy cause of infrastructure investment in the United States of America.

Let’s do this. Let’s stop these large projects that cannot be secured and be sustained. Keep in mind, as much as $700 million would be pulled, and that is a small fraction of what we are spending in Afghanistan. The authorization for next year is more than $100 billion. So anyone who tries to say this will cripple our mission in Afghanistan does not understand the numbers. Of the moneys we are spending in Afghanistan, the vast majority is about personnel: to train the Afghan military, to train the Afghan police department, to fight the terrorists who are there, the Taliban, al-Qaeda in the areas near Pakistan. All of that remains. A very small percentage of this would be pulled. But it should be pulled, and it should be pulled today. We should take this investment and put it in roads and bridges right here in our country.

The amendment will have success when we look at the appropriations process. I think it is time we stop this funding, and stop it now.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore, The Senator from New Mexico.

DR. DONALD BERWICK

Mr. BINGAMAN. Mr. President, I want to take a few minutes to commend Dr. Donald Berwick for his service as Administrator of the Centers for Medicare and Medicaid Services and also to express my deep disappointment that his nomination was blocked by a minority of Senators.

CMS, the Centers for Medicare and Medicaid Services, has benefitted greatly from Dr. Berwick’s innovation and leadership, and the refusal of some Members to support confirming him for this position is difficult to understand.

Dr. Berwick has also written extensively about the need to put in place an organization focused on improving health care quality. But, unfortunately, many of my colleagues across the aisle adamantly opposed Dr. Berwick’s tenure, beginning when he was first nominated by President Obama for his position in April of last year.

Many of these objections are based on inaccurate accusations and sound bites that have been completely taken out of context.

Dr. Berwick has the qualifications, expertise, and demonstrated leadership ability that CMS needs at this critical time. He is a pediatrician by training. Harvard professor, health care analyst, elected member of the Institute of Medicine, a leading advocate on health care quality and patient safety, and a cofounder of the Institute for Healthcare Improvement, which is a respected think tank that trains hospitals on how to increase patient safety and improve operations.

Dr. Berwick has also written extensively, with there being more than 120 scholarly articles he has authored or coauthored, along with several books, on the quality and efficiency of health care.

Dr. Berwick is a true visionary. He has been an advocate for transparency and accountability within our health care system, and his distinguished career has made him the ideal candidate to lead the CMS at this critical time.

It was due to Dr. Berwick’s deep knowledge of health care, his vast experience, and his passion for this issue that his nomination originally won praise from across the political and professional spectrum. This includes Tom Scully and Mark McClellan, both former administrators of CMS under President George W. Bush. They strongly endorsed his nomination. His nomination also had the support of Dr. Nancy Nielsen, who is the past president of the American Medical Association; John Rother, who is the former executive vice president of the AARP; and former Republican Senator from Minnesota, our former colleague, Dave Durenberger. In fact, Senator Gingrich supported Dr. Berwick for seeking a “dramatically safer, less expensive, and more effective system of health care.”

During his tenure as CMS Administrator—the few months he has been in the position—Dr. Berwick has been able to implement impressive reforms, including launching the new CMS Innovation Center, which will test new health care delivery models that emphasize primary care and innovative ways to finance health care.

He has also instituted a financial incentives program for physicians who use electronic health records. And generally, he has set the tone for health reform to take root and to provide Americans with affordable, high-quality health care in a cost-efficient manner.

To be perfectly clear, I am not in any way suggesting that I do not continue to have enthusiasm for the President’s reappointment to replace Dr. Berwick. From all I know of this nominee, she will do an excellent job. But I am frustrated that an eminently qualified public servant is being denied the opportunity to continue serving the American people in this important position. There is no valid justification for denying him that opportunity.

The ACTING PRESIDENT pro tempore. The majority’s time has expired.

Mr. BINGAMAN. I ask unanimous consent for an additional minute.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. BINGAMAN. John McDonough of the Boston Globe, in his commentary on the response to Don Berwick’s nomination, wrote:

One of [health care’s] most distinguished leaders and voices got mugged by partisan Republicans who know better and who got away with it.

I am truly disappointed that certain Senators have pledged to block his nomination and that he has chosen to resign his position effective tomorrow.

Our task now is to assess the new nominee the President has sent us. I hope Members can come together to do what is right in this circumstance; that is, to quickly confirm an Administrator for this very important position.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore, The Senator from Indiana.

Mr. COATS. Mr. President, it is my understanding that I have 20 minutes of time allotted under morning business.

The ACTING PRESIDENT pro tempore. Under the previous order, each Senator has 10 minutes.

Mr. COATS. All right. Mr. President, I do not think I will use all of those 20 minutes. I might ask for 10 additional
There was a so-called Draconian sequester, or across-the-board cut, that would go into place automatically, starting in 2013, if the committee could not come to an agreement. The consensus at the time was that these cuts would be so Draconian that it would force any Republican and Democrat—to come forward with at least a minimal plan. Many of us were urging them to do much more, to bring forth something that would be credible with the investment community and restore confidence that America understood the dire situation we were in and we were doing something about it as representatives of the people.

No clearer message came to this body than the message sent in November of 2010 with the historic turnover of Members and an outpouring of support for putting the future of our country, our fiscal future and economic future and the future of our children and grandchildren ahead. Yet it is politics that defeated the effort.

Now, it is easy to blame the committee of 12. I know there was an earnest attempt to come together. I believe, politically, perhaps, it was not even necessary by the way it was designed. That is one of the reasons I voted against that proposal. Nevertheless, they made an earnest attempt but, unfortunately, were not able to bring it home.

So the responsibility falls not just on those 12, but it falls on this entire Congress because we would not even have gotten to that supercommittee if we had done our job earlier and presented a real plan in August, when we were bumping up against the debt limit extension. That’s when we should have done what most of us intuitively understand needs to be done. Yet the political considerations and ramifications were such that we came forward with a very timid and woefully short plan of what we needed to do.

The President has to take some responsibility. We cannot really bring forward a bold change in the way the U.S. Government does business unless we have bipartisan support. We cannot get that bipartisan support unless the Chief Executive, the quarterback of the team, stands up and says: I want to be engaged. He is the key person. Yet that quarterback was not even publicly engaged. While there was some rhetoric coming out of the White House, there was no plan. As I said, the only plan we had from the President—his budget plan—was rejected earlier this year on a unanimous vote, every Republican and every Democrat turned it down.

The President has said some nice words about what we needed to do and so forth and so on. But he was AWOL. As I said, the quarterback of the team needs to be engaged. He is the key person. Yet that quarterback was not even on the field. So responsibility falls on the President and the White House.

The President has said some nice words about what we needed to do and so forth and so on. But he was AWOL. As I said, the quarterback of the team needs to be engaged. He is the key person. Yet that quarterback was not even engaged. While there was some rhetoric coming out of the White House, there was no plan. As I said, the only plan we had from the President—his budget plan—was rejected earlier this year on a unanimous vote, every Republican and every Democrat turned it down.

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their act together. Well, we need to get our act together here because what we are seeing there may be coming across the shore. Certainly, similar problems exist: promising more than we can deliver, borrowing more so that we can pay for it, and not having the money to pay through the revenues we generate in our country. The same thing is happening here. This is the challenge in front of us. We need to find a way to seize this opportunity to do something for the future this generation because our government must step up for the next generations and for the sake of the country’s future. We need to continue this debate and go forward. It is easy to sit around and grumble and blame somebody else and say, well, we gave it our best shot and therefore we will just let whatever happens happen. We do not want to do that because what will happen here, if we continue on the current course, is what is happening in Europe today. There is a picture of the budget sequences of a sovereign nation promising more and spending more than it takes in over time. It slows the economy. It piles up the interest payments. It shrinks the amount of money available for essential services. It puts the programs that were in place in real jeopardy.

So if we consider the consequences, we clearly have to answer the question: Where do we go from here? How do we go forward in a constructive way?

I would suggest a few things: First, we need to enforce the law that is there under the Budget Control Act. The law that is in place on the books now, even though I believe that law designed a process that is woefully short of where we need to go, but we need to enforce it now.

No one wanted to get to this across-the-board cutting, this sequester that impacts our national security and other functions of government, that sequester was supposed to prevent us from falling and urge us to come to agreement. It did not. The sequestration rule now is the law, and I think an attempt to undo that is one of the most cynical things we can do, and the American people know it. I do not believe they will allow us to do it.

So the law needs to be enforced if we cannot come up with the minimum amount of cuts required. We need to go forward. So there are a number of ways—and I commend the committee for at least trying to come up with some efficiencies and effectiveness rein in our Federal spending. I believe they have a list of things that we can look to in order to enforce more cuts. I have suggested a triage process when we review every aspect of an agency of government, every function that is performed through this Federal Government, and basically say: We have a patient that is sick, a patient with a potentially terminal disease. But we need to triage. We have a bunch of people in the waiting room. Some of them need attention right away. So we need a triage of every agency, every function, every expenditure being examined from the standpoint of, is this absolutely essential to the future of this country, to the protection of our citizens? Is this an absolutely essential function of government that cannot be done at the local level, or at the private level? If so, then that needs to have priority.

Secondly, there is a whole range of issues. We come down every day with new ideas and thoughts of “this would be nice to afford to do.” We have to delay these initiatives those or just simply say to people: I am sorry, we do not have the money to pay for this idea.

So we separate the essential from “like to do and cannot do.” And then we look at what needs to be done that someone else can do better. Whether in the private sector, at the State level, or at the local level, there are a whole range of areas where the Federal Government needs to take over its head. These are functions that can take place in the private sector or through State and local governments.

We can look at the duplication and inefficiencies that exist. Senator Bennet talks about his state being $1 trillion of dollars in expenditures that could be saved. We ought to look at that. We ought to look at those and decide which ones we want to go forward with and how we can start that process.

Let me mention a couple of things: 18 separate domestic food assistance programs. Do we need domestic assistance for food? Probably there are some areas where we do. Do we need 18 separate programs dollling this out?

There are 47 different job training programs. OK. The economy is restructuring. We need job training. Do we need 47 separate programs to do that?

And my personal favorite: 56 financial literacy programs. We can argue that the Federal Government is in no place to teach the American people how to be financially literate. I think what we need to do is be financially literate here in Washington and then use that model to show people how to be literate rather than simply say, well, we have the answer. We, obviously, do not have the answer. Why we have 56 financial literacy programs in place through the Federal Government is just astounding.

So these are suggestions. There are many others regarding cutting of spending. But there are other functions that need to be addressed. There are three major categories. One is regulatory reform. Regulation from various agencies is costing the American taxpayer and Americans millions and billions of dollars.

There is a process underway to look at those. That is one category. I can talk for a long time about that, but I will not. A second one is entitlement reform. Now, I have been talking about this subject from the beginning. This is the engine that drives the train of deficits, and we can stand by and continue to lie to the American people and say they have nothing to worry about. We can say we are going to preserve every penny of the Social Security and every penny of the Medicare and Medicaid, and it will always be there. Do not worry. Even the money we pay roll taxes and so forth, it is all sacrosanct, and do not worry about it. We can continue that lie or we can tell the American people the truth; that is, if we want to keep these programs viable, we need to take structured reform measures now.

Those could be increasing the age of eligibility for Medicare to coincide with the current Social Security age. It could be changes in some of the indexes that are used to calculate the cost-of-living adjustment. That could be modified through means testing.

Warren Buffett says he does not need Social Security. Fine. If people do not need Social Security or Medicare or at least the full payment, let’s give them back what they paid in. So we could put means testing in there. We need to debate and talk about this issue.

Is it politically sensitive? Sure. But let’s be honest with the American people. They want us to be honest. I think that is what the message of 2010 was all about.

The third category, one in which I have been very involved in, is reforming our Tax Code, which is a mess.

The tax code is totally incomprehensible to anybody who spends less than 15 hours a day as a career studying it and trying to figure it out. Our tax code is a nightmare. Americans spend billions of dollars having people do their taxes because the tax code is too complex to understand. There are tens of thousands of pages in the Tax Code.

There is a growing bipartisan consensus here in Congress that we need to reform our Tax Code. Senator Wyden and I have a bipartisan bill that has been worked on for 3 years to reform the tax code. Our plan is not the absolute answer to everything, but it is the only bipartisan bill of which I am aware. It has been scored, and it is available to be debated. I know the supercommittee looked at our proposal. The Ways and Means Committee and the Finance Committee ought to look at it as well. Tax reform can make this country more competitive, grow economy, and help with our fiscal situation.

I sense that I am close to or running out of time. In deference to my colleagues, I will wrap up.

I came here deeply disappointed today. I remain disappointed that we have not been able to do more. My No. 1 priority has been to advocate for going big on a deficit reduction plan. We were not able to do that. Experts agree that we must do more. We only have to look at Europe to see what coming next. We need to look at the plans out there we can build off of right now. So instead of just folding our tent and saying there is nothing we
TRIBUTE TO LARRY MUNSON

Mr. CHAMBLISS. Mr. President, I rise today, along with my colleague, my fellow University of Georgia graduate, Senator ISAKSON, to honor a man who became a legend in his own time in our great State, a legend who was respected by, as we would say, folks on both sides of the aisle. That term for this man means he was respected by Georgia Tech football fans as well as University of Georgia football fans.

The man I am talking about is Larry Munson. Larry Munson was not a southerner by birth, but he became a southerner and Georgia Bulldog by passion. He was the Georgia football announcer for over four decades. During those four decades, he not only witnessed some of the most memorable football games, but he made some of the most memorable calls. His way of describing a football play will go down in the annals of broadcasting as not only being unique, not only being fascinating, but it will go down in the annals of sports broadcasting as being some of the best and most professional calls ever made on a football field.

But there was more to Larry Munson than the “Run, Lindsay, run,” more to Larry Munson than the “Oh, you Herschel Walker,” more to Larry Munson than “We just stomped on them with a hob-nailed boot.” He was a man who had passion for life, a man who had a thorough understanding of his profession, and a man who worked very hard at his profession.

He used to get up every Saturday morning before a football game and have coffee with our legendary coach, Vince Dooley. Coach Dooley said he finally had to stop having coffee with Larry Munson because Larry was ever the pessimist, from a football standpoint. Coach Dooley would come to those coffees feeling good about his chances in the game that day. But by the time he finished having coffee with Larry Munson, he had to go back and rewrite his playbook.

Larry Munson was simply a man who loved the University of Georgia. He loved calling football games, and he loved putting his emotions into those calls. He was also a man who cared not just about the University of Georgia but about his students. He used to have a sign on his door that says, “Where is the best bass pond in south Georgia? That is where I want to be this afternoon before my speech.” He thoroughly enjoyed the outdoors, and he enjoyed being around people. That was obvious in the way he expressed himself behind the microphone when he called football games.

As we celebrate the life of Larry Munson, we celebrate more than his passion for football, his passion for his family, and his passion for sports. He was a man who loved the outdoors, and he enjoyed being around people. That was obvious in the way he expressed himself behind the microphone when he called football games.

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The PRESIDING OFFICER. The Senator is correct.

Mr. GRAHAM. I ask unanimous consent to enter into a colloquy, and if the Chair could let me know when 10 minutes has expired.

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

DEFENSE AUTHORIZATION

Mr. GRAHAM. While we decide how we are going to move on the Defense bill, I appreciate Senator KYL coming to the floor. Senator KYL and I, along with Senators LEVIN and MCCAIN, have been working on detainee policy for years now. There is an issue that is before the Senate soon. It involves what to do with an American citizen who is suspected of collaborating with al-Qaida or an affiliated group.

Does the Senate agree with me that in other wars American citizens, unfortunately, have aided the enemies of their time?

Mr. KYL. Mr. President, yes. I would say to my colleague, unfortunately, it is the case that there probably hasn’t been a major conflict in which at least some American citizen has declared they are leave his country and side with the enemy.

Mr. GRAHAM. Is the Senator familiar with the efforts by German saboteurs who landed—I believe, in the Long Island area, but I don’t know exactly where they landed—during World War II, and they were aided by American citizens to execute a sabotage plot against the United States?

Mr. KYL. Mr. President, yes. In fact, there is a famous U.S. Supreme Court case, Ex parte Quirin, decided in 1942, that dealt with the issue of an American citizen helping the Nazi saboteurs that came to our shores.

Mr. GRAHAM. Does the Senator agree with me that our Supreme Court ruled that when an American citizen decides to collaborate and assist an enemy force, that is viewed as an act of war and the law of war applies to the conduct of the American citizen?

Mr. KYL. Mr. President, I would say to my colleague, yes. My colleague knows this case, I am confident. I think one quotation from the case makes the point clearly—in Ex parte Quirin the court made clear: “Citizenship in the United States of an enemy belligerent does not relieve him from the consequences of his belligerency.”

In other words, if a person leaves their country and takes the position contrary, they side with the enemy, they become a belligerent against the United States, the fact that they are still a citizen does not protect them from being captured, from being held, and in this case even being tried by a military tribunal.

Mr. GRAHAM. So the law, at least since 1942, but the Supreme Court has been of the opinion that an American citizen to join forces with enemies of the United States, they have committed an act of war against their fellow citizens. It is not a criminal event we are investigating or dealing with; it is an act of war, and the American citizens who helped the Nazis were held as enemy combatants and tried as enemy combatants?

Mr. KYL. Mr. President, yes. I would just qualify the statement this way. A person can be subject to military custody being a belligerent against the United States, even while being a U.S. citizen, be tried by military commission because of the act of war against the United States that they committed. One could also theoretically have been tried in a criminal court. But one can’t reach the opposite conclusion, which is that they can only be tried in civilian court.

Mr. GRAHAM. In the Military Commission Act of 2009, we prohibited American citizens from being tried by military commissions. I am OK with that. But what we have not done—and I would be very upset if we chose to do that—is take off the table the ability to interrogate an American citizen who has chosen to help al-Qaida regarding what they know about the enemy and what intelligence they may provide us to prevent a future attack.

Since homeland terrorism is a growing threat, under the current law, if an American citizen became radical, went to Pakistan and trained with al-Qaida or an affiliated group, flew back to Dulles Airport, got off the plane, got a rifle or a bomb, went downtown and started shooting people, does the Senator agree with me that under the law as it exists today, that person could be held as an enemy combatant, that person could be interrogated by our military and intelligence community and we could hold them as long as necessary to find out what they know about any future attacks or any past attacks and we don’t have to read them their Miranda rights?

Mr. KYL. Mr. President, yes. The answer to the example is, yes. It is confirmed by the fact that in the Hamdi case, the U.S. Supreme Court precisely held that detention would be lawful. Of course, with the detention being lawful, the interrogation to which my colleague refers could also be taken.

Mr. MCCAIN. Would the Senator yield for a question on that subject point?

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. The individual who was an American citizen—Mr. Hamdi, the subject of the U.S. Supreme Court case—was an American citizen captured in Afghanistan; is that correct?

Mr. GRAHAM. Yes.

Mr. MCCAIN. Yet in the Supreme Court decision reference is made to a person captured both in the United States and outside the United States.

Mr. GRAHAM. Yes. The In re Quirin case dealt with an American citizen helping the Nazis in America. The Hamdi case dealt with an American citizen helping the Taliban in Afghanistan.

Mr. MCCAIN. The reason why I raise the question is because the Senator from Illinois, and others, have cited the fact that Hamdi was an American citizen but captured in Afghanistan, not in the United States of America.

Yet isn’t it a fact that the decision in Hamdi also made reference to a person who was apprehended in the United States of America?

Mr. GRAHAM. Yes. The In re Quirin case cited in re Quirin for the proposition that an American citizen who provides aid, comfort or collaboration with the enemy can be held as an enemy combatant. The In re Quirin case dealt with an American citizen helping the Nazis in New York. The Padilla case involves an American citizen, collaborating with al-Qaida, captured in the United States.

Mr. MCCAIN. So I guess my question is, it is relevant where the citizen of the United States was captured. Because the decision made reference to people captured both in the United States and outside the United States.

Mr. GRAHAM. Exactly. I would add, and get Senator KYL’s comment. Wouldn’t it be an absurd result if you can kill an American citizen abroad—Awlaki—whatever his name was—the President went through an Executive legal process, targeted him for assassination and a drone attack killed him and we are all better off. Because when an American citizen helps the enemy, they are no longer just a common criminal; they are a military threat and should be dealt with appropriately.

But my point is, wouldn’t it be an odd result to have a law set up so that if they actually got to America and they tried to kill our people on our own soil, all of a sudden they have criminal status?

I would argue that the homeland is part of the battlefield, and we should protect the homeland above anything else. So it would be crazy to have a law that says if you went to Pakistan and killed an American soldier, you could be blown up or held indefinitely, but if you made it back to Dulles Airport, you went downtown and started killing Americans randomly, we couldn’t hold you and gather intelligence. The Supreme Court, in 1982, said that made no sense.

If a Senator, in 1942, took the floor of the Senate and said: You know those American citizens who collaborated with the Nazis, we ought not treat them as an enemy, they would be run out of court capital in Afghanistan.

I am just saying, to any American citizen: If you want to help al-Qaida, you do so at your own peril. You can
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get killed in the process. You can get detained indefinitely. When you are being questioned by the CIA, the FBI or the Department of Defense about where you trained and what you did and what you know and you say to the interrogator: I want to talk to a lawyer, the interrogator: You don't have a right to a lawyer because you are a military threat.

This is not "Dragnet." We are fighting a war. The Supreme Court of the United States has clearly said an American who joins the enemy has committed an act of war.

Senator FEINSTEIN, who is the chairman of the Intelligence Committee, is a very good Senator. But her concerns about holding an American citizen under the law of war, her amendment, unfortunately, would change the law.

Does Senator KYL agree with that?

Mr. KYL. Yes. Mr. President, that is the key point. There is a reason why you would want to adopt the Feinstein amendment: It would preclude us from gaining all the intelligence we could gain by interrogating the individual who has turned on his own country and who would have knowledge of others who might have joined him in that effort or other plans that might be underway.

We know from past experience this interrogation can lead to other information to save American lives by preventing future attacks, and it has occurred time and again to the Feinstein amendment. I will put a statement in the RECORD that details a lot of this intelligence we have gathered. It is not as if an American citizen doesn't have the habeas corpus protection—which still attaches—whether or not that individual is taken into military custody.

The basic constitutional right of an American citizen is preserved. Yet the government's ability to interrogate and gain intelligence is also preserved by the existence, by the nature of the law that exists today. We would not want to change that law by something such as the Feinstein amendment.

Mr. GRAHAM. Simply stated, when the American citizens in question decided to give aid and comfort to the enemy and then to go after the United States, the object first is to keep the United States safe from this individual's actions and, second, where possible, gain intelligence from that individual. That is the critical element that would be taken from our military were the Feinstein amendment to be adopted.

I ask unanimous consent to have printed in the RECORD a statement that makes very clear where military detention is necessary; to allow intelligence and military authorities to prevent future terrorist attacks against the American people.

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

WARTIME DETENTION OF ENEMY COMBATANTS—INCLUDING U.S. CITIZENS WHO JOIN THE FORCES OF THE ENEMY—IS AN ESTABLISHED PRACTICE THAT IS CLEARLY CONSTITUTIONAL.

Unfortunately, in almost every major war that the United States has fought, there have been some U.S. citizens who have joined the forces of our Nation's enemies or who have otherwise collaborated with the enemy. These traitors and collaborators have always been treated as enemy combatants—and have been subjected to trial by military commission where appropriate.

The U.S. Supreme Court has consistently held that the President has the constitutional authority to detain enemy combatants, including U.S. citizens who have cast their lot with the enemy.

In its 2004 decision in Hamdi v. Rumsfeld, for example, the Supreme Court held that the detention of enemy combatants is proper under the U.S. Constitution. Moreover, the person challenging his military detention in that case was a U.S. citizen.

During World War II, the Supreme Court also upheld the military detention and trial of a U.S. citizen who had served as a saboteur for Nazi Germany and was captured in the United States. The Court made clear that "[c]itizenship in the United States of an enemy belligerent does not relieve him from the consequences of a belligerency." That case is Ex Parte Quirin (1942).

In support of her amendment number 1126, Senator FEINSTEIN yesterday cited a 1971 law apparently aimed at detention of an enemy combatant who is a U.S. citizen would be prohibited under that law.

That 1971 law was 18 U.S.C. 4001. It provides that "no citizen shall be imprisoned or otherwise detained by the United States except pursuant to an Act of Congress." That intentional language was at issue in the Hamdi case. And the precise holding of the U.S. Supreme Court in Hamdi was that the detention of a U.S. citizen as an enemy combatant through the use of hostilities would not violate that law.

The Supreme Court stated: "[Hamdi] posits that his detention is forbidden by 18 U.S.C. § 4001(a). Specifically, he says that U.S. cit-

That is what we are about to impose on the country.

Mr. KYL. If I might ask my colleague to yield for one other point I wish to make here.

Mr. GRAHAM. Absolutely.

Mr. KYL. In a criminal trial, the object is to do justice to an individual as it pertains to his alleged violation of law in the United States. In the case of the capture and detention of a combatant, someone who has taken action against the United States, the object first is to keep the United States safe from this individual's actions and, second, where possible, gain intelligence from that individual. That is the critical element that would be taken from our military were the Feinstein amendment to be adopted.

To those who believe that homegrown terrorists are a threat now and in the future, if you want to make sure we can never effectively gather intelligence, we only have one option, then
to an Act of Congress.’ . . . Congress passed §401(a) in 1971. . . . [The government maintains] §401(a) is satisfied because Hamdi is being detained pursuant to an Act of Congress. Yet Congress . . . the AUMF satisfied §401(a)’s requirement that a detention be pursuant to an Act of Congress.’

WHY MILITARY DETENTION IS NECESSARY: TO ALLOW INTELLIGENCE GATHERING THAT WILL PREVENT FUTURE TERRORIST ATTACKS AGAINST AMERICAN PEOPLE

Some may ask, why does it matter whether a person who has joined Al Qaeda is held in military custody or is placed in the civilian court system? One critical reason is that a terrorist operative held in military custody can be effectively interrogated. In the civilian system, however, that same terrorist would be given a lawyer, and the first thing that lawyer will tell his client is, ‘don’t say anything. We can fight this.’

In military custody, by contrast, not only are there no lawyers for terrorists. The indefinite nature of the detention—it can last as long as the war continues—creates conditions that allow effective interrogation. Under military custody, the relationship of dependency and trust that experienced interrogators have made clear is critical to persuading terrorists to talk.

Vice Admiral Lowell Jacoby, who at the time was the Director of the Defense Intelligence Agency, explained how military custody is critical to effective interrogation in a declaration that he submitted in the Padilla litigation. He emphasized that successful noncoercive interrogation takes time—and it requires keeping the detainee away from lawyers.

Vice Admiral Jacoby stated:

‘DIA’s approach to interrogation is largely dependent on creating an atmosphere of dependency and trust between the subject and the interrogator. Developing the kind of relationship of trust and dependency necessary for effective interrogations is a process that can take a significant amount of time. There are numerous examples of situations where interrogators have been unable to obtain valuable intelligence from a subject until months, or, even years, after the interrogation process began.

‘Anything that threatens the perceived dependency and trust between the interrogator and the interrogatee directly threatens the value of interrogation as an intelligence-gathering tool. Even seemingly minor interruptions can have deleterious psychological effects on the subject—interrogator relationship. Any insertion of counsel into the subject—interrogator relationship, for example—even if only for a limited duration or for a specific purpose—can undo months of work and may permanently shut down the interrogation process.’

Specifically with regard to Jose Padilla, Vice Admiral Jacoby also noted in his Declaration that: ‘Providing Padilla access to counsel now would create expectations by Padilla that release might be obtained through an adversarial civil litigation process. This would break—probably irrevocably—the sense of dependency and trust that the interrogators are attempting to create.’

In other words, military custody is critical to successful interrogation. Once a terrorist detaine is held in military custody, the conditions for successful interrogation are destroyed.

PREVENTING the detention of U.S. citizens who could have provided essential intelligence is a historic abandonment of the law of war. And, by preventing effective interrogation of these collaborators, it would likely have severe consequences for our ability to prevent future terrorist attacks against the American people.

‘We know from cold, hard experience that successful interrogation is critical to uncovering information that will prevent future attacks against civilians.

On September 9, 2006, when President Bush announced the transfer of 14 high-value terrorism detainees to Guantanamo, he also explained that if the United States had obtained by interrogating these detainees. Abu Zubaydah was captured by U.S. forces several months after the September 11 terrorist attacks. More recently, Khalid Sheikh Mohammed was the principal organizer of the September 11 attacks. This information allowed the United States to capture these operatives—one while he was traveling to the United States.

Again, just imagine what might have happened if the Feinstein amendment had already been adopted, and an Al Qaeda terrorist had stripped away the executive branch’s ability to hold Al Qaeda collaborators in military custody and interrogate them. We simply would not have learned what that detainee knew—any knowledge that he may have of planned future terrorist attacks.

Under military interrogation, Abu Zubaydah also described the identity of another September 11 plotter, Ramzi bin al Shibh, and provided information that led to his capture. U.S. forces then interrogated bin al Shibh, information that both he and Zubaydah provided helped lead to the capture of Khalid Sheikh Mohammed.

Under military interrogation, Khalid Sheikh Mohammed provided information that helped stop another planned terrorist attack on the United States. K.S.M. also provided information that led to the capture of a terrorist named Zuhayrh Alnashiri. Interrogation also led to the identification and capture of an entire 17-member Jamaah Islamiya terrorist cell in Southeast Asia.

Information from interrogation of terrorists detained by the United States also helped to stop a planned truck-bomb attack on U.S. troops in Djibouti. Interrogation helped stop a planned car-bomb attack on the U.S. embassy in Pakistan. And it helped stop a plot to hijack passengers and planes and crash them into Heathrow airport in London.

As President Bush stated in his September 6, 2006 remarks, ‘[I]nformation from terrorists in CIA custody is critical in the capture or questioning of nearly every senior Al Qaeda member or associate detained by the U.S. and its allies.’ The President concluded by noting that Al Qaeda members subjected to interrogation by U.S. forces: ‘have painted a picture of al Qaeda’s structure and financing, and communications and logistical networks. They identified al Qaeda’s travel routes and safe havens, and explained how al Qaeda’s senior leadership communicates with its operatives in places like Iraq. They provided us with invaluable information that has allowed us to make sense of documents and computer records that we have seized in terrorist raids. They’ve identified voices in recordings of intercepted calls, and helped us understand the meaning of potentially critical terrorist communications.

[Were it not for information obtained through interrogation, our intelligence community believes that al Qaeda and its allies would have succeeded in launching another attack on the American homeland. By giving us information about terrorist plans we could not get anywhere else, this [interrogation] program has saved innumerable American lives.]

If the Feinstein amendment were adopted, this is all information that we would be unable to obtain. And if the amendment were adopted, that our forces had captured was a U.S. citizen. It would simply be impossible to effectively interrogate that Al Qaeda collaborator and learn about the dependency that military custody creates would be broken, and the detainee would instead have a lawyer telling him to be quiet. And we know that information obtained by interrogating Al Qaeda detainees has been by far the most valuable source of information for preventing future terrorist attacks.

Again, in every past war, our forces have had the ability to capture, detain and interrogate U.S. citizens who collaborate with the enemy or join forces with the enemy. I would submit that in this war, intelligence gathering is more critical than ever. Al Qaeda doesn’t hold territory that we can capture. It operates completely out of war, and directly targets innocent civilians. Our only effective weapon against Al Qaeda is intelligence gathering. And the Feinstein amendment threatens to take away that weapon—to take away our best defense for preventing future terrorist attacks against the American people.

Mr. KYL. I hope this statement clarifies in anyone’s mind the point that by taking people in custody in the past we have gathered essential intelligence to protect the American people. That is the reason for the detention in the first place—A, to keep the American people safe from further attack by the individual, and, B, to gather this kind of intelligence. Nothing precludes the United States, the executive branch, from thereafter deciding to try the individual as a criminal in the criminal justice system with all the legal rights of a criminal. But until that determination, it cannot be denied that the executive has the authority to hold people as military combatants, gather intelligence necessary, and hold that individual until the case is resolved.

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

Mr. LEAHY. Mr. President, I understand we are still in morning business?

Mr. LEAHY. Mr. President, I ask unanimous consent that this be recognized as 10 minutes as in morning business, and the distinguished Senator from Illinois be recognized for 10 minutes in morning business.

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

Mr. LEAHY. Mr. President, earlier this week, one of this bill’s lead sponsors said here on the floor of the United States Senate that the bill’s detention subtitle would authorize the indefinite detention of U.S. citizens at Guantanamo Bay. That is a stunning statement. We should all pause to consider the ramifications of passing a bill
containing such language. Supporters of the detention provisions in the bill continue to argue that such measures are needed because, they claim, "we are a nation at war." That does not mean that we should be a Nation without laws, or a Nation that does not adhere to the principles of our Constitution.

One of the provisions in this bill, Section 1032, runs directly contrary to those principles. Section 1032 requires the military to detain terrorism suspects, even those who might be captured on U.S. soil. This provision is opposed by the very intelligence, military, and law enforcement officials who are entrusted with keeping our Nation safe—including the Secretary of Defense, the Director of National Intelligence, the Attorney General, the Director of the FBI, and the President's top counterterrorism advisor. As Chairman of the Judiciary Committee, I support the efforts of Senator Feinstein, the Senate Intelligence Committee, to modify Section 1032 so that it does not interfere with ongoing counterterrorism efforts or undermine our constitutional principles.

In the fight against al-Qaida and other terrorism threats, we should trust our intelligence, military, and law enforcement professionals all the tools they need. But the mandatory military detention provision in Section 1032 actually limits those tools by tying the hands of the intelligence and law enforcement professionals who are fighting terrorism on the ground, and by creating operational confusion and uncertainty. This is unwise and unnecessary.

On Monday, Director Mueller warned that Section 1032 would adversely affect the Bureau's ability to continue ongoing international investigations. Secretary Panetta has also stated unequivocally that "this provision restricts the Executive Branch's option to utilize, in a swift and flexible fashion, all the counterterrorism tools that are now legally available." These are not partisan objections, but rather the significant operational concerns voiced by the Secretary of Defense and the Director of the FBI—both of whom were confirmed by this body with 100-0 votes. And yet these are the voices that supporters of this bill would ignore.

Supporters of this bill have argued that the new national security waiver and implementation procedures in this section provide the administration with the flexibility it needs to fight terrorism. The intelligence and law enforcement officials who are actually responsible for fighting terrorism and keeping our Nation safe, however, could not disagree more. As Director Mueller stated in his letter, these provisions are still problematic and "fail to recognize the reality of a counterterrorism environment." The National Intelligence Clapper has stated that "the various detention provisions, even with the proposed waivers, would introduce unnecessary rigidity" in the intelligence gathering process. Put differently, Lisa Monaco, the Assistant Attorney General for the National Security Division, recently stated that "agents and prosecutors should not have to spend their time worrying about whether a citizen can be sent abroad and how to get a waiver signed by the Secretary of Defense in order to thwart an al-Qaida plot against the homeland.

We should listen to the intelligence and law enforcement professionals who are entrusted with our Nation's safety, and we should fix this flawed provision.

Senator Feinstein's amendment would ensure that the requirement of military detention of terrorism suspects does not apply domestically. As Chairman of the Judiciary Committee, I am proud to be a cosponsor of this amendment, and I urge all Senators to support its adoption.

I know Senator Durbin is next, but I now yield the floor to Senator Durbin the distinguished Senator from Missouri going next.

In any event, I yield the floor and thank my colleagues for their courtesy.

Mr. BLUNT. Mr. President, I ask unanimous consent to address the Senate for 10 minutes in morning business.

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

Mr. BLUNT. I appreciate my good friend from Illinois allowing me to go ahead and talk about the Defense bill at this time, but doing it in the context of where we are on the floor right now.

Mr. President, defending the country is the Congress's most important constitutional responsibility. Abraham Lincoln said that government should do for people only those things that people can't do for themselves. If there is anything at the top of that list, this is at the top of that list. So it is critical that we have this discussion, that we pass this bill as soon as possible in order to give our men and women in uniform the tools they need to do their job and the certainty we need to know how that job is going to be done from the point of view of what the Government can and needs to provide.

While this bill we are debating today is only about next year's defense program, we should not lose sight of the fact that our budget environment is more challenging all the time and whether the automatic budget cuts to future defense happen, we do know we are going to have to be more thoughtful, more cautious about how we get the most for our investment in defense. Everybody else in America has spent the last 20 years figuring out how you focus on a better result from less investment, and defense is going to have to be there as well. Still, that does not mean it is not a top priority for the Federal Government.

I appreciate the work my friends Senator Levin and Senator McCain have done to get this bill to the floor. I am proud to represent a State that is involved in our national defense. Missouri is the home of Fort Leonard Wood, of Whiteman Air Force Base, of the Marine Corps Mobilization Command Center in Kansas City. We have dozens of National Guard and Reserve facilities in our State. Our State has 17,184 active-duty soldiers, marines, and airmen right now; 34,000 Guard and Reservists.

We are the home of large and small defense contractors that provide thousands of jobs in our State. Those defense contractors can do their work better and our defense dollars are better spent if we know what the plan is. The only real way to know what the plan is is to have an authorization bill that works.

Since the beginning of Operations Enduring Freedom and Iraqi Freedom, 134 Missouri service members have given their lives and over a thousand have been wounded in the line of duty. In fact, one of the amendments I have that I hope finds its way into this bill is research associated with rehabilitating those wounded warriors. With IEDs as a principal tool of our opponents, our enemies in this war, your eyes are the hardest thing ultimately to protect. Twelve percent of our wounded warriors have eye wounds. Hopefully we can look to see what we can do to provide greater protection and greater recovery from those wounds.

I join all Missourians in thanking those who serve. I will show greater commitment to those who serve by actually having a Defense authorization bill that sets out a plan for the future.

I am particularly pleased that this bill contains funding for modifications of the B-2 bomber's mixed load capacity. Most of our Stealth bombers operate out of Whiteman Air Force Base in Missouri and we discovered, as recently as the operation in Libya, that operation with our B-2s is not as efficient as they need to be or could be, simply by making that loading capacity work differently. That is the kind of thing we are going to have to do as we look at more difficult-to-get defense dollars. We are going to have to figure out how we spend our defense dollars in the best possible way. I hope the Senate language as it is in the bill now prevails in a final bill.

I also want to call attention to the bill's full authorization of the development of the next generation long-range strike bomber and I am pleased with the funding in this bill for a vehicle maintenance facility at Fort Leonard
Wood and weapons storage at White-
man.
I filed a few amendments to this bill and I will mention a couple of them. One I am working on with Senator GILLIBRAND is an amendment to ensure National Guard soldiers mobilized for domestic emergency operations are en-
titled to the same employment rights as others are when they come back. Senator GILLIBRAND and I also worked on a bill to ensure that people in the Guard have been able to access to financial and marital and other kinds of counseling as they try to put their other life back to-
gether.
I thank my colleagues for bringing this bill to the floor. We face a wide va-
riety of threats today, including some that are new and constantly evolving—
cyber-warfare, WMD, all things that we need to take seriously. This is a prin-
cipal responsibility of the Federal Gov-
ernment. I am looking forward to seeing this bill passed the Senate today and then to work with the House to get a bill on the President’s desk so that all who are involved in the defense of the country know what the long-term plan is.
I yield the floor.
The PRESIDING OFFICER. The as-
sistant majority leader is recognized.
Mr. DURBIN. Mr. President, I thank my colleague from Missouri, and I con-
cur with his comments about our American military. We have the best in the world. These men and women serve us well with courage and honor every day, and we are fortunate to have them. We are fortunate—those of us who enjoy the blessings of liberty and the safety of this Nation—to have men and women willing to risk their lives for America.
This Defense authorization bill is a bill that authorizes the continued oper-
ations of our military, and every year we pass this bill, as we should, in a
timely manner. I have supported it consistently over the years with very few exceptions. And believe in the long run product brought to us by Senators LEVIN and MCCAIN is excellent, bipar-
tisan, and moves us in a direction to-
ward an even safer America, and I thank them for all the work they put into it.
There are provisions within this bill today which trouble me greatly. There are provisions on which I hope Members of the Senate will reflect, one in particular I will address at this time. Senator FEINSTEIN is offering amendment No. 1125, which I am co-
sponsoring. I would say this amend-
ment raises a serious question about section 1032 in this bill. I am concerned this could limit the flexibility of any President to fight terrorism. I am concerned it will create uncer-
tainty for law enforcement, intel-
ligence, and our military regarding how to handle suspected terrorists. I think it raises fundamental and serious constitutional concerns.
This provision, 1032, would, for the first time in the history of the United States, require our military to take custody of certain terrorism suspects in the United States. On its face, that doesn’t sound offensive, but, in fact, it creates a world of problems. Where do we start this debate?
We understand that responsibility of Congress in passing laws and the Presi-
dent with the option to sign those laws or veto them and the courts with the responsibility to interpret them. When it comes to the protection of this coun-
try in fighting terrorism, most of us have been in an execu-
tive function under Presidents of both political parties. We may disagree from time to time on the PATRIOT Act and other aspects of it and debate those issues, but, by and large, I think we have ceded to Presidents of both par-
ties the power to protect America.
My colleague and friend, Senator LINDSEY GRAHAM, a Republican of South Carolina, on September 19, 2007, stated—and he states things very colorfully and dramatically, as he was:
The last thing we need in any war is to have the ability of 535 people who are wor-ried about the next election to be able to micromanage how you fight the war. This is not only micromanagement, this is a consti-
tutional shift of power.
That was Senator GRAHAM’s state-
ment in 2007. Although I would care-
fully and jealously guard the constitu-
tional responsibility of Congress when it comes to the initiation of war, even the waging of war, I do believe there is a line we should honor. We should not stop our President and those who work for him in keeping America safe by second-guessing deci-
sions to be made.
Today, again, on the Republican side of the aisle came colleagues who make the argument that it is a serious mis-
take for us to take a suspected ter-
rorist and put them into our criminal justice system. They argue the last thing in the world we want to do is to take a suspected terrorist and read them their constitutional rights: the right to remain silent, everything you say can be used against you, the right to counsel. They argue that is when terrorists will clam up and stop talk-
ing. Therefore, they argue, suspected terrorists should be transferred to mili-
tary jurisdictions where Miranda rights will not be read. On its face it sounds like a reasonable conclusion. In fact, it is not. It is not.
Since 9/11, we have arrested and de-
tained 300 suspected terrorists, read them their Miranda rights, and then went on to prosecute them successfully and incarcerate them. They cooperated with the Federal Bureau of Investiga-
tion, gave information, and in many cases gave volumes of information even after having been read their rights. So to argue that it cannot be done or should not be done is to ignore the ob-
vious. Three hundred times we have successfully prosecuted suspected ter-
rorists, and America has remained safe for these 10 years-plus since 9/11. How many have been prosecuted under mili-
tary tribunals in that period of time? Six, and three have been released. We are keeping this country safe by giving to the President and those who work for the President in the military intel-
ligence and law enforcement commu-
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wants to make it clear—that those ter-
rorism suspects who are arrested
abroad will be detained by the mili-
tary. But within the United States we
are told by this administration this
provision will jeopardize the security
of our country, will require procedure
now and how these individuals are
sent to the military side in places where
they could not possibly be handed off quick-
ly or seamlessly.

We have 10,000 FBI agents dedicated
to the security of this country when it
comes to these national security issues
and 56 different offices. We don’t have
anything near that capacity when it
comes to the military picking up the
interrogation of an individual who may
have knowledge that if we can glean it
from that person could save thousands
of lives.

Why in the world do we want to tie
the hands of law enforcement? Why do
we want to tie the hands of the intel-
ligence community? Why do we want to
cramp the flexibility of giving to the
military this responsibility when they are
not prepared at this moment to
take it?

I think Senator Feinstein is doing
the right thing for the protection of this
country. It is the responsibility of the
Attorney General, by the Secretary of
Defense, and by the intel-
ligence community. They have done a
good job in keeping America safe. They
have asked us: Please, do not micro-
manage the process, do not negate
another hurdle for us when it comes to
gathering information that can save
lives in America.

Why would we do that? After more
than 10 years of success and avoiding
another 9/11, let’s not make the situa-
tion worse by this 1032, this section of
the bill that is being presented to us.

I know we will hear arguments on
the Senate floor, well, there are oppor-
tunities for a waiver. So if a person is
detained by the Federal Bureau of In-
vestigation and then it is determined
that this is a suspect who falls in the
category and needs to go to military
detention and then we need to turn to
the executive side for a waiver of that
military detention, how much time
will be lost? Will it be minutes, hours,
days? Could we afford that if what is at
stake is the potential loss of thousands
of American lives? Why? Why make it
more complex?

I could understand why the other
side of the aisle is now so determined
with this President to micromanage
the defense of this country when it
comes to terrorism. When it was a Re-
publican President any suggestions
along those lines were dismissed as un-
patriotic and unwise and illogical.
Now, under this President, everything
is fair game. They want to change the
rules, rules which have successfully
protected the United States for more
than 10 years.

I urge my colleagues to support Sen-
ator Feinstein’s amendment No. 1125
and amend this section 1032 and make
sure that our Defense Department,
military and law enforcement, as well
as intelligence community have the
tools they need to continue to keep
America safe.

The PRESIDING OFFICER. The Sen-
tator’s time has expired.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The sen-
ator from Michigan.

Mr. LEVIN. Mr. President, I ask
unanimous consent that I be recog-
nized to speak as in morning business
for up to 10 minutes.

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

Mr. LEVIN. I cannot understand why
the other 9/11, let’s not make the situa-
tion worse for us when it comes to
terrorism suspects who are arrested
by this administration this
section 1032 and make
the Senate floor, well, there are oppor-
tunities for a waiver. So if a person is
detained by the Federal Bureau of In-
vestigation and then it is determined
that this is a suspect who falls in the
category and needs to go to military
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than 10 years.

I urge my colleagues to support Sen-
ator Feinstein’s amendment No. 1125
and amend this section 1032 and make
sure that our Defense Department,
I was advised by the Parliamentarian that my original amendment as drafted would not be germane postcloture. However, in consultation with the Parliamentarian, we have come up with a technical modification which essentially would strike what are called the findings of support needed for the legislation. In essence, it strikes the A section and the B section and leaves only the C section remaining. This, of course, at this point in the proceedings would require unanimous consent.

In consultation with Senator MCCAIN, the ranking member of the Senate Armed Services Committee, I am advised that our friends across the aisle will not grant unanimous consent for us to modify what is essentially a technical modification for this amendment so we can get a vote on it. I realize that at this point we are in morning business and it is not appropriate, perhaps, for me to ask unanimous consent, but I do request unanimous consent at a later and appropriate time because I would like to get an explanation from the distinguished chairman of the Armed Services Committee as to why in the world there would be an objection to an amendment that enjoys such broad bipartisan support on a clearly appropriate legislative vehicle.

Madam President, I see the distinguished chairman on the floor. So I will at this time, if it is appropriate, ask unanimous consent to modify my pending amendment to strike the findings under section A and under section B, and to leave section C, which states in full:

Sale of aircraft. The President shall carry out the sale of no fewer than 66 F-35 C and D multirole fighter aircraft to Taiwan.

We have been advised by the Parliamentarian that this section is indeed germane and would be eligible for a vote with that modification. So I ask unanimous consent to so modify my amendment.

The PRESIDING OFFICER (Mrs. HAGAN). Is there objection? Mr. LEVIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, there is objection on this side, and I will attempt to bring together Senator CORNYN and the objectors so he can hear from them why they object, but in the meantime I yield.

The PRESIDING OFFICER. Objection is heard.

The Senator from Texas.

Mr. CORNYN. Madam President, I am disappointed, but more than that disappointed. I look forward to that explanation. I hope there will be an opportunity to have a colloquy and a discussion here on the floor so the American people can see why a piece of legislation that enjoys such broad bipartisan support doesn’t even get a vote.

When people watch what is happening in Washington these days, I think they are tempted to avert their gaze because they ask the question of me—and I am sure, when the Presiding Officer is back in North Carolina, of her as well—why can’t people get anything done? Well, it is because, unfortunately, of things like this. These are technical objections that are not based on the substance or the merit of the legislation.

I respect the chairman of the Armed Services Committee, who says there is an objection on the Democratic side, and he personally is not making that objection but is on behalf of some unnamed other party. I hope that person will be named. I hope they will come to the floor. I hope they will explain to the American people and to our Democratic allies in Taiwan why it is they object to a vote on this amendment.

I believe that if we are able to get a vote on the Defense authorization bill, this has a high likelihood of passage, and I think it would send a strong message around the world that, yes, you can count on your friend and ally, the United States of America. Conversely, if we are thwarted in our attempt to try to get this amendment voted on and passed, then this will send a countervailing message—that you cannot depend on America—and it will embolden bullies around the world.

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

The Senator from Michigan.

ORDER OF PROCEDURE

Mr. LEVIN. I ask unanimous consent that the Senate proceed to the consideration of the pending Feinstein amendment No. 1125; that there be 30 minutes of debate equally divided and controlled in the usual form; that upon the use or yielding back of time, the amendment be referred to the Senate Armed Services Committee for consideration by the Feinstein amendment, with no amendments in order prior to the vote.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1867, which the clerk will report.

The bill clerk read as follows:

A bill (S 1867), to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Pending:

Merkley amendment No. 1174, to express the sense of Congress regarding the expedited transition of responsibility for military and security operations in Afghanistan to the Government of Afghanistan.

Feinstein amendment No. 1125, to clarify the applicability of national security agencies to military custody with respect to detainees.

Feinstein amendment No. 1126, to limit the authority of the Armed Forces to detain citizen citizens or nationals of the United States.

Franken amendment No. 1197, to require contractors to make timely payments to subcontractors that are small business concerns.

Begich amendment No. 1114, to amend title 10, United States Code, to authorize space-available travel of certain military personnel.

Shaheen amendment No. 1120, to exclude cases in which pregnancy is the result of an act of rape or incest from the prohibition on funding of abortions by the Department of Defense.

Collins amendment No. 1105, to make permanent the requirement of certifications relating to the transfer of detainees at U.S. Naval Station Guantanamo Bay, Cuba, to foreign countries and other foreign entities.

Collins amendment No. 1106, to authorize educational assistance under the Armed Forces Health Professions Scholarship Program for pursuit of advanced degrees in physical therapy and occupational therapy.

Collins amendment No. 1158, to clarify the permanence of the prohibition on transfers of recidivist detainees at U.S. Naval Station Guantanamo Bay, Cuba, to foreign countries and entities.

Inhofe amendment No. 1097, to eliminate gaps and redundancies between over 200 programs within the Department of Defense that address psychological health and traumatic brain injury.

Inhofe amendment No. 1099, to express the sense of Congress that the Secretary of Defense should implement the recommendations of the Comptroller General of the United States regarding prevention, abatement, and data collection to address hearing injuries and hearing loss among members of the Armed Forces.

Inhofe amendment No. 1100, to extend to products and services from Latvia existing temporary authority to procure certain products and services from countries along a major route of supply to Afghanistan.

Inhofe amendment No. 1093, to require the detention at U.S. Naval Station Guantanamo Bay, Cuba, of high-value enemy combatants who will be detained long-term.

Casey amendment No. 1139, to require contractors to notify small business concerns that have been included in offers relating to contracts let by Federal agencies.

McCain (for Cornyn) amendment No. 1200, to provide Taiwan with critically needed U.S.-built multirole fighter aircraft to support its self-defense capability against the increasing military threat from China.

McCain (for Ayotte) amendment No. 1068, to authorize lawful interrogation methods in addition to those authorized by the Army Field Manual for the collection of foreign intelligence information through interrogation.

McCain (for Brown (MA)/Boozman) amendment No. 1119, to protect the child custody rights of members of the Armed Forces deployed in support of a contingency operation.

McCain (for Brown (MA)) amendment No. 1090, to provide that the basic allowance for housing effect shall be the same for the National Guard as it is for the Army Reserve.
full-time National Guard duty without a break in Active service.

McCain (for Brown (MA)) amendment No. 1099, to require certain disclosures from post-service contractors that participate in tuition assistance programs of the Department of Defense.

Udall (NM) amendment No. 1153, to include ultramarine blue in the definition of aircraft for purposes of the aviation smuggling provisions of the Tariff Act of 1930.

Udall (NM) amendment No. 1154, to direct the Secretary of Veterans Affairs to establish an open burn pit registry to ensure that members of the Armed Forces who may have been exposed to toxic chemicals and fumes caused by open burn pits while deployed to Afghanistan or Iraq receive information regarding such exposure.

Udall (NM) amendment No. 1202, to clarify the application of the provisions of the Buy American Act to the procurement of photovoltaic devices by the Department of Defense.

McCain (for Corker) amendment No. 1171, to prohibit funding for any unit of a security force of Pakistan if there is credible evidence that the unit is in any way connected with an organization known to conduct terrorist activities against the United States or U.S. allies.

McCain (for Corker) amendment No. 1173, to express the sense of the Senate on the North Atlantic Treaty Organization.

Levin (for Bingaman) amendment No. 1178, to provide for the establishment of a reserve unit for White Sands Missile Range and Fort Bliss.

Levin (for Gillibrand/Portman) amendment No. 1197, to expedite the hiring authority for the defense information technology/cyber workforce.

Levin (for Gillibrand/Blunt) amendment No. 1211, to authorize the Secretary of Defense to provide assistance to State National Guards to provide counseling and reintegration services for members of Reserve components of the Armed Forces ordered to Active Duty in support of a contingency operation, members returning from such Active Duty, veterans of the Armed Forces, and their families.

Merkley amendment No. 1239, to expand the Marine Gunnery Sergeant John David Fry Scholarship to include spouses of members of the Armed Forces who die in the line of duty.

Merkley amendment No. 1256, to require a plan for the expedited transition of responsibility for military supply chain opportunities.

Merkley amendment No. 1258, to require the timely identification of qualified census tracts for purposes of the HUBZone Program.

Leavy amendment No. 1087, to improve the provisions relating to the treatment of certain sensitive national security information under the Freedom of Information Act.

Leavy/Grassley amendment No. 1186, to provide for the Department of Justice necessary tools to fight fraud by reforming the working capital fund.

Wyden/Merkley amendment No. 1180, to provide for the closure of Umatilla Army Chemical Depot, Oregon.

Wyden amendment No. 1258, to provide for the retention of members of the Reserve components of the Air Force in the regular grade of brigadier general.

Ayotte (for Graham) amendment No. 1197, to specify the number of judge advocates of the Air Force in the regular grade of brigadier general.

Ayotte (for Heller/Kirk) amendment No. 1337, to provide for the recognition of Jerusalem as the capital of Israel and the relocation to Jerusalem of the U.S. Embassy in Israel.

Ayotte (for Heller) amendment No. 1198, to provide for the exhumation and transfer of remains of deceased members of the Armed Forces buried in Tripoli, Libya.

Ayotte (for McCain/Ayotte) amendment No. 1249, to limit the use of cost-type contracts by the Department of Defense for major defense acquisition programs.

Ayotte (for McCain) amendment No. 1220, to require Comptroller General of the United States to report to the Senate and House Appropriations Committees on the implementation of justification and approval requirements for certain sole-source contracts.

Ayotte (for McCain) amendment No. 1248, to expand the authority for the overhaul and repair of vessels to the United States, Guam, and the Commonwealth of the Northern Mariana Islands.

Ayotte (for McCain) amendment No. 1118, to modify the availability of surcharges collected by commercial fishing operations.

Sessions amendment No. 1182, to prohibit the permanent stationing of more than two Army brigade combat teams within the geographic boundaries of the U.S. European Command.

Sessions amendment No. 1184, to limit any reduction in amphibious force combatants of the Navy below 313 vessels.

Sessions amendment No. 1274, to clarify the disposition under the law of war of persons detained by the Armed Forces of the United States pursuant to the authorization for use of military force.

Levin (for Reed) amendment No. 1146, to provide for the participation of military technicians (dual status) in the study on the termination of military technician as a distinct personnel management category.

Levin (for Reed) amendment No. 1147, to prohibit the repayment of enlistment or related bonuses by certain individuals who become employed as military technicians (dual status) while already a member of a Reserve component.

Levin (for Reed) amendment No. 1148, to provide rights of grievance, arbitration, appeal, and review beyond the adjudant general for military technicians.

Levin (for Reed) amendment No. 1204, to authorize a pilot program on enhancements of Department of Defense efforts on mental health in the National Guard and Reserves through campuses.

Levin (for Reed) amendment No. 1294, to enhance consumer credit protections for members of the Armed Forces and their dependents.

Levin amendment No. 1293, to authorize the transfer of certain high-speed ferries to the Navy.

Levin (for Boxer) amendment No. 1296, to implement commonsense controls on the taxpayer-financed salaries of defense contractors.

Chambliss amendment No. 1304, to require a report on the reorganization of the Air Force Materiel Command.

Levin (for Brown (OH)) amendment No. 1299, to link domestic manufacturers to defense supply chain opportunities.

Levin (for Brown (OH)) amendment No. 1261, to extend treatment of base closure areas as HUBZones for purposes of the Small Business Act.

Levin (for Brown (OH)) amendment No. 1283, to authorize the conveyance of the John Kunkel Army Reserve Center, Warren, OH.

Takano amendment No. 1081, to clarify the applicability of requirements for military custody with respect to detainees.

Levin (for Wyden) amendment No. 1296, to require reports on the use of indemnification agreements in Department of Defense contracts.

Levin (for Pryor) amendment No. 1151, to authorize a death gratuity and related benefits for Reserves who die during an authorized stay at their residence during or between successive days of inactive-duty training.

Levin (for Pryor) amendment No. 1152, to recognize the service in the reserve components of the Armed Forces of certain persons by honoring them with status as veterans under law.

Levin (for Nelson (FL)) amendment No. 1209, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans’ dependency and indemnity compensation.

Levin (for Nelson (FL)) amendment No. 1256, to require a report on the effects of changing flag officer positions within the Air Force Materiel Command.

Levin (for Nelson (FL)) amendment No. 1255, to require an epidemiological study on the health of military personnel exposed to burn pit emissions at Joint Base Balad.

Ayotte (for Blunt/Gillibrand) amendment No. 1138, to provide for employment and reemployment rights for certain individuals ordered to full-time National Guard duty.

Ayotte (for Murkowski) amendment No. 1266, to require a Department of Defense inspection of computer tapes containing protected information on covered beneficiaries under the TRICARE program.

Ayotte (for Murkowski) amendment No. 1267, to provide limitations on the retirement of C-23 aircraft.

Ayotte (for Rubio) amendment No. 1290, to strike the national security waiver authority in section 1032, relating to requirements for military custody.

Ayotte (for Menendez/Kirk) amendment No. 1414, to require the imposition of sanctions with respect to the financial sector of Iran, including the Central Bank of Iran.

AMENDMENT NO. 1125

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes of debate on the Feinstein amendment.

The Senator from Arizona.

Mr. MCCAIN. Madam President, before we begin the debate, and with the Senator from California on the floor, for the benefit of our colleagues and the chairman, there are two pending Feinstein amendments, as I understand it. The Senator from California has agreed to the half hour equally divided as the chair just said, and then I understand the Senator from California has agreed to the second amendment at 4 p.m.; is that correct?

Mrs. FEINSTEIN. That is correct.

Mr. MCCAIN. So prior to that, I would ask my friend the chairman if we could have a hour of debate starting at 3 o’clock equally divided before the vote at 4:00 on the second Feinstein amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object, I just want to know if the Senator from California understands that
Mrs. FEINSTEIN. I do. I have a four corners meeting on the Energy and Water appropriations bill. That is my problem. So the later it is, the better it is for me.

Mr. LEVIN. So is a 4 o'clock vote after an hour of debate acceptable?

Mrs. FEINSTEIN. Yes. My understanding is the House chairman only has until 3 o'clock, but I anticipate we will take all that time. So I can't change that.

Mr. LEVIN. So it is agreeable, then, that there will be an hour of debate on the second amendment starting at 3 o'clock with a vote at 4 o'clock?

Mrs. FEINSTEIN. Yes.

Mr. LEVIN. I also ask unanimous consent that there be no second-degree amendments to the Feinstein amendment.

The PRESIDING OFFICER. Is there objection?

Mr. CORYN. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Arizona.

Mr. MCCAIN. If we can then—obviously, we can call a vote at any particular time. So I would suggest again that we try to dispose of other amendments after the vote on the first Feinstein amendment, and then we will try to dispose of additional amendments between the disposition of the first Feinstein amendment and the second one, with the hour of debate equally divided, and Senator FEINSTEIN can begin.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I rise to ask my colleagues to support amendment No. 1125, which will limit mandatory military custody to terrorists captured outside the United States. This amendment is cosponsored by Senator Durbin, Udall, Kinkade, Hemm and Wein.

This is a very simple amendment. It adds only one word—the word “abroad”—to section 1032 of the underlying bill. I strongly believe if it is not broke, do not fix it. The ability to have maximum flexibility in the United States is very important, and I totally support the Executive having that flexibility.

This bill creates a presumption that members or parts of al-Qaeda or associated forces will be held in the military system. That is what concerns me because the military system has not produced very well over the last 10 years. I want to take a moment to contrast some cases.

On this chart, we have sentences—five of them from military commissions and five or six from Federal courts. The Federal courts have actually convicted over the last 10, 11 years not 30, 40 or 50 people. Military commissions are limited to some six convictions. Let’s take a look at what they are.

A very famous one is Salim Hamdan because he brought a Supreme Court case. He was bin Laden’s driver. He was acquitted of conspiracy and only convicted of material support for terrorism. He received a 5-month sentence by the military commission and was sent back home in Yemen to serve the time before being released in January of 2009.

No. 2: David Hicks entered into a plea on material support for terrorism and was given a 9-month sentence, mostly served back home in Australia. Omar Khadr pled guilty in exchange for a plea in Yemen to serve the time before being released in January of 2009.

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Ibrahim Ahmed Mahmoud al-Qosi pled guilty to conspiracy and material support to terrorism. His final sentence was 2 years pursuant to a plea deal.

Noor Uthman Muhammed pled guilty to conspiracy and material support to terrorism. His final sentence will be less than 3 years pursuant to his plea agreement.

Ali Hamza al-Bahlul received a life sentence after he boycotted the entire commission process.

On the other hand, you have sentences from the Federal courts.

You have Richard Reid, the Shoe Bomber—life in prison.

“Blind Sheikh” Omar Abdel Rahman—life in prison for the plot to bomb New York City.

Twentieth Hijacker Zacarias Moussaoui—life in prison.

Ramzi Yousef—life in prison for the 1993 World Trade Center bombing and the Manila Airplot.

Umar Farouk Abdulmutallab—probably life in prison; will be sentenced in January 2012.

Najibullah Zazi—potential life in prison. This is the man, with conspirators, who was going to bomb the New York subway.

There is definitive evidence that is irrefutable that the Federal courts have done a much better job than the military commissions.

Why this constant press, that if it is not broke, do not fix it. The ability to have maximum flexibility in the United States is very important, and I totally support the Executive having that flexibility.

This amendment would make clear that under section 1032, U.S. Armed Forces are only required to hold a suspected terrorist in military custody when he is captured abroad. All the amendment does is add one word—that is the word “abroad”—to make clear that the military will not be roaming our streets looking for suspected ter-

The amendment does not remove the President’s ability to use the option of military detention or prosecution inside the United States.

The administration has threatened to veto this bill, and has said:

[It] strongly objects to the military custody provision of section 1032 (because it) would tie the hands of our intelligence and law enforcement professionals.

Perhaps, most importantly, addressing the issue of this amendment specifically, on November 15, Defense Secretary Leon Panetta stated:

The failure of the revised text to clarify that section 1032 applies to individuals captured abroad . . . may needlessly complicate efforts by frontline law enforcement professionals to collect critical intelligence concerning operations and activities within the United States.

The Director of National Intelligence, Jim Clapper, also wrote a letter on November 23, to say that he opposes the detailed provisions of this bill because they could—and I quote—‘‘restrict the ability of our nation’s intelligence professionals to acquire valuable intelligence and prevent future terrorist attacks.”

The administration suggested this change to the Armed Services Committee, but it was rejected. So the administration has had to threaten a veto on the bill. Who knows whether they will. I certainly do not know. This amendment limiting mandatory military custody to detainees outside the United States is a major improvement to the bill, and I ask my colleagues to support it.

I have a very hard time because I have watched detainees carefully as part of the Senate Intelligence Committee, and we are doing a study on the detention and treatment of high-value detainees. This has been going on for 2 years now. It is going to be a 4,000-page document, and it is going to be classified. But it will document what was actually done with each of the high-value detainees and what was learned from them. It shows some very interesting things. But the upshot of all of this is that we should keep military custody to people arrested abroad and have the wide option in this country, which is the case now, and not mandate—mandate—that military custody and military commission trial must be for everyone arrested in the United States.

I will hear that anyone who comes to the United States who carries out a criminal act, a terrorist act under the laws of war, should be subject to military custody. The problem is, 10 years of experience has not worked. How many years’ experience do we need?

How many sentences—six cases—and this is all there is in 10 years.

I know the other side got very upset when Abdulmutallab was Mirandized. The fact of the matter is, every belief is Abdulmutallab is going to do a life sentence when he serves time. How can we have any other option?
I have, again, a hard time knowing why if it is not broke we need to fix it, and why we need to subject everybody who might be arrested in this country to a record that is like this: 5-month sentence, 9-month sentence, 8-year sentence, 3-year sentence, 5-year sentence, 18-month sentence, when you have 400 cases that have been disposed of in a prompt way in a Federal court, who are serving long sentences in Federal prison.

I wish to hold the remainder of my time to the Senator——

I wish to yield.

Mr. LEVIN. Before the Senator yields time to the Senator——

I wish to hold the remainder of my time to the Senator for Arizona.

Mr. McCAIN. Madam President, I wish to yield.

Mr. LEVIN. Before the Senator yields time to the Senator——

I wish to hold the remainder of my time to the Senator from Arizona.

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Mr. McCAIN. Madam President, I wish to yield.

Mr. LEVIN. Before the Senator yields time to the Senator——

I wish to hold the remainder of my time to the Senator from Arizona.

Mr. MCCAIN. Madam President, I wish to yield.
We are very fortunate that he was only involved in one event, that it was not a 9/11-type event where there were multiple events on American soil planned. But what if after that 50 minutes we waited 5 weeks to get more information? What if we had been told that there had been multiple events coming that day? That is what is at issue here. Let’s bring ourselves back to September 11. What if we had caught the individuals who were on one of those planes before it took off on 9/11? What if in that instance we would not have held those members of al-Qaida in military custody that instant to make sure that we could get the maximum amount of information from them to protect our country? What if you were falsely identifying and separating off of the other flights and what happened on that horrible day in our country’s history?

I have to believe that if we were standing here immediately after the events of 9/11, I do not think we would be debating this amendment, deciding whether if you make it to our homeland we will not hold you in military custody in the first instance, to find out how much information you have, to make sure you are not part of multiple attacks on the United States of America.

If the amendment of the Senator from California passes, what kind of message are we sending to members of al-Qaida, foreigners who are planning attacks against the United States of America? We are laying out, unfortunately in my view, a welcome mat to foreigners, to terrorists they have the right to represent themselves in civilian custody, but if you are captured over there, we are going to hold you in military custody. Why would we create a dual standard where we should be prioritizing protecting our homeland, protecting the United States of America? This leads to an absurd result.

I would hope my colleagues would reject the Senator’s amendment to say that only those members of al-Qaida who do not make it to our homeland to attack our soil will be held in the first instance in mandatory military custody. Because our goal has to be here to protect Americans and to make sure we do not create a dual standard where if you are captured over there, we are going to hold you in military custody, but if you are captured and if you make it here, you are going to be getting greater rights, we will process you in the civilian system, and we will tell you you have the right to remain silent. We should not be telling terrorists they have the right to remain silent. We should be protecting Americans. If we were to pass this amendment, it would create an absurd standard where you get greater rights when you are on our soil. I think that makes us less safe.

I would urge my colleagues to reject both of the Senator’s amendments, both 1126 that would deny the executive branch the authority to hold them.

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

Ms. AYOTTE. Madam President, I ask unanimous consent for 30 seconds to wrap up.

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

Ms. AYOTTE. Madam President, I would urge my colleagues to reject 1126 as well, which would take away the authority of the executive branch as allowed by our Supreme Court and would make us less safe in this country as well as 1125. We have to protect America and senators get the maximum information to prevent future attacks on this country.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining of the original 30 minutes.

Mrs. FEINSTEIN. Thank you very much.

Mr. LEVIN. Would the Senator yield for a question?

Mrs. FEINSTEIN. On my time.

Mr. LEVIN. On my time. Quick question. After the 30 minutes expires, because we were held up having a vote, if it were today, there would be additional time should the Senator need it after that 30 minutes.

Mrs. FEINSTEIN. I appreciate it. I may well use it.

Madam President, I object to the statement just made that this will make the United States of America less safe. Ten years of experience has shown it has not. Plot after plot after plot has been interrupted. I have served on the Intelligence Committee for 11 years now. We follow this closely. This country is much more safe because things have finally come together with the process that is working.

The FBI has a national security division with 150 and there are 36 FBI offices. The military does not have offices to make arrests around this country. This constant push that everything has to be militarized—they were wrong on Hamdi, they were wrong on Hamdan. And it keeps going. And that it is terrible to protect people’s rights. I do not think that creates a safe country. This country is special because we have certain values, and due process of law is one of those values. So I object. I object to holding American Citizens without trial. I do not believe that makes us more safe. I object to saying that everything is mandatory military commission and military custody if anyone from abroad commits a crime in this country. The administration has used the flexibility in a way that they have won every single time. There have been no failures.

The Bush administration as well used the Federal courts without failure. They have gotten convictions. The military commissions have failed, essentially; 6 cases over 10, 11 years. I pointed out the sentences. So to say that what we are doing is to make this country less safe may be good for a 30-second sound bite, but it is not the truth.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. I say to my good friend from California, you are a patriot. You are here for all of the right reasons. We just have a strong disagreement about where we stand as a nation.

Nobody interrupted the Christmas Day Bomber plot. The people on the plane attacked the guy before he could blow it up. There was no FBI agent there. There was no CIA agent there. We are lucky, thank God, the passengers did it. So there is nothing to suggest that our intelligence community does not need as many tools as possible because the guy got through the system. We are lucky as hell the bomb did not go off.

Mrs. FEINSTEIN. Would the Senator yield for a question?

Mr. GRAHAM. The Times Square Bomber, nobody interrupted that plot. The guy did not know how to set the bomb off. We are lucky as hell the bomb did not go off. So do not stand up there and tell me that you got it right, because we have not. And here is the point: We never will always get it right. I am not saying that as criticism. Because we are going to get hit again. We cannot be right and lucky all the time.

To those who are trying to defend us, the one thing I do not want to do is micromanage the war. Here is the political dynamic. You have got people on the left who hate the idea of saying “the war on terror.” If you left it up to them, they would never, ever use the military, they would always insist that the law enforcement model be used because they do not buy into the idea of we are at war. So you have got one part of the country, a minority, that wants to micromanage the war. Here is the political dynamic. You have got people on my side—the Senator is right about this. They have gone the other way. If you left it up to people on my side, there would be a law passed tomorrow that you could never, ever read a Miranda right to a terrorist caught anywhere in the United States. I do not agree with that way of thinking. To my fellow members of the U.S. military, you have not failed at Guantanamo Bay. You have not failed. Because you sentenced someone to 9 months to me validated the fact that those who are taking an oath to defend us, when they are put in a position of passing judgment on people accused of trying to kill us all, will be fair. So when you say a military commission tribunal at Guantanamo Bay gave a 9-month sentence and that is a failure, I say, as a proud member of the military, I am proud of the fact that you can judge a case based on the facts and the law and not emotion. So I am very proud of the fact that military commissions can do their job as well as the civilian courts.
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I say to our Federal prosecutors and our Federal judges, I am proud of you too. We should be using an “all of the above” approach. There are times that Federal courts are better than military commissions. There are times that military commissions are better than Federal courts.

The 1032 language has nothing to do about what venue you choose. This provision is simple in its concept. It is a compromise between those on the left who say you must criminalize this war; we are not at war; you are going to have to use the law enforcement model; you can neither gather military intelligence, who do not believe that the military has a role on the homeland to gather intelligence, who is an absurd concept, never acknowledged before in any other war.

When American citizens helped the Nazis, collaborated with Nazis to engage in sabotage, not only were they held as enemy combatants during World War II, they were tried by military commissions. We no longer allow American citizens to be tried by military commissions. I think that is a reasoned decision. But what we do not want to do is prevent our intelligence community from holding an al-Qaeda affiliated member and gathering intelligence.

If an American citizen went to Pakistan and got radicalized in a madrasah and came back to the United States and landed at Dulles Airport and got a rifle and started shooting everyone on the Mall, I believe it is in our national security interests to give our intelligence community the ability to hold that person and gather intelligence about: Is another guy coming? What did you do? What future threats do we face? And not automatically Mirandize him. But if they choose to Mirandize him, they can. In this legislation, we preserve military custody, but it can be waived.

That is the point I am trying to make. Senators LEVIN and MCCAIN have struck a balance between one group that thinks the military can only be used and nobody else and another group that says we can never use the military. We have that balance. If we upset this balance, we are going to make us not only less safe, the Congress is going to do things on our watch that we have never done in any other war.

A word of warning to my colleagues: If we had a bill on the floor of the Senate saying we are not going to read Miranda rights to terrorists who are trying to kill us all, 70 percent of the American people would say: Heck, States and I don’t want this bill to come up. I believe the people who are best able to judge what to do is not any politician, they are the experts in the field fighting this war. We are saying we can waive the presumption of military custody, we can write the rules to waive it, but we believe we should start with that construct.

Let me read to you what the general counsel for the Department of Defense said today:

Top national security lawyers in the Obama administration say U.S. citizens are legally entitled to certain rights when they take up arms with al-Qaida. The government lawyers, CIA counsel Stephen Preston, and Pentagon counsel Jeh Johnson, did not address the Awlaki case. They said U.S. citizens don’t have immunity when they are at war with the United States.

The President of the United States was right to target this citizen when he went to Yemen to help al-Qaida. I am glad we took him out. So would it not be absurd that we can kill him, but we cannot detain him? If he came here, we cannot question him for military intelligence gathering. So this is a compromise between two forces that are well intended but will in a bad policy position: the hard left who wants to say the military has no role in protecting us on the homeland and some people on my side who say the law enforcement community cannot be involved at all.

So Senator LEVIN and Senator MCCAIN have constructed a concept that provides maximum flexibility, gives guidance to the law enforcement community, keeps the suction that that I like and can be waived and will not impede an ongoing investigation. That is the part of the bill that was changed.

To my good friend from California, we have the balance we have been seeking for 5 years. To me, this is what we should be doing as a nation—creating legislation that allows those who are fighting the war the tools they need. In this case, we start with the presumption of military custody because that allows us to gather intelligence. Under the domestic criminal law, we cannot hold someone and ask them about future attacks, because we are investigating a crime. Under military law, when a citizen engages in an act of war against the Nation, our military intelligence community can hold that person for as long as it takes to find out what they know about future attacks. If the guy gets off of plane and starts killing people at the mall, when we grab him and he says I want my lawyer, we can say: You are not entitled to a lawyer. We are trying to gather intelligence.

At the end of the day, use military commissions, use Federal courts, and read Miranda rights when we think it makes sense; but we don’t have to because the law allows us to hold people, under military custody, who represent a military threat. The law allows us to kill American citizens who have joined al-Qaeda abroad. That has been the law for decades. I hope this compromise that CARL LEVIN and JOHN MCCAIN have crafted—and I say to CARL LEVIN, I have been in his shoes. When John and I were on the floor saying don’t compromise, everybody otherwise—intelligence so that we can waterboard these people, do whatever we need to do because they are so vicious and hateful. But JOHN MCCAIN knows better than anybody in this body what it is like to be tortured.

I wish to protect America without changing who we are. It has always been the law that when an American citizen becomes an enemy of the State that is not a criminal act; that is an act of war. They can be held and interrogated about what they did and what they know because that keeps us safe. If we take that off the table, with homegrown terrorism becoming the greatest threat we face, we will have done something no other Congress has done in any other war.

The PRESIDING OFFICER. The original 30 minutes has expired.

Mr. GRAHAM. Madam President, I thank Senators LEVIN and MCCAIN for drafting a compromise that I think speaks to the best of this country. To my colleagues, please don’t upset this delicate balance. If you do, you will upset Pandora’s box. When World War II, they say you must criminalize this war; we are not at war; you are going to do things on our watch that we have never done in any other war.

Mr. MCCAIN. Madam President, I say to both Senators while they are on the floor, if it had not been for their invaluable effort, this legislation would not have come about. I thank them for this incredibly important contribution, using the benefit of the experience that both Members have. I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, if I might take a few minutes to make a couple statements.

The PRESIDING OFFICER. Is there objection?

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

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I wished to say with respect to Abdulmutallab, what was very new then was that an explosive had been invented that could go through a magnetometer without detection. It is, to my knowledge, the first time anyone came into the United States—this young Nigerian from a very prominent Nigerian family—wearing a diaper that had enough of this PETN, this new explosive, to blow up the plane. He missed in detonation and it caught on fire and the fire was put out.

There have been other incidents of trying to smuggle this PETN in cartridges of computers and they even had dogs going to the airport and they could not smell the explosive inside the computer cartridge. That was in Dubai. It is a very dangerous explosive. It is new and it has been improved. It is something we need to be very wary of. I also wish to point out that there is a public safety exception to Mirandize. We do not have to Mirandize someone or we could continue to question them, if there is a public safety risk. So the individual is not a point in this argument, in my view, because we can continue the interrogation.
What is a point, in my argument, is that the FBI now has competence; that there is a group of special experts who can be flown to a place where someone is arrested and do initial interrogation. They are specifically trained and, to the best of my knowledge, they are effective. Nevertheless, Mr. LEVIN, I know there is not a court by the system is working, and we should keep it as it is.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. While Senator GRAHAM is on the floor, I ask unanimous consent to have a colloquy with him about this section 1032, the section at issue.

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

Mr. LEVIN. I very much appreciate Senator GRAHAM’s remarks. He said the provision provides for military custody as a beginning or starting point. I wonder whether he would agree that not only is that point, but it is only for a narrow group of people who are determined to be al-Qaida or their supporters.

Mr. GRAHAM. Yes. It is not only a presumption that can be waived, based on what the experts in the field think is necessary to have provision; there is a credibly flexible. You do not have to stop an interrogation to get the waiver. The executive branch can write the procedures. Not only is it a presumption that can be waived, it is also limited to a beginning point. My point is, it has nothing to do with somebody buying gold. I don’t know about Senator LEVIN, but people call me, who are on the right, saying: Don’t let Obama put me in jail because he think he is a socialist or are you going to be able to grab me because of my political views? I tell my staff to be respectful and read them the language. The only people who need to worry about this provision are a very narrow group of people who are adipated with al-Qaida, engaged in hostile acts.

Mr. LEVIN. Would the Senator also agree with me that under the provision in the bill, on page 360—where we told that civilian trials are preferable to military detainees, preferable to the detention of an unlawful combatant. Does the Senator agree that every one of those options is open to the executive branch and that there is no preference stated, one way or the other, for which approach is taken to people who are detained?

Mr. GRAHAM. Not only would I agree that 1032 and 1031—the compromise language about statement of authority to detain and military detaining as a presumption—has nothing to do with the choice of venue, there are people on my side who are champing at the bit to prohibit civilian courts from being used in al-Qaida-driven cases; is the Senator familiar with that?

Mr. LEVIN. Yes.

Mr. GRAHAM. I am of the view that we are overly criminalizing the war. I don’t want to adopt that policy. There is nothing in this language that has anything at all to do with how you try somebody and what venue you pick. I am in the camp—and I think Senator LEVIN is too—of an all-of-the-approach. I am proud of our civilian courts and our military courts. The executive branch is in the best position to determine that. Let’s let the experts do it.

Mr. LEVIN. That is exactly the point. This language, when it is determined to have waiver, that if you or other it works against using civilian courts, is from folks who haven’t read our language. The language is explicit. On page 360, lines 3 through 14 in the bill, it says the disposition of a person under the law of war may include the following—and then they talk about detention under the law of war, trial under title X, which is the military trial, transfer for trial by an alternative court or competent tribunal having lawful jurisdiction; that is, articulate the III courts, and transfer or return of custody to the country of origin. There are no others. There is no preference stated for which of those venues would be selected by the executive branch.

Mr. GRAHAM. Is this a fair statement? The purpose of the military commissions from ever being used, you didn’t get your way in this legislation. If it was your goal to mandate that military commissions are the only venue to be used, you didn’t get your way in this legislation because this legislation doesn’t speak to that issue at all.

Mr. LEVIN. That is absolutely true. Senator GRAHAM brought to the floor something that was stated this morning by the top lawyer for the Obama administration. I think everybody ought to listen to this. There has been so much confusion about what is in the bill and what isn’t. Right now, there is authority to detain U.S. citizens as enemy combatants. That authority exists right now. That is not me saying it, that is the Supreme Court that has said it as recently as Hamdi, when they said there is no bar to this Nation holding one of its own citizens as an enemy combatant. That is current law. That is the Supreme Court saying that. Then, the Supreme Court also in Hamdi that they see no reason for drawing a line because a citizen, no less than an alien, can be part of supporting forces hostile to the United States or coalition forces. That authority extends right now.

Mr. LEVIN. I am sorry, I was disoriented. Are we then going to adopt an amendment that says to al-Qaida that if you attack us overseas, you are subject to military detention? But if you come here and attack us, you are not subject to military detention? That is what the first Feinstein amendment says.

Mr. GRAHAM. If I may just add—not only is that the effect, that would be a change in law because the Senator agreed with me that in other conflicts, prior to the one we are in today, American citizens, unfortunately, have been involved in aiding the enemy; is that correct?

Mr. LEVIN. I am sorry, I was distracted.

Mr. GRAHAM. Does the Senator agree with me that in prior wars American citizens have been involved in aiding the enemy of their time?

Mr. LEVIN. They have, and they have been held accountable.

Mr. GRAHAM. Yes. And the In re Quirin case, which Hamdi cited and affirmed, was a fact pattern that went as follows: We had German saboteurs, some living in America before they went back to Germany—I think one or two hundred—that spread an American citizen—who landed on our shores with a plot to blow up different parts of America. During the course of their efforts, American citizens aided the Nazis. The Supreme Court said when an American citizen have been an American at home, on our homeland, they were considered to be an enemy belligerent regardless of their citizenship, and we could detain one of our own when they sided with the enemy.

Mr. LEVIN. They was a naturalized citizen involved in Quirin, who was arrested, as I understand it, on Long Island, and who was charged with crimes involving aiding and supporting the enemy.

Mr. GRAHAM. Let’s talk about the world in which we live today.

Mr. LEVIN. And military detention.

Mr. GRAHAM. Military detention and tried by a military commission.

Mr. LEVIN. Exactly. By the way, I think I executed.

Mr. GRAHAM. And executed. The Senator from Michigan and I have said, along with our colleagues, that military commissions cannot be used to try American citizens.

Mr. LEVIN. That is correct.

Mr. GRAHAM. Our military has said they do not want that authority. They want to deal with enemy combatants when it comes to military commission trials. But our military CI and FBI have not understood their power to detain for intelligence-gathering purposes is an important power. It is not an exclusive power.

So let’s talk about today’s threat. The likelihood of homegrown terrorism is growing. Does the Senator agree that the homegrown terrorist is becoming a bigger problem?

Mr. LEVIN. It is an issue, absolutely.

Mr. GRAHAM. So in a situation where an American citizen goes to Pakistan and gets radicalized in a madrasah, when he flies back to Dulles Airport, gets off the plane and takes up arms against his fellow citizens, then goes to the mall...
and starts randomly shooting people. The law we are trying to preserve is current law, which would say if the experts decide it is in the Nation’s best interests, they can hold that American citizen as they were able to hold the American citizen helping the Nazis and gathering intelligence.

That is a right already given. Senator Feinstein’s amendment, even though I don’t think it is well written, could possibly take that away. That is 1031. But what we are saying is, we want to keep the ability of the intelligence community to hold that person under the law of war and find out: Is anybody else coming? Are you the only one coming? What do you know? What madrasah did you go to? How did you get here? How did you get back?

We want to preserve their ability to hold that person under the law of war for interrogation. But we also concede, if they think it is better to give them their Miranda rights, they can. That is what the law we create will do. Does the Senator agree with that?

Mr. Levin. I do. And the top lawyers of the administration acknowledged as much this morning when they said U.S. citizens are legitimate military targets when they seek to arm themselves with al-Qaida.

The provisions we are talking about in section 1032, which Senator Feinstein would modify so that it is only al-Qaida abroad who would be subject to this presumption of a military detention, but al-Qaida who come here—and, by the way, American citizens are not even covered under 1032. But the foreign al-Qaida fighters who come here to attack us are not going to be subject to that presumption of military detention which, again, can be waived. It has nothing to do with in what venue they are tried. The administration, the Executive, has total choice on that. It is just whether we are going to start with an assumption if they are determined to start with that assumption—subject to procedures which the administration adopts. It is totally in their hands. It cannot interfere with a civilian interrogation. It cannot interfere with civil-ian intelligence. We are very specific about it. The procedures are written by the executive branch. They can try them anywhere they want.

But if they bring a war here—they bring a war here—we are going to create an assumption that they can be subject, and are going to be subject, to military detention.

Mr. Graham. Well, my belief is that most Americans would want our military being able to combat al-Qaida at home as much as they would abroad. I think most Americans would be very upset to hear that the military has no real role in combatting al-Qaida on our own shore, but we can do anything we want to them overseas.

Frankly, there are very good people on our side who want to mandate that gaoling terrorism. So our law would be no one else, so we never have to read Miranda rights. Quite frankly, there are people on the left, libertarians, well-meaning people, who want to prevent the idea of a person being held under military custody in the homeland because they think we are at war and this is really not the battlefield.

What the Senator and I have done is to start with the presumption that foreign al-Qaida operatives are subject to the same rules of interrogation as they would be if they were captured and part of al-Qaida in Afghanistan.

I don’t understand the theory behind this. As a matter of fact, when we adopted the authorization for use of military force, it would seem to me the first people we would want to apply the authority of that authorization to would be al-Qaida members who attack this country.

Mr. Levin. We could do that if we captured them in Afghanistan, but here we are going to be treating them differently. It ought to probably be worse. In other words, people who bring the war here, it seems to me, at a minimum, ought to be subject to the same rules of interrogation as they would be if they were captured and part of al-Qaida in Afghanistan.

Mr. Levin. The only group subject to this provision is the al-Qaida in Afghanistan.

Mr. Graham. But this provision we wrote only deals with that.

Mr. Levin. Exactly.

Mr. Graham. No one is going to be put in jail because they disagree with Lindsey Graham or Barack Obama. We are trying to fight a war.

I would say something even more basic. It is in my political interest, quite frankly, being from South Carolina—a very conservative State, great people—to be able to go home and say I supported legislation to make sure these terrorists trying to come here and kill us we never hear the words “you have the right to remain silent.” Most people would like that.

It would have been in my interest years ago, quite frankly, to have gone back and said: You know what. I wish the worst thing that could happen to our guys caught by these thugs and barbarians is that they would get waterboarded. They get their heads cut off. Yet we have all these people worried about how we treat them in trying to find out a way to protect the country. That would be in my political interest, and I am sure it would probably be in your political interest to say: Wait a minute, we don’t want to militarize this conflict.

At the end of the day, what I wanted to say about the Senator and Senator...
McCain is that one of you is a warrior who has experienced worse than waterboarding and doesn't want that to be part of his country's way of doing business. The other is someone who has been a very progressive, solid, left-of-center Senator for years. I am a military member or a unit is asked to assist in law enforcement activities are completely prohibited in this country. Why do we want them to be considered a war criminal just because they were fighting for the United States?

So what we are trying to do is create policy that is as flexible as possible but understands the difference between fighting a war and fighting a crime.

Mr. GRAHAM. Mr. President, if I understand there are other Senators who may be coming over to speak, and I will be happy to yield the floor whenever that happens because this is the time which is not structured before the schedule at 2 p.m. But if I can continue, then, until another Senator comes to the floor, I want to just expand on this one point which has been made which has to do with whether there is something in this section of ours that would allow our military to patrol our streets. We have heard that.

Well, we have a posse comitatus law in this country. That law embodies a very fundamental principle that our military does not patrol our streets. There is nothing in section 1032 or anywhere else in this bill that would permit our military to patrol our streets.

I think Senator GRAHAM is probably more familiar with what I am going to say than perhaps any of our colleagues. We have a posse comitatus statute in this country. It makes it a crime for the military to execute law enforcement functions inside the United States.

That is unchanged. That law is unchanged by anything in this bill.

Mr. GRAHAM. Does the Senator know why that law was created?

Mr. GRAVIN. I think we had a fear a couple hundred years ago that that might happen.

Mr. GRAHAM. One of the things you learn in military law school is the Posse Comitatus Act, because if a military member or a unit is asked to assist in a law enforcement function, that is prohibited in this country. Why is that? It specifically says to become a military state. We have civilian law enforcement that is answerable to an independent judiciary.

The Posse Comitatus Act came about after Reconstruction, because during the Reconstruction period the Union Army occupied the South. They were the judge, jury, and law enforcement. They did it all because there was no civilian law enforcement. After the

South was reconstructed, a lot of people felt that was not a good model to use in the future; that we don't want to give the military law enforcement power; they are here to protect us against threats, foreign and domestic; law enforcement activities are completely prohibited.

Now we have National Guard members on the border. That is not a law enforcement function. That is the national security function. But I have been receiving calls that say our legislation overturned the Posse Comitatus Act. Here is why that is completely wrong.

Surveilling an al-Qaida member, capturing and interrogating an al-Qaida member is not a law enforcement function; it is a military function. For the Posse Comitatus Act to apply, you would have to assume that a member of al-Qaida is a common criminal and our military has no legal authority here at home to engage the enemy if they get hurt.

You talk about perverse. You would be saying, as a Congress, that an al-Qaida member who made it to America could not be engaged by our military.

What a perverse reading of the Posse Comitatus Act. The reason al-Qaida is a military threat and not a common criminal threat is because the Congress in 2001 so designated. I think most Americans feel comfortable with the idea that the American military should be involved in fighting al-Qaida at home, and that is not a law enforcement function.

Mr. GRAVIN. That is why we have very carefully provided this provision 1032 to a very narrow group of people—people who are determined to be members of or associated with al-Qaida.

Then the question becomes, Well, how is that determination made? What are the procedures for that? The answer is it is left up to the executive branch in its procedures. Can there be any interference with the civilian law enforcement folks who are interrogating people that they arrest? If someone tries to blow up Times Square and they are being interrogated by the FBI, is there any interference with that interrogation? None. We explicitly say that there is no such interference.

What about people who are seeking to observe illegal conduct? Is there any interference there? There is none. We specifically say those procedures shall not interfere with that kind of observation, seeking intelligence. We are not interfering with the civilian prosecution, with the civilian law enforcement at all.

The rules to determine whether someone is a member of al-Qaida are rules which the executive branch is going to write. They can't say, Well, this thing authorizes the interference with civilian interrogation when, as a matter of fact, it specifically says it won't, and the procedures to determine whether somebody is governed by this assumption are going to be written by

the FBI and the Justice Department and the executive branch. And, on top of that, there is a waiver.

Mr. GRAHAM. May I add something. I want to respond to one of my good friends, Senator PAUL, who said, Well, that is all good, but in democracies you let in very bad people and I don't want to give broad power to the executive branch that could result in political persecution.

I would tell you—Senator LEVIN may find this hard to believe—there are people on my side who don't trust President Obama and his administration. Some of them don't think he is an American. Some of them believe that if we pass this law, you are going to give the Obama administration the power to come on and pick them up because they go to a rally somewhere.

All I can say to Senator PAUL and others: I share the concern about unbridled executive power. In fact, I think the Posse Comitatus Act. I don't support the idea that the military can't fight al-Qaida when they come here. We are not talking about law enforcement functions.

But here is what happens: If someone is picked up as a suspected enemy combatant under this narrow window, not only does the executive branch get to determine how best to do that—do you agree with me that, in this war, that every person picked up as an enemy combatant—citizen or not—here in the United States goes before a Federal judge, and our government has to prove to an independent judiciary outside the executive branch by a preponderance of the evidence that you are who we say you are and that you have fit in this narrow window? That if you are worried about some abuse of this, we have got a check and balance where the judiciary, under the law that we have created, has an independent review obligation to determine whether the executive branch has abused their power, and that decision can be appealed all the way to the Supreme Court?

Mr. GRAVIN. That guarantee is called habeas corpus. It has been in our law. It is untouched by anything in this bill. Quite the opposite; we actually enhance the procedures here. The Senator from South Carolina has been very much a part of that effort.

Mr. GRAHAM. Much to my detrimen.

Mr. GRAVIN. With all the risks that are entailed of being misunderstood and not knowing the rest. That is why the Senator from South Carolina has engaged in, to try to see if we can put down what the detention rules are—by the way, ‘are’—because as the administration itself said in its statement of administration policy, the authorities codified in this section—authorities codified in section 1031 they are referring to—those authorities already exist.

Mr. GRAHAM. In this case where somebody is worried about being picked up by a rogue executive branch because they went to the wrong political rally, they don't have to worry
very long, because our Federal courts have the right and the obligation to make sure the government proves their case that you are a member of al-Qaida and didn’t go to a political rally. That has never happened in any other war. That is a check and balance here in this country. And let me tell you why it is necessary.

This is a war without end. There will never be a surrender ceremony signing on the USS Missouri. So what we have done, knowing that an enemy combatant determination could be a de facto life sentence, is we are requiring the courts to look over the military’s shoulder to create checks and balances. Quite frankly, I think that is a good accommodation.

Mr. GRAHAM. I would say why I

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Mr. MANCHIN. Mr. President, I ask

American prison—civilian or military—held as a suspected member of al-Qaida will be held without independent judicial review. We are not allowing the executive branch to make that decision unchecked. For the first time in the history of American warfare, every time the executive branch will have their day in Federal court, and the government has to prove by a preponderance of the evidence you are in fact part of the enemy force. And we did not stop there. Because we are not the end. In order to clean up our Executive order’s procedures be adopted—yesterday—is a requirement that the Udall amendment had been adopted and have been eliminated, by the way, if the person to say that? Well, there may no longer be a threat. The war may still be going on, but the threat or not a threat, for instance.

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we pay for our retirement security in this country. That does not make any sense to me, and it does not make any sense to the good people in West Virginia.

I know in the coming days we are going to spend a lot of political ink about extending the payroll tax. What they are saying sounds good: More money in our pockets. In fact, politicians will offer assurances that Social Security will not be hurt at all. My good friend, what will be speaking also on this, Senator Kirk from Illinois, is a good friend, who will be speaking also on this bill. Unfortunately, the reality is very different.

What you will not hear them say, though, is that reducing payroll taxes even temporarily would take more than $340 billion out of Social Security’s funding stream, if we approve the President’s proposal. We certainly will not hear them say the way they would repay those hundreds of billions of dollars is through our general revenue fund. The cuts this year, what about the next year and the year after? When does it stop? When do we have the political will to finally say we better start paying again for Social Security.

Our approval rating is at 9 percent, and we are rapidly losing the support of our family members. Just how many Americans really believe that Congress will make sure our general fund is solid enough to live up to the responsibility of funding Social Security? If the payroll tax cut is extended as it stands this year, the average family in West Virginia will pay $14 less per week. For a lot of people that is a lot of money. But the few West Virginians who even realize they are getting help say they would gladly give that up in return for a reliable Social Security safety net or for a real tax reform that cuts rates across the board and that ensures that every American, especially the wealthy, who has benefitted the most from this failed tax system will right now—real tax reform that will lower tax rates for everyone as we close the loopholes, credits, and exclusions that businesses, corporations, and some Americans to avoid paying their fair share. It is time to stop all of that.

Some will say that it is impossible; it cannot be done. I think they are wrong. It requires leadership from the White House to every corner of Congress, and it requires each and every one of us to be willing to sacrifice our political futures for the Nation’s future. I, for one, am willing to do just that.

This is the great opportunity we have before us to do the right thing and stabilize this economy. Instead, the President and leadership in both parties are trying to give them more of the same failed policies—taking steps that will further undermine our finances, worsen our debt crisis, and deter billions from Social Security’s regular funding stream, all without the reality that it will create any jobs.

With this great Nation now more than $15 trillion in debt—it will be $17 trillion next year and going to $21 trillion by 2021—the enormity of this problem is that just servicing the debt by 2021 will be greater than what we spend on our Department of Defense to secure this great Nation. We cannot afford to continue to double down on failed policies.

As for taxes, don’t get me wrong. I don’t want to see Americans paying higher taxes. No way. I simply want a commonsense tax system that ensures the progressivity that is essential, especially the wealthy, who have benefitted the most from this failed tax system. We have right now—real tax reform that will lower tax rates for everyone as we close the loopholes, credits, and exclusions that businesses, corporations, and some Americans to avoid paying their fair share. It is time to stop all of that.

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Let me be clear. As a country, we cannot expect that Social Security will remain secure if we keep telling Americans we do not have to pay for it, and that is exactly the conclusion people will reach if we keep reducing their contributions. Social Security is one of our highest priorities as a country, and we should not let the Federal Government undermine Social Security by convincing Americans they do not really have to pay for it.

Then, again, there are some in Washington who want us to believe the very act of reducing our contributions to Social Security will spur job creation. Unfortunately, the reality is very different.

We tried the payroll tax cut last year, and I supported it. But I will not double down on the failed policy, especially one that jeopardizes the future of Social Security. Truth be told, over the last year I traveled nearly 18,000 miles in my State, and I have yet to find very many West Virginians who even know they are getting a discount, let alone business owners who say they will hire anybody if we give them a discount for 1 year.

What business owners do tell me is that what they want more than anything is some certainty and some con-
Security needs to the level of 7 percent in 2013. In fact, according to one analysis, we may trigger the end of the debt limit before the election if we pass this because of the $246 billion we will have to borrow temporarily until the long payout there, and tremendous hit to Social Security. In this time of all Republican alternative. It has the same long stretch of this revenue comes in. We have to borrow temporarily until the debt limit before the election if we pass this. We may trigger the end of the December 1, 2011.

If you believe we are going to be responsible enough to pay for this in the 10 years outgoing, then we have some beach-front property in West Virginia we would love to interest you in.

Mr. KIRK. With that, I yield and commend the Senator. We are hoping for two “no” votes because we think those are the votes that support Social Security and its continued revenue.

Mr. MANCHIN. I thank the Bowles-Simpson commission. Bowles and Mr. Simpson, for what they have done a year ago, bringing it to our attention, bringing a pathway to fixing the financial problems we are dealing with. We are concerned about the next generation, more than the election. That is what we were sent here to do. I suggest the absence of a quorum.

The PRESIDING OFFICER. The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1414

Mr. MENENDEZ. Mr. President, I rise to urge my colleagues to pass amendment No. 1414 that I have offered with my distinguished colleague from Illinois, Senator KIRK, to strengthen our nuclear program, to strengthen sanctions against Iran, so that it go to the heart of the regime’s ability to finance its nuclear ambitions. This is a broad-based effort, a bipartisan effort, and one that needs the Senate’s attention and passage.

In my view, we have to follow the money, and this amendment does exactly that. If we are serious about limiting Iran’s ability to finance its nuclear ambitions, this amendment is essential to that effort. It is a serious attempt to sanitize the Central Bank of Iran, which is known to be complicit in Iran’s nuclear efforts. If we fail to close loopholes and sanction funding mechanisms for Iran’s nuclear development programs, we would be like a rancher who left the barn open and wonders why the horses are gone. To not pass this amendment is leaving the door open to Iran’s runaway nuclear ambitions. We cannot and we must not let that happen.

I know the administration has expressed concerns about this amendment—an amendment which, by the way, has come about as a result of the administration asking us to work with them, and a bipartisan effort has achieved a narrower, more defined, tailored effort to bring the maximum sanctions upon Iran with the minimum consequence to both the United States and our allies across the globe. But in the absence of congressional effort over the last 15 years, starting with the Iran and Libya Sanctions Act and ending with CISADA, I have to wonder what we would be doing to stop Iran’s drive to obtain nuclear weapons, if it were not for the Congress’s interested in sanctions.

I recognize this administration has done more than any prior administration in terms of using those tools the Congress has given them, but in my view, we have not done enough.

In a letter from Secretary Geithner today, the administration recognizes that “Iran’s greatest economic resource is its export of oil. Sales of crude oil line the regime’s pockets, sustain its human rights abuses, and feed its nuclear ambitions like no other sector of the Iranian economy.” That is why Secretary Geithner had to say in his letter. That is pretty compelling as to why this amendment needs to pass, that is why I have worked with Senator KIRK to pass this important amendment, and that is why we urge our colleagues to pass it.

To those who have raised concerns about the impact of the amendment on our allies and our multilateral diplomacy efforts, I would note that the European nations and the French in particular are already considering their own Iranian oil embargo. This is not, by the way, an oil embargo, but they are considering something far more significant—their own Iranian oil embargo. They recognize that the Iranian nuclear program has a short fuse. Published reports say it may be as short as 1 year, and the time to act is now. They recognize that the Shahab missile would not only be capable of hitting the State of Israel but could easily hit a European nation—a European nation with which obviously would be a NATO ally.

As for other countries, frankly, I am not concerned with how the Chinese feel about our amendment given that they are currently one of greatest violators of our current sanctions regime already. The evidence is clear.

I have been made aware that several major energy traders continue to make prohibited sales of refined petroleum to Iran. Yet our response has been to sanction the front companies rather than the major figures behind these sales.

China also continues to be a major Iranian trading partner and has agreements with Iran for nearly $40 billion in investments to develop Iranian oil fields. China has reportedly directed the China National Offshore Oil Corporation and National Petroleum Corporation to slow their work in Iran, presumably to allow them to make the argument to Washington to hold off on sanctions.
We must ask, why has the administration been reluctant to sanction Chinese companies when there is ample evidence that they are violating our own existing laws and there is precedent for us sanctioning Chinese companies for nuclear and weapons proliferation outcomes?

Mr. McCAIN. Would the Senator yield for a question?

Mr. MENENDEZ. I would be happy to yield.

Mr. McCAIN. Is it the Senator’s impression that action by the United Nations Security Council is pretty dim given the stated positions of Russia and China on this issue?

Mr. MENENDEZ. The Senator, in my view, is right, considering that they both have veto power at the Security Council. It seems to me that they are not likely allies in helping us pursue this course.

Mr. McCAIN. So then it really makes a more compelling argument to those who may be wavering on this amendment that there is a clear record on the part of China and Russia in the U.N. Security Council that we cannot expect a Security Council vote, but perhaps we could expect other nations to follow suit as the United States leads on this issue.

Mr. MENENDEZ. I believe the Senator is right.

Mr. McCAIN. I thank the Senator.

Mr. MENENDEZ. The November 8 IAEA report underscores the need for this amendment. It undeniably confirms that there is a military component to Iran’s nuclear program; that Iran has not suspended its Iranian enrichment and conversion activities at declared facilities and is seeking to develop as many as 10 new enrichment facilities; that there are undisclosed nuclear facilities in Iran; that Iran is seeking back channels to acquire dual-use technology and materials; that Iran is reactivating and testing centrifuges and that Iran and its allies are already on a march on their own because they understand the risk to them.

I yield the floor, and I hope to hear from my colleague from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. I rise in very strong support of the Menendez-Kirk amendment. I wish to compliment the Senator from New Jersey for an outstanding and compelling presentation to the Relations Committee today in which he called on the representatives of our government to move quicker on this.

We saw the Baha’is radicals of Iran overrun the embassy of our allies in the United Kingdom. We saw the British Prime Minister just announce that he was removing all Iranian diplomats from the United Kingdom. We saw the Government of Italy announcing that they were suspending some diplomatic activities. We have seen a whole number of actions by the EU now to join with us on sanctions.

I will just say with regard to this amendment that it has now been cosponsored formally by 46 Senators: MENENDEZ, KIRK, BARRASSO, BLUMENTHAL, BLUNT, BOOZMAN, BROWN of Massachusetts, BROWN of Ohio, CARDIN, CASEY, COLLINS, COONS, CRAPO, FEINSTEIN, FRANKEN, GILLIBRAND, GRAHAM, HATCH, HELLER, JOHANNES, KLOBUCHAR, KYL, LUTENBERG, LEE, LIEBERMAN, MANKIN, MERKLEY, MIKULSKI, MORAAN, MURkowski, NELson of Florida, NELson of Nebraska, PORTMAN, PRYOR, Risch, ROBERTS, SCHUMER, SNOWE, STABENOW, TESTER, THUNE, TOOMEY, VITTER, WARNER, WHITEHOUSE, and WYDEN.

Mr. KIRK. I think that the 46 Members on the shoulders of the 92 who signed the Kirk-Schumer letter in August. When in these partisan times do we have all but eight bipartisan times do we have all but eight Senators agreeing on a policy?

I will just note, as Senator MENENDEZ and Senator MCCAIN pointed out, the administration is not worried about this amendment, but Senator MENENDEZ correctly provided flexibility to the administration by saying,
No. 1, if the energy information agency says oil markets are tight and issues a report on the affected oil markets, these sanctions could be suspended for a time. On top of that one waiver, there is a second waiver for the national security of the United States that the President could have that kind of flexibility.

So with flexibility, with bipartisan support, with outrageously activity by Iran, in the face of the IAEA report, moving toward a nuclear weapon, with the danger we see from that government and Hezbollah and Hamas against our allies in Lebanon and Israel, with the plot announced by the Attorney General of the United States to blow up a Georgetown restaurant in an effort to kill the Saudi Arabian Ambassador, with the plight of 330,000 Baha'i is oppressed by that country, with someone like Nashir Sotoudeh, the lawyer for Shirin Ebadi—the Noble Prize laureate’s lawyer was thrown in jail just for representing that client—for all these reasons, this is the right amendment, at the right time, sending the right message in the face of a very irresponsible regime.

I yield back and thank the Senator for offering this well-timed amendment.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 1093 WITHDRAWN

Mr. MCCAIN. On behalf of Senator INOUYE, I ask to withdraw amendment No. 1093.

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

Mr. MCCAIN. Mr. President, very briefly I would like to thank the Senators for their leadership on this issue. There is a threat to the security of the world posed by the Islamic nation of Iran. This is much needed legislation.

I think it is important to note, as they did, that there is a national security issue in the Senate, on the President of the United States, and also we cannot expect a lot of help considering the membership of the United Nations Security Council and Russia and China’s unwillingness to act on behalf of reining in this path that Iran is on to the acquisition and the possibility and the capability for the use of nuclear weapons.

I congratulate both sponsors of the amendment, and I hope we can get a recorded vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

AMENDMENT NO. 1125

Mr. UDALL of Colorado. Mr. President, I wanted to rise at this time in support of the Feinstein amendment No. 1125, which would modify the requirement that the Armed Forces detain suspected terrorists by adding the word “abroad” to ensure we are not disrupting domestic counterterrorism efforts. And I would like to correct the record because some of the opponents of the amendment have stated that by inserting the word “abroad,” we would be preventing the military from detaining al-Qaida terrorists on U.S. soil, and that is simply not true.

The President knows and my colleagues know that I am not comfortable with the detention provisions in this bill because I think they will undermine our fight against terrorism. But this would be an important change, a narrowly focused change in the provisions that have already been put on the floor.

Mr. President, is the vote imminent?

The PRESIDING OFFICER (Mr. SANDERS). It is.

Mr. UDALL of Colorado. Mr. President, I rise in support of the Feinstein amendment No. 1125, which would modify the requirement that the Armed Forces detain suspected terrorists by adding the word “abroad” to ensure we are not disrupting domestic counterterrorism efforts. I wish to correct the record because some of the opponents of this amendment have stated that by inserting the word “abroad” we would be “preventing the military from detaining al Qaeda terrorists on U.S. soil.” This is simply not true.

I am not comfortable with the detention provisions in this bill because I think they will undermine our fight against terrorism. While section 1031 of this legislation will authorize the military to detain terrorists, section 1032 requires that the military detain certain terrorists even if the FBI or local law enforcement is in the middle of a larger investigation that would yield the capture of even more dangerous terrorists.

This may disrupt the investigation, interrogation, and prosecution of terrorist suspects by forcing the military to interrupt FBI, CIA, or other counterterrorism agency operations—against, each of the recommendations’ recommendations, including the military’s. This would be an unworkable bureaucratic process that would take away the ability to make critical and split-second decisions about how best to save lives. That is why the director of the FBI and the director of National Intelligence have strongly opposed the underlying provisions.

The Feinstein amendment would simply provide the needed flexibility for the FBI and other law enforcement agencies to work to fight and capture terrorists without having to stop and hand over suspects to the military. However, even with the Feinstein modification, the authorization in section 1031 the military could still detain a suspected terrorist but would not have to step in and interrupt other domestic counterterrorism operations.

In other words, the Feinstein amendment would be failing to prevent the military from acting, it would simply take away the mandate that they interrupt other investigations. I still do not believe we should enshrine in law authorization for the military to act on U.S. soil, but to argue that adding “abroad” to section 1032 would take away from the authority given in this bill is just wrong.

Clarifying that the military is only required to detain suspected terrorists abroad is the best approach to address the FBI’s concerns about this legislation, and it is the best approach for our national security. What we are doing is working. We should not take away the flexibility that is necessary to keep us safe.

Passing this amendment would be welcome news to Secretary of Defense Panetta, Director of National Intelligence Clapper, FBI Director Mueller, and CIA Director Petraeus—who oppose the intrusive restrictions on their counterterrorism operations that the underlying bill would create.

The other side has argued that this is fundamentally about whether we are fighting a war or a crime. I think that is a false choice and it does a disservice to our integrated intelligence community that is fighting terrorism successfully using every tool it possibly can. We can debate this in theoretical, black-and-white terms about whether this is a war or a crime, but we can get back to the business of taking on these terrorists in every way we know how, including by using our very effective criminal justice system. At the end of the day, it is about protecting Americans, protecting this country.

Why on Earth would we want to tie our hands behind our back?

Our national security leadership has said the detention provisions in this bill could make us less safe. We should listen to their concerns and pass this amendment to preserve the U.S. Government’s current detention and prosecution flexibility that has allowed both the Bush and Obama Administrations to effectively combat those who seek to do us harm.

Again, I encourage my colleagues to support the Feinstein amendment, to keep faith with the Directors of the FBI, the DNI, the Secretary of Defense, and our Attorney General, who say these provisions could create unwanted complications in our fight against terrorism.

Let’s adopt the Feinstein amendment. It will help us win the war against terror.

Thank you, Mr. President.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yes 45, nays 55, as follows:

(Rollcall Vote No. 233 Eng.)

YEA—45

Akaka

Baucus

Bennet

Blumenthal

Bingaman

Boxer
Brown (OH) Kerry Reed
Cantwell Kirk Reid
Cardin Klobuchar Rockefeller
Carpenter Kohl Sanders
Conrad Lautenberg Schumer
Coons Leahy Shaheen
Durbin Lee Tester
Feinstein Menendez Udall (CO)
Franken Merkley Udall (NM)
Gillibrand Moran Warner
Hagans Murray Webb
Harkin Nelson (FL) Whitehouse
Johnson (SD) Paul Wyden

NAYS—55
Alexander Graham McConnell
Ayotte Grasleyy Moran
Barrasso Hatch Murkowski
Baucus Hinch Nelson (NE)
Blunt Hoeven Portman
Boozeman Hinson Pryor
Brown (MA) Inhofe Risch
Burr Inouye Roberts
Casey Isakson Roberts
Chambliss Johnson (WI) Risch
Coats Johnson (RI) Sessions
Coburn Kyl Shelby
Cochrane Landrieu Snowe
Collins Levin Stabenow
Corker Lieberman Thune
Cornyn Logan Toomey
Crapo Manchin Vitter
DeMint McCaskill Wicker
Enzi McCaskill

The amendment (No. 1125) was rejected.
Mr. LEVIN. Mr. President, I move to reconsider the vote.
Mrs. BOXER. Mr. President, I move to lay that motion on the table.
The motion to lay on the table was agreed to.
The PRESIDING OFFICER. The Senator from Michigan.
Mr. LEVIN. I suggest the absence of a quorum.
The PRESIDING OFFICER. The clerk will call the roll.
The bill clerk proceeded to call the roll.
Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.
The PRESIDING OFFICER. Without objection, it is so ordered.
Mrs. SHAHEEN. Mr. President, I rise today in support of the 2012 National Defense Authorization Act, the critical piece of legislation we are now working on that will strengthen our national security, provide for our troops and their families, and improve oversight of America's taxpayer dollars.
Over the last half century, the Senate has successfully passed a defense authorization bill without fail every year. This strong tradition of bipartisanship continues today under the joint leadership of Senators LEVIN and MCCAIN.
As a member of the Armed Services Committee, I thank the chairman and ranking member, as well as the majority and minority staff, for their dedicated and tireless efforts as we work to bring this important legislation to the floor.
Throughout this yearlong process, our committee takes on extremely difficult and contentious security issues, and at times we have our differences. However, we have worked in a respectful and openminded fashion, driven by a strong commitment to cooperation and compromise. Bipartisanship has never been easy, but it works, as the Armed Services Committee has proven year in and year out. I hope all of our committees in the Senate can work in this kind of cooperative fashion, especially these days when budget constraints are so difficult. No department of the Federal Government is immune from the severe fiscal challenges facing our Nation. That includes our Department of Defense. We are cutting $25 billion from the President's budget request in this bill, nearly $43 billion from the last year's authorization. We need to find ways to maximize our investments in defense by aggressively eliminating unneeded and underperforming programs and we need to streamline our business practices and invest strategically in future technology.
The bill before us helps ensure that our troops, especially the 96,000 serving in Afghanistan as well as their families, continue to receive the care and support they deserve. It provides hard-earned pay raises for all uniformed personnel, funding for critical equipment, and training required for our men and women to succeed on the battlefield.
The Defense authorization bill before us makes important investments in defense, science, and technology. As I know the Chair agrees, we need to do more to prepare the next generation of scientists and engineers who will be so important to maintaining our Nation's superior technological edge. The current bill makes a small downpayment on this important effort, and I intend to continue to fight for more investment as we move forward.
The bill also includes a number of provisions that will enable the Defense Department to lead in the creation of a more secure energy future for our military and for our country. As the single largest consumer of energy in the world today, the U.S. military has taken some initial steps on energy efficiency, energy mitigation, and the use of renewable and clean energy alternatives. But we still have a very long way to go. I look forward to continuing to work with the Department of Defense to take advantage of more energy savings opportunities in the future.
This year's Defense authorization bill also includes significant resources to fight and significantly reduce the proliferation of nuclear, chemical and biological weapons and the growing challenge posed by cyber warfare. In addition, I am pleased a number of provisions I have been working on are currently included in the bill.
First, we are extending the Small Business Innovation Research Program for the next 8 years. This is critical to keep our defense manufacturing base and our small business innovators strong and competitive. This is a provision I have worked closely with Senators LANDRIEU and SNOWE for their leadership in the Small Business Committee for working on this effort and for working so hard to get this extension, a long-term extension, into the Defense authorization bill.
The bill also includes a version of the National Guard Citizen Soldiers Support Act, which will go far in providing our National Guard members with the unique services and support they need when they return home from the fight.
We also have a Navy shipyard modernization provision that has been introduced by Senators SNOWE and COLLINS and LYTONE and I from New Hampshire. It also includes a $200 million cut to an unnecessary and underperforming weapons program that I have worked closely with Senators MCCAIN and BEGICH to include.
In addition, I was pleased to cosponsor Senator LEAHY's National Guard Empowerment Act, which gives a stronger voice to our 450,000 citizen soldiers in our National Guard.
Although we have a good bill before us, I believe it could be better, and I have introduced several additional amendments, two of which are designed to provide the nearly 33,000 men and women serving in our Armed Services with the reproductive health care they are currently denied under the law. Unfortunately, we were not able to get a vote on those amendments. But I hope to continue to work closely with the chairman and ranking member to address these important concerns.
In addition, I have worked closely with Senators COLLINS and CASEY on an amendment to address unsecured and looted stockpiles of tens of thousands of shoulder-fired missiles in Libya. If these weapons fall into the wrong hands, they pose a serious threat to civil aviation worldwide and to our deployed forces abroad.
I wish to thank the committee for including this provision in the legislation. I also wish to thank, some of the concerns that have been raised with respect to the detainee provisions in the bill. The underlying legislation which I supported is an attempt to provide a statutory basis for dealing with detainees of al-Qaida and its terrorist affiliates.
In committee, we made some difficult choices on this extremely complex issue. But we did that in order to strike a bipartisan agreement to both protect our values and our security. I understand, similar to all the Members of this body, the concerns that have been raised on both sides of these issues.
Again, as a general principle, I believe our national security officials should have the flexibility needed to deal with the constantly evolving threat. But I also believe that clear, transparent rules of procedure are a bedrock legal principle of our constitutional system. I believe the military detention language in this bill includes the appropriate procedures for the executive branch, including a national security waiver and broad authorities on implementation.
Although I support the goals of the chairman and ranking member’s underlying legislation, I also believe we can improve those provisions. I supported Senator Feinstein’s amendment that we just voted on which would restrict required military custody to only those terroist or captured abroad.

I hope that despite the disagreements, we will continue to chart a bipartisan path forward with respect to these detainee provisions in the years ahead. We need to give our national security our full and undivided attention. And I support the managers of the bill for helping us on that process by adopting this amendment.

Mr. LEVIN. Mr. President, I call for the regular order with respect to the Merkley amendment No. 1174.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Is it necessary to lay aside the pending amendment so I may engage in a colloquy?

The PRESIDING OFFICER. The amendment is no need to do that.

AMENDMENT NO. 1266

Mr. LEVIN. Senator Levin and Senator McCain, I wish to thank you very much for engaging in a colloquy. I simply want to show one chart which tells a story as to why Senator Grassley and I are so pleased the Senators are willing to accept this by voice vote. If I could ask Senator Levin to take a peek at this because I think this tells the story. This is what our military leadership makes, about $200,000. This is what the President of the United States as the Commander in Chief makes every year. This is what we have agreed to that was a reform, the top five defense contractors to—almost $700,000. But all the rest of the contract employees have absolutely no limit and can make $1 million a year. This is from the taxpayers.

Senator Grassley and McCain, particularly in these times, but just as a matter of equity, we can fix it. We are very grateful to the two Senators for their willingness. So I would like to enter into a colloquy with Chairman Levin and, of course, through him, Ranking Member McCain.

I greatly appreciate their willingness to accept the Boxer-Grassley amendment No. 1206 that limits contractor employees’ salaries to no more than the salary of the Commander in Chief, who is, of course, the President of the United States.

Mr. LEVIN. The Senator from California, my great friend, Mrs. Boxer, is correct. We are willing to accept the Boxer-Grassley amendment by voice vote.

Mr. GRASSLEY. Mr. President, there is no cap at all on the amount taxpayers will reimburse contractors for compensation except for just a handful of executives, and that limit is already too high at $693,951. That is far above what the chief executive of the U.S. Government gets paid at $400,000 a year.

Mr. LEVIN. Mr. President, in response to Senator Grassley’s question, I am very much aware of what he referred to.

Mr. GRASSLEY. I thank the Senator from California.

Mrs. BOXER. Mr. President, just in conclusion, did the Senator from Iowa and I have word from the Senator from Michigan that during conference negotiations with the House of Representatives regarding this bill, he will work to ensure that the contractor employees are covered by a reasonable limit so taxpayers are not on the hook for excessive salary reimbursements?

Mr. LEVIN. You do, indeed.

Mrs. BOXER. I thank the Chairman.

Mr. GRASSLEY. I say thank you to the managers of the bill for helping us with this very important amendment.

Mr. LEVIN. I thank the Senator from California and the Senator from Iowa for their efforts in this area.

The PRESIDING OFFICER. The Senator from Montana.

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

PAYROLL TAX HOLIDAY

Mr. TESTER. What I would like to speak on now is regarding the payroll tax votes that we are going to be taking later today or possibly even this evening. I wish to tell you exactly why I am going to vote against both of these proposals. I believe they are gimmicks, designed more for political purposes than what Congress ought to be doing right now; that is, working together to create jobs on a long-term basis; to create long-term certainty for businesses throughout this country.

The Democrat’s proposal is the same included in the President’s American Jobs Act, which I voted against several weeks ago. My reasons for voting against that proposal have not changed. It would temporarily extend the Social Security payroll tax holiday through 2012 and pay for it by raising taxes on the wealthy. Although I support making sure millionaires and corporations pay their taxes, I do not believe this particular proposal will create jobs or give our economy the boost it needs right now.

A small 1-year temporary tax cut will not give Main Street businesses the long-term certainty they need to grow and hire.

The proposal by the Senate Republicans also temporarily extends the payroll tax holiday but only by cutting certain Medicare benefits and cutting jobs and extending a current pay freeze for our folks who serve in public service. Neither of these proposals is right for Montana and neither will earn my vote.

I want to take you back to a few weeks ago, in November, when Congress unanimously passed my veterans jobs bill, called the VOW to Hire Heroes Act. The President has already signed it into law. Congress has a responsibility to spend more time passing legislation such as that—real solutions that create real jobs, and not political theater.
I know we can do it. It was appropriate for us to work together for the veterans. It is also appropriate for us to work together to create jobs for all Americans.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1126

Mr. CHAMBLISS. Mr. President, I rise in opposition to the second Feinstein amendment, No. 1126, I believe. I have the privilege as serving as vice chairman on the Intelligence Committee with Chairman FEINSTEIN. We have a good working relationship and agree on many issues that come before the committee. I know the diligence and seriousness with which she takes every issue but particularly this one.

We have had a number of discussions about the fact that we have a lack of a detention policy in this country now, and I know she is concerned about that and is trying to make the situation better. I remain committed to work with her on a solution.

Unfortunately, I am going to have to oppose her amendment today because of my concerns about the limitation it imposes on the authority to detain Americans who have chosen to wage war against America. My first concern is that it appears, from the debate yesterday, that there is confusion among some Members about what this amendment does. For example, my colleague and friend from Illinois, Senator KIRK, argued that he is in favor of robust and flexible U.S. military action overseas, including against American citizens such as Anwar al-Awlaki. Senator KIRK said he supports the Feinstein amendment, however, because he believes in a zone of protection for citizens inside the United States.

But the Feinstein amendment does not apply to only those American citizens who commit belligerent acts inside the United States; it would also prohibit the long-term military detention of American terrorists such as Anwar al-Awlaki, who committed terrorist acts outside the United States. As a result, this amendment would have the perverse effect of allowing American belligerents overseas to be targeted in lethal strikes but not held in U.S. military detention until the end of hostilities. That makes no sense whatsoever.

I am also concerned about the ambiguity in the amendment’s language and the uncertainty it will cause our operators, especially those overseas. The amendment exempts American citizens from detention without trial until the end of hostilities. But short of the end of hostilities, the amendment appears to allow detention without trial. Is it the Senator’s intent to allow for some long-term detention of Americans without trial?

This is troubling because we don’t know what the United States will interpret by our operators or the courts that will hear inevitable habeas challenges. Would the military be permitted to hold a captured belligerent for a month, a few months, or a few years? If not until the end of hostilities? Or would the military interpret the amendment as a blanket prohibition against military detention of Americans for any period of time? If the military rounded up American terrorists such as Adam Gadahn or Adnan Shukrijumah among a group of terrorists, would they have to let these Americans go because the military would not be permitted to detain them? Would more American belligerents be killed in strikes if capture-defeat operations were perceived to be unlawful? I don’t believe we can leave our operators with this kind of uncertainty.

Finally, we should all remember the provisions of the National Defense Authorization Act do not provide for a new authority to hold U.S. citizens in military detention. American citizens can be held in military detention under current law. Contrary to some claims that were made yesterday and debated on the Senate floor, it was not until the end of hostilities that the Hamdi case that the detention of enemy combatants without the prospect of criminal charges or trial until the end of hostilities is proper under the AUMF and the Constitution. Hamdi is a U.S. citizen. This is not a new concept. In reaching its decision, the Hamdi Court cited the World War II case of ex parte Quirin, in which the Supreme Court held:

Citizenship in the United States as an enemy belligerent does not relieve him from the consequences of a belligerency.

In conclusion, I understand Senator FEINSTEIN’s motivation, but I just don’t believe this amendment does what she wants it to do, and there will be unintended consequences that could seriously hamper overseas capture operations. Mr. President, I urge my colleagues to oppose the Feinstein amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

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

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

ATF FAST AND FURIOUS OPERATION

Mr. GRASSLEY. For anybody interested, I might be, I would say roughly 10 minutes.

Mr. President, for nearly a year, I have been investigating the Bureau of Alcohol, Tobacco, Firearms, and Explosives’ operation known as Operation Fast and Furious. I have followed up on questions from that investigation as the Senate Judiciary Committee held oversight hearings over the past few months. My colleagues Senator NAPOLITANO and Attorney General Eric Holder. Each of them testified about the aftermath of the shooting of Border Patrol agent Brian Terry. I have sought to clarify with facts some of the half-truths that were said during these meetings.

Each claimed they were ignorant of the connection between Agent Terry’s death and Operation Fast and Furious until my letters with whistleblower allegations brought the connection to light. However, documents that have come to light in my investigation draw those claims into question. I would like to address a couple of those discrepancies.

Secretary Napolitano went to Arizona a few days after Agent Terry’s death. She said she met at that time with the FBI agents and the assistant U.S. attorneys looking for the shooters. She also said at that point in time that nobody knew about Fast and Furious. Those statements are simply not accurate. The documents show that many people knew about Fast and Furious on December 15, the day Agent Terry died.

Secretary Napolitano referenced the FBI agents looking for the shooters. The head of the FBI field division was present at the December 15 press conference about Agent Terry’s murder. At that very press conference the FBI head told a chief assistant U.S. attorney about the connection to an ongoing ATF investigation. That same night, U.S. attorney Dennis Burke confirmed that the guns tied back to Operation Fast and Furious. These connections were made days before Secretary Napolitano’s visit at that time. The very purpose of her visit was to find out more about the investigation.

Very important questions remain unanswered: The Department of Homeland Security oversees the Border Patrol. Why wouldn’t the Phoenix FBI head have told Secretary Napolitano that the only guns found at the scene of Agent Terry’s murder were tied to an ongoing ATF investigation?

Let’s not forget the U.S. Attorney’s Office. Secretary Napolitano said she met with the assistant U.S. attorneys looking for the shooters. The chief assistant U.S. attorney for the Tucson office, which coordinated the Terry investigation, found out about the ATF connection directly from our Federal Bureau of Investigation.

So a very important question comes up: The Department of Homeland Security oversees the Border Patrol. Why wouldn’t the Phoenix FBI head have told Secretary Napolitano that the only guns found at the scene of Agent Terry’s murder were tied to an ongoing ATF investigation?

Let’s not forget the U.S. Attorney’s Office. Secretary Napolitano said she met with the assistant U.S. attorneys looking for the shooters. The chief assistant U.S. attorney for the Tucson office, which coordinated the Terry investigation, found out about the ATF connection directly from our Federal Bureau of Investigation.

So a very important question comes up: The Department of Homeland Security oversees the Border Patrol. Why wouldn’t the Phoenix FBI head have told Secretary Napolitano that the only guns found at the scene of Agent Terry’s murder were tied to an ongoing ATF investigation?

The Tucson office is overseen by the U.S. attorney for the District of Arizona. Dennis Burke, who confirmed to Tucson that guns came from Operation Fast and Furious. When Ms. Napolitano served as Governor of Arizona,
Mr. Burke served as her chief of staff for 5 years. Secretary Napolitanoacknowledged that she had conversations with him about the murder of Agent Terry.

So a very important question comes up: Why won't Mr. Burke conceal the Fast and Furious connection from Secretary Napolitano?

Even before Secretary Napolitano came to Arizona, e-mails indicate Mr. Burke spoke on December 15 with Attorney General Holder's deputy chief of staff, Monte Wilkinson.

So a very important question is unanswered: Before finding out about Agent Terry, Mr. Burke e-mailed Mr. Wilkinson that he wanted to 'explain in detail' about Fast and Furious when they talked. In that phone call—and this is a very important question—did U.S. attorney Burke tell Mr. Wilkinson about the case's connection to a Border Patrol agent's death that very day?

The Deputy Director of the ATF made sure briefing papers were prepared about the Operation Fast and Furious connection to Agent Terry's death. He sent them to individuals in Washington, DC, in the Deputy Attorney General's Office at the Justice Department within 24 hours. They were forwarded to the Deputy Attorney General. They were accompanied by personal e-mails from one of the Deputy Attorney General assistants explaining the situation.

Two weeks later, that Deputy Attorney General, Gary Grindler, was named Attorney General Holder's chief of staff. Yet a month and a half after Agent Terry's death, Attorney General Holder was allegedly ignorant of the Operation Fast and Furious connection to the murder of Agent Terry.

So a very important question is unanswered: Why wouldn't Mr. Grindler bring up these serious problems with Attorney General Holder, either as his Deputy Attorney General or as his chief of staff?

It is clear that multiple highly placed officials in multiple agencies knew almost immediately of the connection between Operation Fast and Furious and Agent Terry's death.

The Department of Justice and the Department of Homeland Security have failed to adequately explain why Attorney General Holder and Secretary Napolitano allegedly remained ignorant of the rule of law and the Border Patrol agent's death, thus allowing that law enforcement official to live under that rule of law. There was the death of a Federal agent involving weapons allowed to walk free by another agency in his own government.

Let me explain "walking guns." The Federal Government operates under the rule of law, just like all of us have to. There are two kinds of Law. There are licensed Federal gun dealers, and Federal gun dealers were encouraged to sell guns illegally to straw buyers and, supposedly, follow those guns across the border to somehow arrest people who were involved with drug trafficking and other illegal things. Two of these guns showed up at the murder scene of Agent Terry. So it is a very serious situation that we need to get to the bottom of.

If what I have just described, with all these unanswered questions, is not enough to brief up to the top of the Department, then I don't know what is. In other words, staff people ought to be doing their job or, if staff people were doing their job, then the Congress, in our constitutional job of oversight, is being misled.

I yield the floor.

The PRESIDING OFFICER (Mrs. McCaskill). The Senator from Rhode Island.

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

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

PAYROLL TAX CUT AND UNEMPLOYMENT COMPENSATION

Mr. REED. Madam President, I rise today to urge my colleagues to extend and expand the payroll tax cut and to fully extend unemployment compensation. If we did not immediately, time is money. The payroll tax cut and full extension of unemployment insurance are two of our best tools for strengthening our economic recovery. We must work without let-up to pass this legislation before year's end.

Democrats are doing everything we can to create jobs and solve our unemployment crisis. Millions of Americans are still out of work, however, and looking for a job in the toughest economy since the Great Depression. Job-less benefits, which have been essential to millions of Americans as they search for a job, are set to expire at the end of this year.

Congress has never failed to extend benefits when unemployment is this high. Unfortunately, right now, Republicans are refusing to fully extend unemployment insurance, despite our Nation's 9 percent unemployment rate. In extending benefits, we should not do any less for those recently unemployed than what was done for those who were unemployed in the last year or two. That is why I introduced the Emergency Unemployment Compensation Extension Act of 2011, which fully extends Federal support for unemployment insurance through 2012.

Extending benefits doesn't just make sense for a person who has been laid off, it makes sense for the economy as a whole. In fact, during today's hearing in the Senate Banking Committee, a business operator recognized that failing to extend unemployment insurance would have a negative impact on their business. Its was hard for him to quantify, but the sense he has, from operating a very dispersed convenience store operation throughout this country, is there would likely be a negative impact.

Those impacts will be magnified and multiplied throughout our economy. It will, ironically, cause not just those without jobs to lose benefits, it will also probably lead to further reductions in jobs as demand falls off and the need for employees, particularly in retail establishments, might lessen.

That is why, if Congress truly wishes to help strengthen our economy, we need to extend unemployment insurance now. The reason we must fully extend unemployment insurance is quite simple: If people don't have jobs, they can't spend money. If people can't spend money, businesses go under. If businesses fail, more people lose their jobs, and the downward spiral continues.

Extending unemployment insurance is not just the right thing to do, it is a wise investment with a strong rate of return that will provide a much needed economic boost to every State across the country.

Unemployment is, regrettably, a national crisis. This program will address a widespread problem and do it in extraordinary cost-effective way. The CBO has calculated that this has one of best returns on the dollar. The reason we must fully extend unemployment insurance is quite simple. People who are unemployed need money to pay for groceries, to put some gas in the car, to take care of those immediate expenses. So, as the economists would say, their marginal propensity to consume—i.e., their willingness to take the dollar in and spend it out—is very high. As a result, this program not only helps families who are struggling, it also immediately injects dollars and demand into the economy. These programs have a real benefit.

We understand what we have to do to address our unemployment crisis and that is to grow the economy, and that means we must create jobs. Again, this program will help stimulate demand, will help keep people at work and perhaps even—we hope—put more people to work.

When it comes to the efficacy of this program, the bang for the buck, it is among the most effective. I referred earlier to some economists—in specific terms—Alan Blinder and Mark Zandi
have estimated that for every dollar spent on extending unemployment benefits, the economy grows by $1.61. The Economic Policy Institute has estimated that failing to extend UI benefits for a year could result in the loss of $75 billion in economic activity for 2012, which impacts 500,000 jobs across the country. The country cannot afford this hit. We cannot afford to miss the opportunity to maintain or create over 500,000 jobs. We cannot ignore the fact that, in this very critical budget situation, UI is one of the most cost-effective ways to continue to stimulate demand and grow jobs in our country.

We also have to understand that we are dealing with a situation that is getting to be critical because we are running out of time. These benefits will expire at the end of the year, and we must move forward. I think we can also do something else, and that is to improve this program. One way to improve it is to adopt a program that is very effective in my State of Rhode Island and several other States across the country, and that is work sharing. Work sharing is a voluntary program that prevents layoffs, it keeps people on the job, it helps employers retain skilled workers, and it strengthens the unemployment insurance system.

Over 20 States are utilizing this program. They estimate they saved 100,000 jobs in 2010 alone. Essentially what it does is it allows employers to pay 90 percent of the employee’s salary in addition to the regular unemployment compensation. This means that employers keep skilled workers, and it strengthens the unemployment insurance system.

Senator CONRAD, be included as a cosponsor of the amendment, as well as Senator Baucus of Montana.

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

Mr. HOEVEN. The amendment declares that the United States should maintain a triad of strategic nuclear delivery systems which includes missiles, bombers, and submarines. It also declares that it is the sense of the Senate that the President should budget for the modernization of those systems and the weapons they deliver.

Over the past couple of years, numerous statements have been made in support of the triad. The 2010 Nuclear Posture Review concluded that the United States needs the nuclear triad. The Senate, in its resolution of ratification for the New START treaty, declared that the United States needs the nuclear triad. And President Obama last February certified that he intends to modernize the nuclear triad. However, the consideration of a triad is currently conducting a further review of the role nuclear weapons play in defending U.S. national security—a miniature Nuclear Posture Review. It is important that the Senate reaffirm its commitment to the nuclear triad.

I am particularly concerned by statements that we can reduce our nuclear arsenal significantly below the requirements laid out in the New START treaty. Given the threats we face and the importance of America, the American people, and to our allies, I believe we must retain the nuclear triad. The reasons are clear and compelling. We need missiles to provide a persistent, dispersed, and cost-effective deterrent. We need submarines to provide an invulnerable, mobile, and survivable deterrent. And we need bombers to provide a visible, long-range, recallable deterrent.

The bottom line is that the triad provides us with a safe, credible, reliable nuclear deterrent. It is the reason the United States has hedges against the emergence of new nuclear powers is a cautionary tale.

Mr. HOEVEN. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. HOEVEN. Madam President, I rise to address several amendments to the Defense Authorization bill. First is in regard to the nuclear triad and the important role it plays in defense of our Nation and security of the world and also in regard to the Global Hawk unmanned aerial system program, which plays an important role in our forces, both today in our efforts around the world and what it means to us in the future.

First, in regard to amendment 1279 and the nuclear triad, this amendment was introduced by Senator Testerman Senator Enzi, Senator Blunt, Senator Vitter. Also, I ask unanimous consent that my colleague from North Dakota, Senator Kehrer, be included as a cosponsor of the amendment, as well as Senator Baucus of Montana.

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

Mr. HOEVEN. The amendment declares that the President should budget for the modernization of those systems and the weapons they deliver.

The decades following the end of the Cold War have made nuclear deterrence far more complicated than the old superpower confrontation of last century. We must now counter nuclear threats from multiple actors around the world. We consider the military modernization program is built on a foundation of a large and growing nuclear arsenal. Intelligence estimates suggest that the number of warheads atop Chinese ICBMs capable of reaching the United States is likely to double within the next 15 years. Recent reports indicate that China is fielding four different new nuclear-ready ballistic missiles. China is prioritizing the development of mobile land-based ICBMs and submarine-launched ballistic missiles. China’s nuclear posture is also troubling. China has not defined what it would consider a minimum nuclear deterrent, making it difficult to understand the motivations behind China’s expansion and their modernization efforts.

Second, new nuclear powers such as North Korea and Pakistan further complicate how we calculate our need for deterrence. North Korea has pursued nuclear weapons using both plutonium and uranium and continues to develop long-range ballistic missiles that can threaten the United States. North Korea’s nuclear arsenal forces our allies in East Asia—especially South Korea and Japan—to a premium on the U.S. nuclear deterrent. Pakistan’s nuclear weapons greatly complicate the security situation in central Asia and create a serious risk of nuclear proliferation. The emergence of these two nuclear powers is a tale about the unpredictable ripple effects of new players in the nuclear game and a strong reason why reductions to U.S. strategic forces should only be made with the greatest caution.

Third, nuclear proliferation will remain one of our foremost security challenges in the world. The IAEA reports that Iran is conducting research and developing nuclear weapons, and it expressed serious concerns about the military dimensions of Iran’s nuclear activities, particularly about developing a nuclear weapon—probably with the help of North Korea and Iran—that in 2007 Israel had to destroy...
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a Syrian nuclear site. Terrorist groups and other rogue actors also seek the development or the acquisition of nuclear arms.

And, of course, fourth, we cannot yet forget about Russia. Under the provisions of the New START agreement, Russia can expand its nuclear force rather than pursue reductions. Russia intends to build a new heavy ICBM to be available by 2018. Russia expects to build eight new nuclear submarines, and it also plans on designing and building a new nuclear bomber.

We cannot afford to let our nuclear deterrent atrophy in light of so many nuclear threats. Once we lose our nuclear capabilities, it will be extremely hard to reconstitute them.

We need a reliable and credible nuclear arsenal. We need it to dissuade new nations from acquiring nuclear weapons. We need it to deter nuclear powers from using their weapons. And we need it to hold enemy arsenals at risk.

People may not always stop and think about the demands placed on America’s nuclear deterrent, but they are real and they are extensive. We have nuclear weapons as a guarantor of the security of the American homeland. Our nuclear arsenal renders any plan to strike the United States with nuclear weapons sheer folly. The investments made over the last several decades are made to pay dividends by creating the space within which America can address other security threats.

Make no mistake, without a large nuclear arsenal other nations would move plans to strike the United States from the category of unthinkable to possibly thinkable.

Second, and nearly as important, the United States nuclear deterrent replaces the need for our allies to develop or acquire nuclear weapons, keeping the peace in critical regions around the world. East Asia is a particularly good example. The status of U.S. nuclear posture is a major concern in Japan. Despite assurances from the United States that our nuclear umbrella will continue to protect Japan, Tokyo is worried about even the most subtle changes in U.S. policy. During its most recent trip, Secretary Panetta publicly reiterated the U.S. commitment to protect South Korea with our nuclear umbrella and our nuclear deterrent is probably the only reason South Korea has not developed a nuclear capability in response to North Korea’s nuclear programs.

I will conclude on the triad. Our nuclear deterrent has been the foundation of U.S. national security since World War II. The nuclear triad provides an incredible return on our investment and I urge the Senate to send a strong signal of support for the nuclear triad as laid out in amendment No. 1279.

AMENDMENT NO. 1279

Mr. SESSIONS. Madam President, I wish to address amendment 1274, which would clarify what I believe is existing law that the President has authority to continue to detain an enemy combatant under the law of war, following a trial by a military commission or an article III court, and regardless of the outcome of that trial. Let me explain what I mean.

As I said yesterday, even under the law of war the President has the authority to detain an enemy combatant, a prisoner of war, a captured enemy soldier, a belligerent. The President can detain him through the duration of the hostilities. The President is not required—the Commander in Chief is not required to release an individual whose trial by a military commission is concluded. The Supreme Court has concluded the President can order the detention of an individual who is the alleged mastermind of the USS Cole bombing, was arraigned before a military commission on November 9. He was held not only as an al-Qaida, or a belligerent against the United States, but he was charged with a violation of the rules of war.

This was a group that sneaked into the harbor pretending to be innocent people and ran their boat against the Cole, killing a number of U.S. sailors. I remember being at a christening of one of the Navy ships at Norfolk not long after this. I walked out of that area and I heard one of the sailors cry out: Remember the Cole. The hair still stands up on my neck when I hear it.

We have an obligation to defend our men and women in uniform. When they are out on the high seas or COM operations, they are in a neutral port, they expect to be treated according to the laws of war and then they are murdered by an individual such as this.

This individual’s lawyers filed a motion asking the military judge to clarify the effect of an acquittal, should the commission acquit him. He argued that the members of the committee had a right to know what would happen if he were acquitted. They came to the conclusion that if he were acquitted, he came to a trial and was acquitted, he became a defendant before a military court. That individual could be killed on the battlefield, but if captured, you are not required, under all laws of war that I am aware of and certainly the Geneva Conventions—you can maintain that individual in custody to prevent him from attacking you. But you can also try an individual such as this before a military court and he can be a first-class citizen, a former soldier, a belligerent against the United States, an unlawful combatant. They can be prosecuted and they should be prosecuted. In World War II a group of Nazi saboteurs in the Ex parte Quirin case were let out of a submarine off, I think, of Long Island, drifted into the country with plans to sabotage the United States. They were captured and tried by military commissions. Several were American citizens. A number of them—most of them, frankly—after being tried and convicted, were executed. The Supreme Court of the United States approved that procedure.

But recent cases demonstrate the potential problem we have today. One of the Gitmo detainees has already raised the question I have discussed before the military commission where he is being tried. Abd al-Rahim al-Nashiri, the alleged mastermind of the USS Cole bombing, was arraigned before a military commission on November 9. He was held not only as an al-Qaida, or a belligerent against the United States, but he was charged with a violation of the rules of war.

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There is another case in which the administration was almost confronted with the problem a year ago, in the case of a former Guantanamo detainee, an al-Qaida member named Ahmed Ghailani, who was responsible for the 1998 embassy bombings in Kenya and Tanzania, which remain the early al-Qaida bombings against our embassies in Africa.

After the Justice Department chose to prosecute Ghailani in an article III civil court, the United States Attorney notified the President of his wish to seek the death penalty—I am not sure why that ever happened; we don’t know—but the jury acquitted him on 284 out of 285 counts. Luckily, he received a life sentence on the single count of conspiracy, for which he was convicted.

But what if he had not been convicted? What if there was insufficient evidence to prove he committed a crime, but not insufficient evidence to prove he was a combatant against the United States? Al-Qaida has declared war against the United States, officially and openly. The U.S. Congress has authorized the use of military force against Al-Qaida, which is the equivalent of a declaration of war.

What if he had received a modest sentence after being convicted and had credit for time served? What if he had been acquitted on all 285 counts? Would the President have been required to release him into the United States, if the government could not get some country to take him? That would be wrong.

He was at war against the United States. He was a combatant against the United States. Like any other captured combatant, he can be held as long as the hostilities continue.

By the way, let me note, military commissions are open. If they decide to try one of these individuals—not just hold him as a prisoner of war but hold him and try him for violation of the laws of war, they have the right to appeal the decision. That might change that. My amendment does not answer that question. It simply says a combatant should be able to be held under the standard of a prisoner of war, a combatant, even if they had been prosecuted for violation of the laws of war and acquitted.

It is common sense. I believe the courts will hold that, but it is an issue that is out there. I think Congress would do well to settle it today.

I urge you to regardless of whether that trial would be held and what the outcome was, as long as, of course, they could prove they were an enemy combatant and violating the rules of war.

I would note one thing: I see my friend, the Senator from California, is here and probably is ready to speak.

On the question of citizenship, can a citizen be held in this fashion? The Supreme Court has clearly held they may. But the Senate is offering legislation that might change that. My amendment does not answer that question. It simply says a combatant should be able to be held under the standard of a prisoner of war, a combatant, even if they had been prosecuted for violation of the laws of war and acquitted.

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any amendment that is being offered that is not being offered as modified in order to make it germane. I hope my point is clear as mud.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I just wish to say I strongly support the amendment by the Senator from Texas, and I will do everything I can to see that this issue is raised. I cannot comprehend why we would not want to provide one of our closest allies with the equipment they need to defend themselves with the growingly aggressive mainland China exhibiting the characteristics of intimidation and bullying and perhaps threatening Taiwan.

I wished to state, first of all, my appreciation to both Senators from Texas, who have been very involved in this issue, and I wish to tell them I will do everything I can to make sure this amendment is adopted. We do need to send the signal that we support our friends.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. BROWN. Madam President, I join with Senator McCain in support of Senator Cornyn's amendment. Taiwan has been a strong ally of the United States. Senator McCain said we would provide them military aircraft, but, in truth, they would pay for it. They are our allies. They are our friends. They are prepared to purchase from an American company legitimate military equipment that they could use to help maintain the freedom they have cherished on the island, and it is hard for me to understand how that would be objected to.

I just wish to say, as someone who has looked at these issues for some time as a member of the Armed Services Committee, I do believe Senator Cornyn is a member of that committee—is correct, and I strongly support the amendment and urge my colleagues to vote for it, if and when we can get a vote.

I thank the Chair, yield the floor, and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1090

Mr. BROWN of Massachusetts. I have an amendment that has been accepted—almost—sort of kind of accepted—amendment No. 1090, which I would like to discuss briefly.

I thank Senators Wyden and Coons for their bipartisan leadership as co-sponsors of this amendment, and I wish to tell you we are going to vote on it shortly, and I ask that it be accepted, either by vote or by unanimous consent.

It is a simple amendment that will make sure the National Guardsmen who get deployed will receive the housing allowances they need and deserve. This is a bipartisan amendment. The Defense Department has agreed that the situation is fixed—something that recently was developed.

There is a little bit of history behind this, but I don't think it is important because Senator Wyden and Senator Coons and I have taken the lead on this issue, which is critically important to troops that have been taken merely by a change in the regulations. This has happened at a time, quite frankly, when our men and women who are fighting need that money.

I am offering this amendment as a result of a bill I introduced last September, entitled the "National Guard Basic Allowance for Housing Equity Act." I introduced this legislation to fix an inequity that hurts National Guard members. Merely as a result of their deployment, they could lose upward of $1,000 per month in their monthly housing allowance.

Basic Allowance for Housing, or BAH, is a benefit paid to members of the military to help offset the cost of local housing markets. When a service member is deployed, for example, BAH is necessary to help offset the cost of a mortgage or rent in a particular geographic area. Everyone in the military, especially families, rely on this benefit. This benefit is especially critical when servicemembers deploy because, as we know, the spouse is often at home and she or he is responsible for taking care of the bills.

What would my colleagues say if I said that because you are ordered to deploy to Afghanistan, for example, the Department of Defense is going to withhold $1,000 or more from your current duty station. A $1,000 increase in your income—upward of $12,000 or more per year—because of a new policy interpretation? That is right. It is merely a new policy interpretation.

Because of a DOD oversight, over 800 Guardsmen—some even in the President's State and 40 in Massachusetts who are deployed to Afghanistan right now—are losing, in the middle of the battle, up to $1,000 per month in their housing allowance because they were ordered to deploy.

Title X mandates that full-time Guardsmen, when ordered to Active Duty for a contingency operation, even if there is no break in their active Federal service, must revert back to their home-of-record status rather than their current duty station. Because of this change in status, it alters a guard's basic allowance for housing on their monthly pay stub. Basically, guardsmen are being punished for being deployed to a war zone.

For example, take a full-time guardsman who is from Worcester. He calls Worcester, MA, home and probably votes there, but he is stationed in Washington, DC, let's say right down the street at the Pentagon. So he or she earns a housing allowance based on the cost of living in DC and, as we all know, it is higher than in Worcester, MA. Sounds pretty normal, pretty straightforward.

This guardsman is then ordered to Active Duty—to Federal status—for the purpose of deploying overseas. A new housing allowance rate kicks in that is based on his home of record in Worcester, MA, not where she or he was actually stationed, here in D.C.

As a result, the guardsman and his family immediately start losing up to $1,000 per month because of that deployment to serve our country. So full-time guardsmen are entitled to the BAH rate they are receiving at the duty station because it is where they and their dependents live, and that is often where the spouses will reside until that servicemember comes back. Obviously, family members are not going back to Worcester while the guardsman is stationed at the Pentagon or here in D.C.

This is not right. It is something DOD agrees with, Senator Wyden and Senator Coons concur, and I appreciate their bipartisanism in moving this forward. I am all about finding savings, but the good thing is that this is no cost to the government. It is already budgeted in the DOD budget. I am not into savings that treat our service men and women unfairly.

So my amendment provides a simple, noncontroversial fix. It is germane. It is relevant. It helps people who are serving our country right now. It is bipartisan. It is how we should do things around here.

I am glad the DOD has realized this is a problem, and I hope my colleagues will move forward in a manner to make our citizens proud.

I wish to thank Senator McCain for his effort in getting this important matter to our guardsmen who are serving presently over there and testifies to his diligence. I thank Chairman Levin for putting up with the problems over the last few days, but it is important to the people. It is not about politics; it is about serving our men and women.

AMENDMENT NO. 1206

Mr. GRASSLEY. Madam President, at a time when the national security budget is under immense pressure, it is vitally important that we spend our defense dollars more wisely.

The Boxer-Grassley amendment will contain runaway spending in contractor salary reimbursements. Notice that I said "salary reimbursements," not salaries.

When someone not familiar with government contracting might ask why it's any of our business what government contractors get paid, and I would agree if we're talking about what their company pays them out of its own pocket.

When most people hire a contractor to renovate their bathroom or re-shingle their roof, they find the one that does the best work for the least cost.
Having done that, you are not likely to ask or care what their cut is or what they pay their crew.

To the extent that government contracts work the same way, the same principle applies. Unfortunately, not all government contracts do work that way.

A large proportion of government contracts actually reimburse the contractor directly for the costs they incur, including for the salaries of their employees. These types of contracts are risky because contractors lose the incentive to control costs. They are only supposed to be used when a fixed price contract is not possible for instance, if the scope or duration of the work is not possible to determine at the outset.

Nevertheless, cost-reimbursement type contracts are used extensively by Federal departments and agencies.

The Defense Department alone accounted for over $100 billion in cost reimbursement type contracts in fiscal year 2010.

President Obama has criticized the widespread use of these types of contracts and has set a goal of slowing the growth and ultimately reducing their use.

He has made a little progress. However, we are talking about a small dent in a large bucket.

It’s clear that cost type contracts are going to account for a major proportion of the dollars spent on federal contracting for the foreseeable future. As a result, we must take steps to limit unreasonable expenditures under these types of contracts.

Senator BOXER and I worked together to try to head off this problem back in 1997.

At that time, we proposed capping salary reimbursements at the salary level of the President of the United States.

However, a compromise was ultimately enacted that capped how much the top 5 highest earning contractor executives could charge the federal government for their salaries.

The cap was set at the median salary of the top five executives at companies with annual sales over $50 million, which must be recalculated annually.

Since that time, the cap has more than doubled from $340,650 to $693,951. That’s 83 percent faster than the rate of inflation.

The House-passed version of the National Defense Authorization bill expands the current cap to all contractor employees, not merely the top five executives, closing a loophole that was being exploited.

The version of the DoD Bill before the Senate extends the cap only to the top 10 to 15 executives.

However, Senator BOXER and I think it’s time to reconsider a fixed cap at the level of the President’s salary, which I should add was doubled by Congress to $400,000 since our previous proposal.

That is more than generous.

Surely the taxpayers should not be asked to pay the salary of a contractor more than the President makes, which is twice what any cabinet secretary makes.

Keep in mind that this cap just limits how much Uncle Sam can be billed for. The company chooses to pay its employees out of its own pocket. Not only would our straightforward cap save man-hours in the Office of Federal Procurement Policy, which has to gather the data every year to determine the current convaluted cap, but it would save millions of dollars that need not be spent.

Again, we cannot afford to go on wasting our increasingly limited defense dollars.

We have to be more aggressive in weeding out waste in defense spending and this is one unnecessary expenditure that we can easily eliminate in favor of higher priorities.

I urge my colleagues to join us in this commonsense cost cutting measure.

I yield the floor.

The PRESIDING OFFICER (Ms. Klobuchar). The Senator from Arizona. Mr. McCARTHY, the President. I thank the Senator from Massachusetts for his amendment. He has spent a great deal of time in his life serving in the National Guard, including spending time in Afghanistan. He understands the burdens our National Guard men and women bear. I am very grateful for his careful attention to their needs. This is clearly an issue that needed to be addressed. We are proud to have it as part of our legislation.

Again, my thanks to the Senator from Massachusetts as well as to my friend, Chairman Levin, for helping make this amendment possible.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum be discharged.

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

AMENDMENTS Nos. 1114, as modified; 1298, as modified; 1304, as modified; 1269, as modified; 1287, as modified; 1292, as modified; 1260, as modified; and 1146, as modified

Mr. LEVIN. Madam President, I now ask unanimous consent that the following pending germane amendments be considered en bloc; that the amendments be modified with the changes that are at the desk, where applicable: Bogeich No. 1114, as modified; McCain No. 1229; Reed of Rhode Island No. 1146; Begich No. 1287; Boxer No. 1206; Chambliss No. 1304; as modified; Pryor No. 1151; Nelson of Florida No. 1236; Blunt No. 1133, as modified; Murkowski No. 1237, as modified; and Brown of Massachusetts No. 1090, as modified. Whether or not the amendments be agreed to en bloc.

The PRESIDING OFFICER. Is there objection.

Without objection, it is so ordered.

The amendments (Nos. 1220, 1206, 1151, and 1236) were agreed to.

The amendments (Nos. 1114, 1146, 1298, 1304, 1133, 1287, and 1090), as modified, were agreed to, as follows:

AMENDMENT NO. 1114, AS MODIFIED

At the end of title E of title III, add the following:

SEC. 346. ELIGIBILITY OF ACTIVE AND RESERVE MEMBERS, RETIREES, GRAY AREA RETIREES, AND DEPENDENTS FOR SPACE-AVAILABLE TRAVEL ON MILITARY AIRCRAFT.

(a) In General.—Chapter 157 of title 10, United States Code, is amended by inserting after section 2641b the following new section:

"2641c. Space-available travel on department of defense aircraft: eligibility.

"(a) Authority to Establish Benefit Program.—The Secretary of Defense may establish a program to provide transportation on Department of Defense aircraft on a space-available basis. The program shall be conducted in a budget neutral manner.

"(b) Benefit.—If the Secretary establishes such a program, the Secretary shall, subject to section (c), provide the benefit equally to the following individuals:

"(1) Active duty members and members of the Selected Reserve holding a valid Uniformed Services Identification and Privilege Card.

"(2) A retired member of an active or reserve component, including retired members of reserve components, who but for being under the eligibility age applicable to the member under section 12731 of this title, would be eligible for retired pay under chapter 1223 of this title.

"(3) An unmarried widow or widower of an active or reserve component member of the armed forces.

"(4) A dependent that—

"(A)(i) is the child of an active or reserve component member or former member described in paragraph (1) or (2); or

"(ii) is the child of a deceased member entitled to retired pay holding a valid Uniformed Services Identification and Privilege Card and a surviving unremarried spouse; and

"(B) is accompanying the member or, in the case of a deceased member, is the surviving unremarried spouse of the deceased member or is a dependent accompanying the surviving unremarried spouse of the deceased member.

"(5) The surviving dependent of a deceased member or former member described in paragraph (2) holding a valid Uniformed Services Identification and Privilege Card and a surviving unremarried spouse, or is a dependent accompanying the surviving unremarried spouse of the deceased member.

"(6) Other such individuals as determined by the Secretary in the Secretary's discretion.

"(c) Discretion to Establish Priority Order.—The Secretary, in establishing a program under this section, may establish an order of priority that is based on considerations of military needs and military readiness.

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2641b the following:

"2641c. Space-available travel on Department of Defense aircraft: eligibility.

(c) Requirement for Comptroller General Review.—In General.—The Comptroller General of the United States shall conduct a review
of the Department of Defense system for space-available travel. The review shall determine the capacity of the system presently and as projected in the future and shall examine the efficiency and usage of space-available travel.

(2) ELEMENTS.—The review required under paragraph (1) shall include the following elements:
   (A) A discussion of the efficiency of the system and data regarding usage of available space by category of passengers under existing regulations.
   (B) Estimates of the effect on availability based on future projections.
   (C) A discussion of the logistical and management problems, including congestion at terminals, waiting times, lodging availability, and personal hardships currently experienced by travelers.
   (D) An evaluation of the cost of the system and whether space-available travel is and can remain cost-neutral.
   (E) Other factors relating to the efficiency and cost effectiveness of space available travel.

AMENDMENT NO. 1146, AS MODIFIED
On page 114, strike line 2 and insert the following:
   (E) Other factors relating to the efficiency and cost effectiveness of space available travel.

AMENDMENT NO. 1291, AS MODIFIED
At the end of subtitle C of title X, add the following:

SEC. 1024. TRANSFER OF CERTAIN HIGH-SPEED FERRIES TO THE NAVY.
   (a) TRANSFER FROM MARAD AUTHORIZED.—The Secretary of the Navy, in consultation with the military departments, shall submit to the Congress a report in accordance with section 522(g) on the transfer of high-speed ferries from the Maritime Administration to the Department of the Navy under subchapter V, chapter 522, title 49, United States Code.

AMENDMENT NO. 1304, AS MODIFIED
Strike section 324 and insert the following:

SEC. 324. REPORTS ON DEPOT-RELATED ACTIVITIES.
   (a) REPORT ON DEPOT-LEVEL MAINTENANCE AND RECAPITALIZATION OF CERTAIN PARTS AND EQUIPMENT.—
      (1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense in consultation with the military departments, shall submit to the Congress a report on the status of the recapitalization of depot maintenance and repair programs for the Department of Defense.
      (2) FUNDING.—The report required under paragraph (1) shall include the following elements:
         (A) An assessment of the number of backlogged parts for critical warfighter needs, an explanation of why parts became backlogged, and an estimate of when the backlog is likely to be fully addressed.
         (B) A review of critical warfighter requirements that are being impacted by a lack of supplies and parts and an explanation of steps that the Director plans to take to meet the demand requirements of the military departments.

SEC. 136. LIMITATION ON RETIREMENT OF C-23 AIRCRAFT.
   (a) IN GENERAL.—Upon determining to retire a C-23 aircraft, the Secretary of the Army shall first offer title to such aircraft to the chief executive officer of the State in which such aircraft is based.

AMENDMENT NO. 1185, AS MODIFIED
At the end of subtitle C of title I, add the following:

Subtitle D. Pay and Allowances

SEC. 641. NO REDUCTION IN BASIC ALLOWANCE FOR HOUSING FOR NATIONAL GUARD MEMBERS WHO TRANSITION BETWEEN FULL-TIME NATIONAL GUARD DUTY WITHOUT A BREAK IN ACTIVE SERVICE.
   (a) IN GENERAL.—Section 4004(e) of title 37, United States Code, is amended by adding at the end the following new paragraph:
      (6) The rate of basic allowance for housing to be paid to a member of the Army National Guard of the United States or the Air National Guard of the United States shall not be reduced upon the transition of the member from active duty under Title 10, United States Code, to full-time National Guard duty under Title 32, United States Code, or from full-time National Guard duty under Title 32, United States Code, to active duty under Title 10, United States Code, when the transition occurs without a break in active service of at least one calendar day.
The National Flood Insurance Program is a vital Federal program that helps provide flood insurance for properties across the country. It is absolutely vital to citizens and to our economy, to the real estate market, to closings which cannot happen without this type of insurance in many instances. It is important all across the country. It is nowhere more important than in Louisiana, unfortunately, has pretty severe flooding risks.

In the last few years, we have extended this necessary and important program but sometimes with real fits and starts and even lapses of the program. Mr. President, in 2010, it got worse than ever. Congress allowed the National Flood Insurance Program to lapse four times—for a total of 53 days—for no good reason. It was not a money issue; it was not a cost issue; it was not a deficit issue because continuation of the program along the current structure does not raise deficit and debt. But we had these deadlines that kept approaching, and we let, in many instances—in four instances—the deadline actually come and the program to lapse—four times in 2010, for a total of 53 days.

That had enormous negative consequences. Real estate closings that were scheduled to happen had to be canceled. Here we are in the middle of a horrendous recession—clearly the worst since World War II—led by problems in the real estate market, and we had good, solid real estate closings which had to be put off and canceled for no good reason. Really crazy.

We learned a little bit from that experience, and this year, in 2011, we have done better. We have continued the program without lapse. But I am afraid we are getting back into this habit of extremely short-term extensions, which is going with it the threat of lapses. We extended the program a few weeks ago, but we only extended it for the duration of the current CR, until this December 16. So, again, the program is set to completely expire November 30.

The ultimate solution is a long-term, full reauthorization of the flood insurance program. I support that full 6-year bill, and we have voted out of the Senate Banking Committee a full, long-term, 6-year reauthorization bill. However, that is not going to pass into law between now and December 16, and it is pretty clear it is not going to pass into law between now and December 16. That is why I am urging all of us to come together in a bipartisan fashion in the meantime to pass a clean extension of the program for the remainder of this fiscal year, through September 30, 2012, or for some significantly long time. We need right now to assure the real estate market there will not be disruptions, to take that threat and that uncertainty out of the market and out of the line of closings, that we want to encourage, we want to build, as we try to build up the real estate market and the economy in general.

Because I believe this is clearly the right path, I have done two things. First, I have filed that extension, that clean extension under my name—through September 30, 2012. This is very similar to the extension we passed in late 2010 to get us through that fiscal year to September 30, 2011. That was my bill. We passed it unanimously in the Senate, again, to avoid these deadlines and disruptions, which hamper economic recovery. So I filed that bill. That would be a clean extension of the program through September 30, 2012.

The other thing I did today is write Senator Reid, the majority leader, and ask him to focus on this important program and the need for this extension as soon as possible, and to hot line it through the Senate, to ask for unanimous consent from both sides, all Members, as we did about a year ago, pass this so we extend this important, vital program through September 30, 2012, or some similar, significant timeframe.

Again, I wrote Senator Reid today to highlight this need. I will be following up with him. I have already followed up and talked to many other interested Members, starting with those leaders on the Banking Committee under whose jurisdiction this falls. This should be a nonstarter. This should be a completely nonpartisan or bipartisan exercise. This is not some big ideological dispute. This is simply extending, continuing a vital, necessary program without in any way increasing deficit or debt. In a way that we take out uncertainty, take out the specter of this necessary program lapsing yet again, as it did four times in 2010, for a total of 53 days.

We cannot let this lapse. And, quite frankly, we should not even go near the deadline before we extend it because that in and of itself—even if we do not technically allow it to lapse—creates uncertainty and chaos in the real estate market and disrupts real estate closings.

We need every good real estate transaction we can get. We need every bit of additional economic activity we can get in this horrible economy, this recession that was led by a bad real estate market. We need to lead recovery with a recovering real estate market. So let’s do this in a simple, straightforward, commonsense, bipartisan way in that effort. We did it around my bill back in late 2010 to pass this extension about a year ago. Let’s do it again.

In closing, I want to underscore I am fully committed to the full, detailed 6-year reauthorization bill. It has come out of the Senate Banking Committee. It needs to pass through the Senate. We need to resolve differences with the House. We need to pass that into law. But that is not going to happen between now and December 16, and it is not going to happen for several months. So, in the meantime, let’s remove the threat of disruption, of lapses in the program, of uncertainty. All of that is extremely harmful in this very fragile economy.

Madam President, I yield the floor.

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

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

KEYSTONE XL PIPELINE

Mr. THUNE. Madam President, yesterday a number of us—I think the number now is somewhere in the 37-to-38 ballpark of Senators—introduced legislation to expedite consideration of the Keystone XL Pipeline. What is interesting to me about all of this is that this is a project that has been literally debated and analyzed and studied and scrutinized now for the better part of 3 years.

In fact, they have had two comprehensive environmental evaluations and 3 years of study and review. Then, just recently, the Obama administration deferred a decision on the permit until after the 2012 elections, essentially putting off the decision for about 18 months.

Well, what is ironic and sort of interesting about that is this is a project which—after having been carefully vetted for the past 3 years, carefully reviewed, carefully studied, all of the environmental impact analysis done—would lead to all kinds of economic development for this country and job creation in many of the States that are impacted.

Our State of South Dakota happens to be one of those. The pipeline traverses South Dakota as it heads down to refineries in other places in the country. But it would benefit my State by generating significant amounts of State and local tax revenue, revenue that is much needed by many of the
local jurisdictions: school districts, counties, municipalities in the State of South Dakota.

So there is a tremendous benefit to the construction of this pipeline to the various States that are impacted simply and directly by the additional tax revenue that would be raised by it. Add to this, in my State of South Dakota, the hundreds of jobs that would be created, the half billion dollars of economic activity that it would generate. Very clear that this is a project that the State of South Dakota's standpoint, which is why I believe our Governor has weighed in behind this project, that this is something that ought to at least be decided. There is no reason why, no rational reason why, no logical reason why this project would be delayed for 18 months simply to get past the next election.

All of the work has been done. It seems to me at least there ought to be a decision made. We are talking about a $7 billion investment in this country, and partly in Canada to get from where the oil sands are to get the oil to the refineries in the United States. If we look at the overall, as I said, economic impact, number of jobs created, it is pretty impressive—20,000 jobs, I think, is the estimate that it would create in this country.

Those are jobs that, frankly, many of these States could certainly benefit from. Not to mention the fact that we are doing business with someone who is favorable and friendly to us. Canada is our biggest trading partner. I think we do about $640 billion annually in bilateral trade with Canada. Canada is a country with which we have a very good, strong trading relationship. It strikes me at least that if we are going to get oil from somewhere, it makes sense to get it from a country such as Canada as opposed to some of the other countries around the world that are much less friendly to the United States.

In fact, the Keystone XL Pipeline would transport daily about 700,000 barrels of oil that would come through that pipeline. That is the equivalent of the amount that we get on a daily basis from Venezuela.

So if you are thinking about getting 700,000 barrels of oil from somewhere in the world, would it not make more sense to get it from Canada as opposed to Venezuela? I think in terms of what it does for our energy independence, for our energy security, dealing with a friendly nation, and making it more possible for our country to become less dependent upon foreign countries for this energy we need, it strikes me that at least 20,000 jobs is a pretty significant project makes a lot of sense.

You have not only the economic impact, in terms of the activity it would create in the various States that would be impacted by it, the number of jobs created, as I said, 20,000 jobs is the estimate, with a $7 billion initial investment—and all the tax revenue generated for State and local government along the way, but wouldn't it be nice if the United States got into the situation where we were actually an energy exporter?

Believe it or not, this is the first year in the last 62 years—and this is according to a Wall Street Journal yesterday—according to data released by the U.S. Energy Information Administration on Tuesday, the United States has sent abroad 753.4 million barrels of everything from gasoline to even jet fuel. That is a trend that has continued for the months of this year, while it imported 689.4 million barrels. That means that, for the first time in 62 years, in 2011—if this trend continues—and it looks as though it will—we will have exported more energy than we imported. We are still a net importer of petroleum, or oil. Hopefully, we can change that in the future by developing these resources we have in this country, one of which is the Bakken Reserve in North Dakota, which is generating enormous amounts of oil for this country. So we are still a net oil importer.

In terms of refined gasoline and other products—refined energy—for the first time in 62 years, in 2011, we may be a net exporter of energy. I think that is an amazing data point, and it suggests that this is something that could benefit enormously the American economy. Well, in order for that to happen, we have to have those resources we can get from the oil sands in Canada and then transport to the States, to the refineries where they are refined here and then either used here or sent abroad. But it is a way we can generate additional economic activity and jobs for our economy.

This is a quote from the Global Director of Oil, which tracks energy markets. He said this trend we are going to see this year, 2011—again, first time in 62 years we will be a net exporter of energy—he says it looks like a trend that could continue for the balance of the decade. That is a remarkable change in terms of the flow of energy from this country. The last time we were a net exporter of energy was during World War II and shortly thereafter. It has been over 60 years.

That is what a project such as this could do for our country—not just the immediate impact on those States through which this pipeline would traverse, in terms of the tax revenue that it could generate, but also local governments, but you also have the economic activity it creates in those States, the jobs it creates in those States, and what it does in order to move us increasingly away from dependence upon other countries in the world with whom we bare, at best, shaky relationships to start with.

Doing business with our largest trading partner—a country with which we do enormous amounts of trade every single year—gives me at least to be a much better solution to this country's energy needs than is getting that same amount of energy from other countries around the world.

Madam President, 700,000 barrels a day is what the pipeline would transport into this country. That is the equivalent that we get on a daily basis from Venezuela. This is a project that ought to be decided. Whether it is decided affirmatively—obviously, as you can tell, I believe it should be delayed another 18 months until after the next Presidential election—other than, purely and simply, for political reasons. That is what a project such as this could do for our country not just the immediate impact on those States, but the ability to get action here in the Senate, and that it might be something we can do that would have an immediate impact on jobs.

We always talk about shovel-ready projects. This is a shovel-ready project. This is ready to go. They are ready to start construction of this project. It has been through in the last 3 years all of the process this government can require it to go through in order to make sure this project should move forward.

I think it is important for this body to act on this legislation and allow us to get to where we can get a decision on this project that will lead to more...
economic activity, more economic impact, more jobs for Americans, more energy security for this country, and hopefully, at the end of the day, a lessening of the dangerous dependence we have on foreign sources of energy, which we want to get away from. I think it is a win-win. I congratulate the sponsors of the legislation for the thoughtful way they have considered this and put this legislation together. I hope it gets consideration in the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

THE ECONOMY

Mr. NELSON of Florida. Mr. President, here we are, stuck, again, and I want to take a little bit about getting this country moving again and getting Americans earning again.

This great country of ours has endured a lot. We have endured since the Civil War, the Great Depression, the two World Wars we have been in, the assassination of leaders, and the slaughter of innocents by terrorists. This great Nation of ours has confronted racism and civil unrest and political scandal at all levels, and always we have survived.

In the throes of the Great Depression, the words of President Roosevelt reassured most Americans when he said:

This great Nation will endure as it has endured. It will revive and it will prosper.

Today, we are once again walking a rugged path, and the most recent example of the failure of the supercommittee has been the latest crash caused by super-rigid ideology and hyperpolarization. Truth be told, we are in a most difficult time in our Nation's economic life—still facing a decision of how to pay for an enormous debt. We owe this money mostly due to the misconduct of the money changers, the misuse of the tax code that favors special interests, and years of excessive spending. Yet there are Members of this Congress who propose we should first not address those underlying causes, and that those most responsible should not even have to pay their fair share toward reducing the debt.

Instead, they propose we first take away from Social Security savings and Medicare health coverage for the elderly, and that we pull back the hand this Nation compassionately extends to those among us who are less fortunate. That would seem somewhat to erase all the progress we have made since those words of President Roosevelt by declaring war on the poor, the middle class, and the elderly.

Because a host of our citizens face the grim problems of unemployment, the loss of their homes, and depletion of their savings, this Congress should fight any measure that unfairly inflicts pain on those least responsible for our present economic condition. The American people deserve a lot from their Congress. They deserve honesty. They expect us to work together, and they want action that is evenhanded.

So as we move forward, I hope all my colleagues in the Senate and in the House will be guided by the words of a young President Kennedy, who said:

Let us not ask what the Democratic answer nor the Republican answer—but the right answer to do.

Is it right that household income for the average American is actually in decline? Is it right that a hedge fund manager pays a lower tax rate than the person who cleans his office? Is it right that an oil company gets to write off $11 billion on its tax return because it polluted the Gulf of Mexico? Is it right that the Congress cannot agree on a deficit reduction plan because of partisan politics?

The American people know what is right and they know what is not right. If we could just for 1 minute put all this partisanship aside and do what is right, then we might be able to balance our Nation's books to get this country moving again and to get Americans employed and earning again. While we are at it, we might just restore the American public's confidence in our government.

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. SESSIONS. I ask that I be allowed to speak as if in morning business.

Mr. SESSIONS. 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. SESSIONS. I ask that I be allowed to speak as if in morning business.

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

FINANCIAL CRISIS

Mr. SESSIONS. Mr. President, our country is facing a very serious financial crisis.

We have seen what happened in Europe. We had some numbers on the stock market for a while. But if I understand what happened, there was a very real crisis facing the Europeans, and at the very last moment they took some action that was received positively.

But they are not out of the woods yet and neither are we. Our debt is surging. It will revive and it will prosper.

In this spirit, can't we work to pull our Nation out of its financial doldrums? Can't we just ask: What is the right thing to do?

So the President said: If we don't extend that, we are going to have to take a tax increase. But is he accurate? No, not really. This year's proposal would be to reduce not the 4 percent but the 3.1 percent withholding on the Social Security tax. Part of the final compromise, a bipartisan compromise, it was agreed that there would be a 2-percent tax holiday for working persons. So instead of paying 6-plus percent on your withholding tax, you would pay 4. That cost $11 billion for that year.

So the President said: If we don't extend that, we are going to have to take a tax increase. But is he accurate? No, not really. This year's proposal would be to reduce not the 4 percent but the 3.1 percent withholding on the Social Security tax. Part of the final compromise, a bipartisan compromise, it was agreed that there would be a 2-percent tax holiday for working persons. So instead of paying 6-plus percent on your withholding tax, you would pay 4. That cost $11 billion for that year.

But we are told not to worry, the U.S. Treasury will replace this $265 billion with Treasury money. But the problem is, the Treasury doesn't have any money. The Treasury is already in debt. The Treasury is going to add another $1 trillion to the deficit this year. So now it is going to be added to—$265 billion more in one fell swoop, in this bill, right here at the end of the session. If you don't vote for it, the President says, you are raising taxes on the American people. That is not an accurate statement.

In an economic sense, my opinion, the real essence of this is the U.S. Treasury will borrow $265 billion. Then, it will direct the Social Security Administration to send that money out in the form of a reduced withholding amount to be paid by workers. It is a direct borrow and it is a direct delivery of money and it uses Social Security trust fund moneys as a vehicle to transfer the money. In an economic sense, it borrows $265 billion to spend.

How much is $265 billion? The supercommittee, the committee of 12, was trying to find $1.2 trillion in savings over 10 years—not 1 year, 10 years. This one bill, this one proposal of $265 billion would be spent this 1 year.

To achieve the committee of 12's goal, they would simply have needed to have cut $120 billion a year for 10 years out of the entire Federal Government. That is it. I yield the floor.
I just would share that. We will be voting in a little bit on this issue. I don’t know what the answer is. I don’t know how to fix our problems, but I know one thing. We remain in denial. Our country is in greater debt crisis than we realize. Mr. Erskine Bowles and President Obama’s debt commission say we are facing the most predictable financial crisis in our Nation’s history as a result of our debt, and we need to get serious about how to fix it.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. I ask unanimous consent to speak as if in morning business.

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

FREEING ALAN GROSS

Mr. CARDIN. Mr. President, I rise to address the human rights issue of deep concern.

For 2 years, since December 3, 2009, an American citizen and a Marylander, Alan Gross, has been imprisoned by the Cuban Government. For 2 years, he has been held by the Cuban authorities.

Alan was in Cuba to help the country’s sustainable development. He was establishing the Internet and improving its access to the Internet, which would allow the community to go online without fear of censorship or monitoring.

After being held for 14 months without charge and a cursory, 2-day trial, he was convicted and sentenced to 15 years in prison. His appeal to the Cuban supreme court was denied in August of this year.

Alan Gross is a caring husband and a father, a devoted man who has dutifully promoted U.S. foreign policy interests while serving the needs of thousands of foreign citizens, from Afghanistan to Haiti, over a career that has spanned more than 25 years of public service.

Unfortunately, Alan has been caught in the middle of a conflict between two nations with a long and difficult relationship. But it is entirely unacceptable that his personal freedoms have been deprived every day he continues to be incarcerated.

Alan’s health has deteriorated during his imprisonment. He has lost 100 pounds and suffers from arthritis. He is being held in harsh conditions that are contrary to international law.

Last night, I had a chance to talk to his wife, Judy, who had a chance to visit with her husband in Cuba earlier last month. Judy informs me that Alan Gross’s health conditions are deteriorating and that he is in need of adequate health care. In addition, his mother and daughter are both struggling with serious health care issues, and his wife is struggling to make ends meet.

The Gross family should not have to suffer through such a trying period of time without Alan for support. Sentencing Alan Gross to 15 years behind bars also sentences his family to 15 years without a husband, father, and son. There is no reason for the Gross family to continue to suffer the consequences of political gamesmanship any longer. I urge the Cuban Government to remember that this is a real man and a family who are suffering.

I have already written the Cuban Government urging them, in the strongest possible manner, to immediately and unconditionally release Alan Gross. His continued imprisonment is a major setback in our bilateral relations, and it is unlikely any positive steps to improve that relationship can or will happen while he remains in prison.

As a Senator and as a Marylander and as a fellow human being, I urge the Cuban Government to see Alan Gross, who has dedicated his life to serving others, for who he is—a man who believed he was helping others by stepping in when he saw a need. Enough is enough. I call on the Government to release Alan Gross immediately and to allow him to return to his family.

Ms. MIKLUSKI. Mr. President, Mr. Gross has worked with Cuban communities for many years. In 2009, he was working with USAID to assist Cuba’s Jewish community by improving their access to the Internet. As a former social worker who has worked for 25 years in international development, he has a long record of helping people around the world to improve their lives. He was arrested and held without charge for 14 months and later sentenced to 15 years for crimes against the state.

Mr. Gross is in failing health. He has lost 100 pounds and suffers from arthritis. He is being held in harsh conditions on trumped-up charges.

His family in Maryland has had very little contact with him. They, too, have faced health challenges and are facing significant financial hardships.

I was hopeful that America and Cuba could move closer together—in trade, in community connections, and for individual families who have been separated. I thought these links would help open up Cuba, improve human rights, and enable their country to move toward democracy. Yet the case of Mr. Gross shows that Cuba is not serious about moving forward—for its own people or for its relations with the United States.

If Cuba wants to improve relations with the United States, they need to release Mr. Gross now. I will not support easing restrictions or sanctions on Cuba until Mr. Gross is allowed to come home to Maryland. I thank my colleagues for joining me in standing up for Alan Gross and urge the Government of Cuba to release him immediately.

I yield the floor and suggest the absence of a quorum.
The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent to order the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that upon the conclusion of the postcloture time, the pending germane Feinstein amendments No. 1126, be the pending business; that the Senate proceed to vote in relation to the following Feinstein amendments in the order listed: Feinstein amendment No. 1126, Feinstein amendment No. 1456; that there be 2 minutes equally divided in the usual form prior to the second vote—there will be much more time than that prior to the first vote; that no amendment be in order to either amendment prior to the votes, and that all postcloture time be considered expired at 6 p.m.

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

Mr. LEVIN. Mr. President, I have one more unanimous consent.

The PRESIDING OFFICER. The Senator from Michigan.

The amendments are withdrawn.

AMENDMENT NO. 126

Mr. LEVIN. I thank the Presiding Officer and all those who have been involved with this approach, that allows us now to vote on two amendments, the original Feinstein amendment that is pending, plus an alternative which I think, hopefully, will command great support.

Mr. MCCAIN. I ask how much time is remaining?

The PRESIDING OFFICER. Eight minutes on each side.

Mr. MCCAIN. I wish to give 3 minutes to the Senator from South Carolina, followed by 2 minutes from the Senator from Idaho, and 2 minutes for the Senator from New Hampshire if she arrives.

Mrs. FEINSTEIN. Shall I go first?

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I wish to explain what has happened this long afternoon. Originally some of us, namely Senators LEAHY, DURBIN, UDALL of Colorado, KIRK, LEE, HARKIN, WEBB, WYDEN, MERKLEY, and myself, realized that there was a fundamental flaw in section 1031 of the bill. There is a difference of opinion as to whether there is this a fundamental flaw. We believe that current law, which I shall read:

The nongermane amendments are as follows:

Amendments Nos. 1255, 1286, 1294, 1259, 1261, 1263, 1296, 1152, 1182, 1184, 1147, 1148, 1294, 1179, 1137, 1138, 1247, 1249, 1248, 1118, 1117, 1187, 1211, 1239, 1258, 1163, 1161, 1205, 1199, 1139, 1253, 1195, 1154, 1171, 1173, 1099, 1100, 1139, 1200, 1120, 1155, 1097, 1197; as being dilatory: No. 1174; as being drafted in improperly: No. 1291

Mr. MCCAIN. Mr. President, in the meantime, I move to divide between now and 6 p.m. I hope we could roughly divide time on the amendment between the two sides.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I would hope and I ask the time between now and 6 o’clock be divided between the two sides. We will yield immediately to Senator FEINSTEIN.

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

The PRESIDING OFFICER. Eight minutes on each side.

Mr. MCCAIN. I wish to give 3 minutes to the Senator from South Carolina, 2 minutes to the Senator from California, the chairman, myself, the Senator from Idaho, the Senator from South Carolina and others, that I think will be agreeable to the majority of the Members.

I suggest to my friend, the chairman, that when the vote starts at 6, perhaps we can line up the other remaining amendments, on some of which we hope to get voice votes, some of which will require roll calls, as is the procedure under postcloture.

Mr. LEVIN. Mr. President, this has not yet been ruled on. I want to modify very slightly what I said in the unanimous consent request. I said that the Senate proceed to votes in relation to the following Feinstein amendments. I should have said the Senate proceed to votes on the Feinstein amendments in the order listed.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I have two other unanimous consent requests before we turn this over to the Senator from South Carolina. I ask unanimous consent that it be in order to make a point of order en bloc against the list of amendments in violation of rule XXII that is at the desk.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, the points of order are sustained and the amendments fall.

The disagreement arises from different interpretations of what the current law is. The sponsors of the bill believe that current law authorizes the detention of U.S. citizens arrested within the United States, without trial, until ‘‘the end of the hostilities’’ which, in my view, is indefinitely.

Others of us believe that current law, including the Non-Detention Act that was enacted in 1971, does not authorize such indefinite detention of U.S. citizens arrested domestically. The sponsors believe that the Hamdi Court’s Hamdi case supports their position, while others of us believe that Hamdi, by the plurality opinion’s express terms, was limited to the circumstance of U.S. citizens arrested on the battlefield in Afghanistan, and does not extend to U.S. citizens arrested domestically. And our concern was that section 1031 of the bill as originally drafted could be interpreted as endorsing the broader interpretation of Hamdi and other authorities.

Mr. LEVIN. Mr. President, I want to modify it, so that when the vote starts at 6, perhaps we can line up the other remaining amendments, on some of which we hope to get voice votes, some of which will require roll calls, as is the procedure under postcloture.

Mr. LEVIN. Mr. President, I have one more unanimous consent.

The PRESIDING OFFICER. The Senator from Michigan.

The amendments are withdrawn.

The amendments, the original Feinstein amendment that is pending, plus an alternative which I think, hopefully, will command great support.

Mr. MCCAIN. I wish to give 3 minutes to the Senator from South Carolina, followed by 2 minutes from the Senator from Idaho, and 2 minutes for the Senator from New Hampshire if she arrives.

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Mr. MCCAIN. I ask how much time is remaining?

The PRESIDING OFFICER. Eight minutes on each side.

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Our purpose in the second amendment, number 1456, is essentially to declare a truce, to provide that section 1031 of this bill does not change existing law, whichever side’s view is the correct one. So the sponsors can read Hamdi and other authorities broadly, and opponents can read it more narrowly, and this bill does not endorse either side’s interpretation, but leaves it to the courts to decide.

Because the distinguished chairman, the distinguished ranking member, and the Senator from South Carolina assert that it is not their intent in section 1031 to change current law, these discussions went on and on and resulted in two amendments: our original amendment, which covers only U.S. citizens, which says they cannot be held without charge or trial, and a compromise amendment to preserve current law, which I shall read:

On page 360, between lines 21 and 22, insert the following:

This reading in this section shall be construed to affect existing law or authorities relating to the detention of United States citizens or lawful resident aliens of the United States or any other persons who are captured or arrested in the United States.

I believe this meets the concerns of the leadership of the committee and this is presented as an alternative.

There are those of us who would like to see the current amendment, which I intend to do, as well as for this modifying amendment. They will appear before you as a side-by-side, so everyone will have the chance to vote yes or no on the original or yes or no on the compromise. As I said, I would urge that we vote yes on both.

This is not going to be the world as we see it postvote, but I will tell you this, the chairman and the ranking member have agreed that the modified language presented in the second vote was contained in the compromise; that they will do everything they can to contain this language in the conference.
In the original amendment—my original amendment—which affects only U.S. citizens, that is not the case. They are likely to drop that amendment. So I wish to make the point by voting for both, and I would hope others would do the same. I think a lot has been gained. I think a clear understanding has been gained of the problems inherent in the original bill. I think Members came to the conclusion that they did not want to change provisions, but they wanted to extend this preservation of current law not only to citizens but to legal resident aliens as well as any other persons arrested in the United States. That would mean they could not be held without charge and without trial. So the law would remain the same as it is today and has been practiced for the last 10 years.

I actually believe it is easy to say either my way or the highway. I want to get something done. I want to be able to assure people in the United States that their rights under American law are protected. The compromise amendment which is the second amendment we will be voting on, does that. It provides the assurance that the law will remain the same and will not affect the right of charge and the right of trial of any U.S. citizen, any lawful legal alien or any other person in the United States. We have the commitment by both the chairman and the ranking member that they will defend that in conference.

There are those who say I wish to just vote for the original amendment. That is fine. I am not sure it will pass. I don’t know whether it will pass, but in my judgment, the modification is eminently suitable to accomplish the end that my concern about the Senator’s amendment; that it would take that immediately upon detention, what I think would be a problem is that the military interrogation is lost. American citizens are not subject to a military commission trial. A lot of people on my side didn’t like that.

I do want to make sure American citizens have a civilian court, but the law has been since World War II, if a person joins the enemy, even as an American citizen, they are subject to being detained for interrogation purposes. That is my goal and that has always been my goal. We can detain an American who has sided with al-Qaida, if they are involved with hostile acts, to gather intelligence, and that is a proper thing to have been doing. It was done in World War II when American citizens helped the Nazis. If an American citizen wants to help al-Qaida involved in a hostile act, then they become an enemy of this Nation. They can be humanely detained, and that is my concern about the Senator’s amendment; that it would take that away.

We have common ground on the second amendment, and at the end of the day, the Senate has talked a lot about different things. This has been a discussion about something important and I, quite frankly, enjoyed it.

I yield my time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. First of all, let me say I think there has been an adequate compromise that has been reached, and we are to have a side-by-side to vote on which will give everybody the opportunity to express themselves. Let me say that every single one of us on this floor has a goal to protect the rights of U.S. citizens.

This country was founded by people who had just gone through some very difficult times with a government that was very oppressive on them, and they wrote the Constitution specifically to protect themselves and to protect individuals from the government. Those constitutional provisions today are as good as they were then. Every single one of us wants to see that American citizens are protected; that is, protections that take place in the case of criminal cases.

In the case of a war, in the case where a U.S. citizen joins enemy combatants and fights against the United States, there is a different standard— although a delicate division—that exists. If we look at the provisions of section 1031, where covered persons are defined, it is very clear it applies only to people who participated in the September 11, 2001, attacks on the United States, and it applies to people who are part of it or who have substantially supported al-Qaida and the Taliban or its associated forces and have actually committed a belligerent act or have directly participated in the hostilities.

This is drawn very carefully and very narrowly so a U.S. citizen can—as my good friend from Kentucky always says—be able to file a writ of habeas corpus in the U.S. district court and have the U.S. district judge determine whether a person is actually an enemy combatant. If that U.S. district judge turns it down, that person does not necessarily go free. The U.S. Government can then charge them with treason or any one of a number of crimes, but they will be tried in the U.S. district court.

On the other hand, if they are found to be enemy combatants, the U.S. district judge whose decision is reviewable by the circuit court and if the Supreme Court chooses—by the Supreme Court, if they are found to be the enemy combatant, then they will, indeed, be subject to this.

So this has been very narrow. People who are watching this and who are concerned about the civil liberties of U.S. citizens, as I am, as people in Idaho are, as people in every State in America are, under those circumstances, those people will be well protected. We will have the amendment here that everybody will have the opportunity to express themselves on.

I will yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I would ask that there be 5 additional minutes, evenly divided, so we could have 3 minutes left on our side. I would split that with the Senator from Illinois.

The PRESIDING OFFICER. Is there objection?
Mr. RISCH. We have no objection.

Mr. LEVIN. Mr. President, we are soon going to be voting on two amendments. The first amendment that is proposed, the first Feinstein amendment restricts the authority that was available in section 1031 of the law under the President of the United States under the laws of war. That authority is if an American citizen joins a hostile Army against us, takes up arms against us, that person can be determined to be an enemy combatant. That is not what we have. That is the Constitution. That is the Supreme Court of the United States in the Hamdi case: “There is no bar to this Nation’s holding one of its own citizens as an enemy combatant.”

The problem with the Feinstein amendment is that current authority of the President to find and designate an American citizen who attacks us, who comes to our land and attacks us as an enemy combatant would be stricken out. It should not restrict the availability of that power in the President. Now we have an alternative. In the second Feinstein amendment, which I ask unanimous consent to be a cosponsor.

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

Mr. LEVIN. In the second amendment, we have an alternative because now it would provide the assurance that does not adversely affect the rights of the U.S. citizens in this language. Senator MCCAIN, Senator GRAH, and I have argued on this floor that there is nothing in our bill—nothing which changes the rights of the U.S. citizens. There was no intent to do it, and we did not do it.

What the second Feinstein amendment provides is that nothing in this section of our bill shall be construed to affect existing law or authorities relating to the detention of the U.S. citizens or lawful residents of the United States or any other persons who are captured or arrested in the United States. It makes clear what we have been saying this language already does, which is that it does not affect existing law relative to the right of the executive branch to capture and detain a citizen. If that law is there allowing it, it remains. If, as some argue, the law does not allow that, then it continues that way. We think the law is clear in Hamdi that there is no bar to this Nation’s holding one of its own citizens as an enemy combatant, and we make clear whatever the law is. It is unaffected by this language in our bill.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I wish to thank my colleagues, Senators GRAHAM and LEVIN, and particularly Senator FEINSTEIN for working so hard to come to an agreement on section 1031. I was concerned that the United States would be for the first time in the history of this country, with the original language, authorize indefinite detention in the United States. But we have agreed to include language in this bill with the latter amendment that makes it clear that this bill does not change existing detention authority in any way.

It means the Supreme Court will ultimately decide who can and cannot be detained indefinitely without a trial. To this day, the Supreme Court has never ruled on the question of whether it is constitutional to indefinitely detain a U.S. citizen captured in the United States. In my view, we see this differently, but the language we have agreed on makes it clear that section 1031 will not change that law in any way. The Supreme Court will decide who will be detained; the Senate will not.

I ask unanimous consent to be added as a cosponsor to the second pending amendment by Senator FEINSTEIN.

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

Mr. GRAHAM. How much time do we have remaining?

The PRESIDING OFFICER. There is 4½ minutes remaining.

Mr. GRAHAM. Mr. President, I would like to take the opportunity to end what I think has been a very good debate. Senator FEINSTEIN—and I know she is busy—said something on the floor that I wish to reiterate: that the second amendment which Senator DURBIN just suggested we have reached a compromise on, I am fully committed in making sure in the conference report. Some folks in the House may have a problem, but I think it is good, sound law.

The goal for me has never been to change the law, to put an American citizen more at risk than they are today. It is just to keep the status quo and acknowledge from the point of view of the Congress that the Obama administration’s decision to detain people as enemy combatants lies within the President’s power to do so. The Court has said in In re Quirin and in the Hamdi case that at a time of war the executive branch can detain an American citizen who decides to collaborate with the Nazis, as well as al-Qaida, as an enemy combatant. They can hold them for interrogation purposes to collect intelligence. We don’t have to take anybody into court and put them on trial because the goal is to protect the Nation from another attack.

The law also says no one, including an American citizen, can be held indefinitely without going to an article III court. Every person determined to be an enemy combatant by the executive branch has the right to present to an independent judiciary, and the government has to prove to a Federal judge by a preponderance of the evidence that they fall within this narrow exception. The government has to lose about half the cases and won about half the cases.

My concern with Feinstein 1 is that it would change the law; that the law would be changed for the first time ever, saying we cannot hold an American citizen who has collaborated with the enemy for intelligence gathering purposes. I think homegrown terrorism is growing. If an American citizen left this country, went to Pakistan, got radicalized in a madrasah, came back and started trying to kill Americans, I think we should have the authority to detain them as with any belligerent, just like in World War II, and gather intelligence as to whether somebody else may be coming.

So that is what I want to preserve. With all due respect to Senator FEINSTEIN, I think her first amendment very much puts that in jeopardy. It is going to be confusing, litigation friendly, so let’s just stay with what we believe the law is.

As to Senator DURBIN, he has one view, I have another, but we have a common view; that is, not to do anything. That is the Supreme Court of the United States in the Hamdi case: “There is no bar to this Nation’s holding one of its own citizens as an enemy combatant.”
The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to amendment No. 1126.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 45, nays 55, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—45

Akaka    Franken   Moran
Baucus    Gillibrand    Murray
Bennet    Hagan    Nelson (FL)
Bingaman    Harkin    Paul
Boxer    Johnson (SD)   Reid
Brown (OH)   Kerry    Rockefeller
Cantwell    Klobuchar    Sanders
Cardin    Kohl   Schumer
Casper    Lautenberg   Shaheen
Casey    Leahy   Tester
Collins    Lee    Udall (CO)
Conrad    McCaskill    Udall (ND)
Coons    Menendez   Warner
Durbin    Merkley   Webb
Feinstein    Mikulski    Wyden

NAYS—55

Alexander    Grassley   Murkowski
Ayroette    Hatch    Nelson (NE)
Barrasso    Heller    Portman
Beighel    Heinrich    Pryor
Blumenthal    Hutchison    Reid
Blinken    Inhofe    Risch
Boozman   -Inc.    Roberts
Brown (MA)    Isakson    Rubio
Burr    Johnson (WI)    Sessions
Chambliss    Johnson (WI)    Sessions
Coats    Klobuchar   Shelby
Collins    Kyl    Sorensen
Cooney    Landrieu   Stabenow
Corcoran    Levin    Thurmond
Corker    Lieberman    Vitter
Crapo    Logue    Vitter
DeMint    Manchin    Whitehouse
Enzi    McCain    Wicker
Graham    McConnell    Wicker

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

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

The amendment (No. 1126) was rejected.

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The amendment (No. 1126) was rejected.
The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I support the amendment. I think this amendment is vital at this time to send a strong signal to Iran, which recently tried to pull off the assassinations of the Saudi ambassador here in Washington, DC. It is long overdue, and it is too bad that the United States has to do it ourselves rather than having the U.N. Security Council act. This is a strong amendment, I think it is very important and, again, I have to support it.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. Mr. President, this Menendez-Kirk amendment is a strong, bipartisan amendment. Over half of the Senate has formally cosponsored it. I urge its adoption, especially after the bomb plot in Washington, DC, the IAEA report on nuclear development in Iran, and the overrunning of our British ally’s embassy site by Iran 2 days ago. I yield the floor.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MCCAINT. Yes.

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

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

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

[Rollcall Vote No. 216 Leg.]

YEAS—100

Akaka
Alexander
Ayotte
Barrasso
Baucus
Begich
Blumenthal
Brown (MA)
Brown (OH)
Boxer
Begich
Ayotte
Akaka

YEAS—41

Alexander
Ayotte
Barrasso
Baucus
Begich
Blumenthal
Brown (MA)
Brown (OH)
Boxer
Begich
Akaka

NAYS—59

Baucus
Begich
Blumenthal
Brown (MA)
Boxer
Begich
Akaka

The amendment (No. 1414) was agreed to.

The PRESIDING OFFICER. Without objection, amendment is withdrawn.
The amendment (No. 1274) was rejected.

The PRESIDING OFFICER. The majority leader is recognized.

The 9,000th VOTE of SENATOR FRANK LAUTENBERG

Mr. REID. Mr. President, the next rollcall vote will be the 9,000th vote cast by Senator Frank Launtenberg. Senator Lautenberg, the senior Senator from New Jersey, has always been a fighter for his State, for progressive causes.

Before coming to the Senate, Senator Lautenberg served his country admirably in World War II, graduated from Columbia Business School, and became—and this is an understatement—a successful businessman.

Then there was that vision that made him successful in the private sector served him well in the Senate, where he worked tirelessly on behalf of the State of New Jersey. Frank tried to retire once—in 2000—but he just couldn’t stay away from serving the State and the Nation and returned to the Senate a little over a year after he had retired.

As the top Democrat on the Senate Budget Committee, Senator Lautenberg negotiated the balanced budget amendment of 1997, which restored fiscal discipline while cutting taxes for students and families with children.

He has been at the cutting edge of environmental issues in this country since he came to the Senate. He has worked as a member of the Environment and Public Works Committee but also with the Appropriations Committee.

During his time in the Senate, he has done things that will be a lasting mark on his career, his legacy, forever. Our Nation’s roads are safer because he was responsible for passing the 21-year-old drinking age. He established a national drunk driving standard, a standard throughout the country. He banned triple-trailer trucks—so-called killer trucks—from the roads of New Jersey and many other States. He dedicated his time in the Senate to holding terrorists accountable and protecting New Jersey’s ports, which are important to all of us, not only to New Jersey.

Senator Lautenberg has done many things. He authored the documentary evidence gun law—the only significant gun legislation to become law since the Brady bill—which prevents convicted abusers from buying guns.

The thing I recognize as very important—one of my boys couldn’t stand the cigarette smoke in airplanes. Even though the airlines tried to set up a standard for smoking, you know that if there was smoking in the airplane, the fact that you were someplace else in the airplane, everybody got the secondhand smoke. He fought this and banned smoking on airplanes, which I will always remember, and certainly my boy Key will always remember that.

For three decades, Frank Lautenberg has left a mark that is very impressive, and his 9,000 votes will be something people will look back on and determine that Frank Lautenberg is one of the most productive Senators in the history of our country.

Congratulations, Frank.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. McCONNELL. Mr. President, I would like to associate myself with the remarks of the majority leader and congratulate the Senator from New Jersey on this milestone in his long and very distinguished career here in the Senate.

(Applause.)

The PRESIDING OFFICER (Mr. Udall of Colorado). The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I know we want to hear from our colleague shortly. I wish to join in recognizing over a quarter of a century of distinguished service from the senior Senator from New Jersey on this 9,000th vote, which is only emblematic of the type of work he has done, which is with a view toward not the next election but the next generation, whether it is saving lives by raising the drinking age; whether it is allowing workers to understand and have the right to know the toxic chemicals they were working with and the community in which those facilities were located; whether it is making sure all of us don’t have to breathe secondhand smoke on an airplane; whether it is making sure that those who pilfer the land and contaminated it were held responsible to clean it up in the Superfund or to have cleaner air to breathe, Frank Lautenberg’s legislation has touched millions of lives not only in New Jersey but across the Nation, and we salute him for his tremendous service.

The PRESIDING OFFICER. The senior Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the leader for his kind words and the help he has given me to make some of the decisions we labored with. I thank my colleague, the Senator from New Jersey, Bob Menendez, who has worked very hard to do his share in moving legislation and doing the right thing by the people in our State and our country.

One of the things that is, to me, pretty important is when I said to my mother in 1982: Mom, I am going to run for the U.S. Senate; I think there is an opportunity there. I was running ADP and in quite good company at the time. So she said: Frank, what do you need it for? I said: Mom, I don’t need it. On the night of the election, we were gathered at my house in New Jersey—and my mother was then committed to a wheelchair—and she had tears running down her face. I said: Mom, you asked me why I needed it. I said: Why are you crying? She said: Because I always wanted you to win.

The people in New Jersey were very kind over these years, electing me five times to the Senate and giving me the honor and the opportunity to give something back to this country of ours.

I came from a family that was a poor family, immigrant family. My parents were young when they were brought by their parents to America. They were hoping that maybe good things could happen as a result of their becoming Americans. So I stand here and I am grateful to all who are not on the floor and those who are who might occasionally disagree. It is shocking, but it does happen here. But I have respect for everybody who is sent here by their constituents from every State in the country and for their point of view. It doesn’t mean I agree, but I have respect for the fact that we wish in this free country of ours, say things that sometimes maybe we wish we had not said, but we have a chance to speak out on the things we believe in.

I thank all of my colleagues for their service and for the accolades given to me this night.

With that, I yield the floor.

AMENDMENT NO. 1087

The PRESIDING OFFICER. The amendment. There will now be 2 minutes of debate on the Leahy amendment No. 1087.

Who yields time?

The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that the germane amendment No. 1087 be modified with the changes at the desk; further, that the amendment, as modified, be agreed to.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Reserving the right to object, could the manager clarify exactly what that is?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. There was a provision in the bill relative to the Freedom of Information Act which, by agreement, was modified.

Mr. THUNE. This doesn’t have anything to do with managers’ pack- age.

Mr. MCCAIN. It is agreeable on both sides.

The PRESIDING OFFICER. Is there objection?
Without objection, the amendment, as modified, is agreed to.

The amendment (No. 1087), as modified, is as follows:

Strike section 1044 and insert the following:

SEC. 1044. TREATMENT UNDER FREEDOM OF INFORMATION ACT OF CERTAIN SENSITIVE NATIONAL SECURITY INFORMATION.

(a) CRITICAL INFRASTRUCTURE SECURITY INFORMATION.—

(1) IN GENERAL.—The Secretary of Defense may exempt information contained in a military flight operations quality assurance system of a military department from disclosure under section 552 of title 5, United States Code, upon a written determination that—

(A) the information is Department of Defense critical infrastructure security information; and

(B) the public interest in the disclosure of such information does not outweigh the Government’s interest in withholding such information from the public.

(2) INFORMATION PROVIDED TO STATE OR LOCAL FIRST RESPONDERS.—Critical infrastructure security information covered by a written determination under this subsection that is provided to a State or local government, or by or on behalf of the Department of Defense, including information acquired or generated by the Military Flight Operations Quality Assurance system, including the following:

(A) Any data base containing raw Military Flight Operations Quality Assurance data.

(B) Any information generated by the Military Flight Operations Quality Assurance system or which is derived from Military Flight Operations Quality Assurance data.

Mr. LEAHY. Mr. President, I am pleased that the Senate has unani mously adopted my Freedom of Information Act, FOIA, amendment to the National Defense Authorization Act. This measure appropriately narrows the overbroad exemptions to FOIA contained in the bill and will help ensure that the American public has access to important information about potential threats to their health and safety at or near Department of Defense facilities.

I thank Senator Levin and Senator McCaIN for working with me on this issue and including this language, with our agreement to modifications, in the managers’ package. I also thank the many open government groups from across the political spectrum that support this amendment, including OpentheGovernment.org, the Liberty Coalition, the Sunlight Foundation and the American Library Association.

For more than 45 years, the Freedom of Information Act has been a cornerstone of open government and a hallmark of our democracy, ensuring that the American people have access to important information about the health and safety of our military.

I am particularly pleased that the language adopted by the Senate includes a public interest balancing test that requires the Secretary of Defense to consider whether the Government’s interests in withholding critical infrastructure information are outweighed by other public interests. This improvement to the bill will help ensure that truly sensitive information is protected, while allowing the public to obtain important information about potential health and safety concerns.

This language adopted by the Senate strikes an appropriate balance between safeguarding the ability of the Department of Defense to perform its vital mission and the public’s right to know. I am pleased that this measure has been included in this important legislation with the unanimous support of the Senate.

Mr. LEVIN. Mr. President, I move to reconsider the vote on the Leahy amendment.

Mr. MCCAIN. I move to lay that motion on the table.
with Senator SCHUMER and Senator SANDERS closes the Buy American loopholes, and applies Buy American requirements to solar projects that are funded by the Department of Defense to meet energy goals in this bill. If American taxpayer funds are used to improve bases’ energy security, then American solar firms should have the ability to compete.

I ask unanimous consent that my full statement be printed in the RECORD.

Mr. UDALL of New Mexico. Mr. President, solar power increases energy security for American military installations and our troops in the field. With solar power, our military is less dependent on the surrounding electricity grid or fuel supplies for generators. As a result, the Department of Defense is a leader on utilizing solar power—not for environmental reasons, but for energy security reasons.

However, if we are going to use taxpayer funds to support military solar power, we must use the tools Congress gave us to ensure they are not undercut by foreign solar makers. If solar tax incentives—we must provide a level playing field for U.S. solar manufacturers in the contracting process. Last year’s Defense Authorization bill took an important step, by clarifying that the Buy American Act’s requirements apply to solar.

Previously, when solar was installed on DOD property, Buy American would not apply because DOD purchases the power, not the panels. DOD uses that arrangement for two reasons—first, it spreads the cost out through long term power purchase agreements instead of up-front costs; second, it allows the project to use tax credits DOD cannot use.

While last year’s bill attempted to fix this situation, it left two loopholes. First, the Buy American requirements from last year’s bill are limited “to the extent that such contracts result in ownership of [solar] devices by DOD.” The second loophole means that often this requirement is not fulfilled, thus allowing Chinese solar makers to undercut bids for DOD funded solar projects.

Second, last year’s provision also only applied when “reserved for the exclusive use” of DOD for the “full economic life” of the device. Solar power projects may sometimes sell back to the grid, and DOD may use them for 20 years, when they are warranted for 25. The combined effect of these loopholes is that DOD does not currently apply to DOD-funded solar.

The amendment I am offering with Senator SCHUMER and Senator SANDERS closes these loopholes and applies Buy American requirements to solar projects that are funded by DOD to meet the energy goals in this bill.

If American taxpayer funds are used to improve our military bases’ energy security, American solar firms should have an ability to compete. I want to make sure that other reasons why Chinese are spending vast resources to become leaders in the solar power market. They do not play by our trade rules, and they are taking advantage of our taxpayer funds.

Think about it this way: China does not spend its tax dollars on U.S. solar panels at Chinese military bases. Why should Congress provide market access that is not extended to U.S. manufacturers?

This amendment halts that practice, while maintaining all existing provisions of the Buy American Act: Nations that are in the WTO are not dis- criminated against, but does not bar nations that allow reciprocal access to U.S. firms to their government procurement. Existing exemptions such as availability and cost still apply, so we do not expect this to harm DOD’s procurement in any way.

Our amendment is supported by a strong coalition of U.S. solar manufacturers and U.S. workers.

I thank Senator SCHUMER and his staff for working with us, along with Chairman Levin, and I urge the Senate’s support.

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

Mr. UDALL of New Mexico. I thank Senator McCAIN, I thank Senator LEVIN, and I appreciate their help on this amendment.

FOREIGN SUBSIDIARIES OF U.S. PARENT COMPANIES ACTIVE IN IRAN

Mr. LAUTENBERG. Mr. President, I wish to engage in a colloquy with my friend, the distinguished chairman of the Senate Banking Committee, regarding U.S. companies that continue to do business with Iran. I know the chairman shares my concern about Iran’s continued violations of international norms. As the International Atomic Energy Agency’s recent report starkly highlights, Iran continues to work to build a nuclear weapon despite the current sanctions in place. While we have made great strides in strengthening sanctions on Iran, more work can be done to place pressure on Iran to change its behavior. For the past 7 years, I have been working to close a loophole in current law that allows foreign subsidiaries of U.S. companies to continue doing business with Iran without facing the same penalties that would be placed on the parent company. I have now filed an amendment to the National Defense Authorization Act for Fiscal Year 2012 currently under consideration to try and close this loophole.

Although I am not going to call for a vote on this amendment at this time, it is time we work to close this loophole once and for all.

Mr. JOHNSON. I thank Senator LAUTENBERG for his leadership on this issue. It is timely for him to raise it again now in the wake of the IAEA’s recent report on Iran’s illicit nuclear activities and in the midst of our efforts in the Banking Committee to ratchet up the pressure on Iran’s leadership through sanctions.

As President Obama noted last week when he imposed a new round of sanctions using the tools Congress gave him, Iran’s government has persistently refused to abide by its international obligations, and it is time to turn up the heat in an effort to persuade its leaders to come clean on their nuclear program. While U.S. sanctions have not yet produced the results that we all hope for, many sanctions and other efforts have slowed Iran’s nuclear program and damaged its key revenue-generating energy sector, it remains my urgent priority to strengthen sanctions further to ensure that Iran effectively has no choice but to change its current path. That is why we are acting to sanction Iran’s Central Bank today as well. On the issue you have raised, I think it is long past time for U.S. subsidiaries to withdraw from doing business in Iran. That is already happening due to U.S. and other international pressure on the business and financial sectors. Firms realize the huge risks this activity poses, reputationally and otherwise, to their companies. I note that it is already a violation of U.S. law for American companies to engage in sanctionable activity in Iran’s energy sector and certain other activities under U.S. sanctions laws. It is also a violation of U.S. trade law for a U.S. firm to do business of any kind in Iran via a subsidiary. What this means is that if a U.S. parent is acting through its subsidiary, directing its activity, that violates U.S. law. The balance that has been struck so far is that we have directed our law, including our trade embargo, to U.S. companies and what U.S. companies do. Foreign subsidiaries are not, by definition, U.S. persons. But I agree with you that we can and should do more to stop the foreign subsidiaries of American companies from doing business with Iran, and I intend to address this problem in our upcoming legislation to expand Iran sanctions.

Mr. LAUTENBERG. My amendment would have applied the same penalties that can be imposed on U.S. companies to foreign subsidiaries that violate the U.S. trade ban with Iran to foreign subsidiaries of U.S. companies. Does the chairman agree that this loophole remains an issue that must be addressed?

Mr. JOHNSON. I agree that we must address the problem of foreign subsidiaries of U.S. companies doing business in Iran not being penalized for it under U.S. law. I know that, as in the past, there will be opposition from some in the business community, including European and other foreign governments who have long objected to the extraterritorial application of U.S. laws to reach companies organized under their jurisdiction. They will argue that the activities of U.S. subsidiaries are not legally U.S. persons, but are rather foreign persons organized under other countries’ laws, and so should not be reached by U.S. law. But I am committed to working with my friend and with my committee members to address this issue.

Mr. LAUTENBERG. I thank the chairman. As we know, Iran funds Hamas, Hezbollah, and other terrorist...
organizations. We should not allow American-controlled companies to provide cash to Iran so that they can convert these funds into bullets and bombs to be used against us and our allies. It is inexusable for American companies to engage in any business practice that provides revenues to terrorists, and we have no choice but to stop it. I look forward to working with Chairman JOHNSON to close this loophole.

Mrs. FEINSTEIN. Mr. President, I rise to respond to a colloquy yesterday that occurred between Senators AYOTTE, LIEBERMAN, and GRAHAM regarding amendment No. 1068 offered by Senator AYOTTE to the Defense authorization bill.

Senator AYOTTE’s amendment would eliminate measures that provide our interrogators with the guidance and clarity they need to effectively solicit actionable intelligence while upholding American values. In doing so, the amendment would override the better judgment of our military and intelligence professionals in a manner that will harm, not improve, our short- and long-term security and counterterrorism efforts.

Yesterday, Senator LIEBERMAN said on the Senate floor that he wants prisoners taken captive by the United States to be “terrified about what is going to happen to them while in American custody.” He also said he wants interrogators “to be allowed to inflict on others what they have to be allowed to inflict on them.” I believe these statements are antithetical to fundamental American values. I firmly believe that America will not and cannot lower itself to the level of terrorists. To do so would be to abandon our most cherished principles and what our country stands for.

There was also discussion of abuses at Abu Ghraib, which diminished America’s standing and outraged the American public.

As chairwoman of the Select Committee on Intelligence, I can say that we are nearing the completion of a comprehensive review of the CIA’s former interrogation and detention program, and I can assure the Senate and the Nation that coercive and abusive treatment of detainees in U.S. custody went beyond a few isolated incidents at Abu Ghraib. Most of these abuses stemmed not from the isolated acts of a few bad apples but from fact that the line was blurred between what is permissible and impermissible conduct, putting U.S. personnel in an untenable position with their superiors and the law.

That is why Congress and the executive branch subsequently acted to provide our intelligence and military professionals with the clarity and guidance they need to effectively carry out their missions. And that is where the September, 2006 Army Field Manual comes in.

In creating unnecessary exceptions to existing interrogation guidance, Senator AYOTTE’s amendment would muddy the waters on what is and isn’t permissible in interrogating U.S. detainees. Her amendment would overrule not only the Executive order on lawful interrogations but also roll back the McCain amendment passed in 2005—which the Senate approved in a 90-to-9 vote—by allowing some interrogators, including some military interrogators, to evade established interrogation protocols.

In creating unnecessary exceptions to existing interrogation guidance, Senator AYOTTE’s amendment would continue to prohibit cruelty, the colloquy on the floor suggests otherwise. When Senator GRAHAM asked her if the amendment was needed to bring back enhanced interrogation techniques—techniques we now know included induced hyperventilation, and forced stressed positions she responded in the affirmative.

We cannot have it both ways. Either we make clear to the world that the United States will honor our values and treat prisoners humanely or we let the world believe that we have secret interrogation methods to terrorize and torture our prisoners.

The Aytote proposal also ignores the dangerous practical implications for our intelligence and military partners overseas.

The colloquy between the Senators yesterday suggest they believe the United States will have some advantage by having a secret list of interrogation techniques and that this will have no negative implications, aside from giving interrogators more options.

Last year, GEN David Petraeus said it best when he unequivocally asserted that we should not return to so-called “enhanced” techniques because they “undermine your causa and “bite you in the backside in the long run.”

Current U.S. law and policy makes clear that America is committed to fundamental humane treatment standards. By overturning the status quo, the Aytote amendment would create dangerous pockets of uncertainty to undermine our international standing, our intelligence collectors, and our national security.

Should this amendment ever come to the floor of the Senate, I urge my fellow Senators to oppose it.

Mr. AKAKA, Mr. President, I rise to express my deep concerns with the pay-roll tax alternative that our colleagues have proposed. Their alternative would be paid for by extending the current pay freeze for Federal employees through 2015 and requiring each agency to cut its workforce by 10 percent. I strongly oppose putting the entire cost on the backs of two million middle class Federal employees, who already have contributed to deficit reduction through a 2-year pay freeze. These men and women are working harder than ever with tighter budgets and, in many agencies, continue to struggle with staffing shortages. If adopted, these provisions would hamper investments in national defense, homeland security, veterans’ services, food safety inspection, and other critical areas for a short-sighted approach that does little to address our current fiscal challenges. They simply do not create jobs. In the end, these policies would cost the government more, by harming the Federal Government’s ability to recruit and retain highly-skilled workers and increasing our reliance on high-cost contractors.

Arbitrary caps on Federal employees often lead to waste, fraud, and abuse as contracting expands without investment in oversight. Already, over the past decade, Federal contracts have nearly doubled in size, but the acquisition workforce charged with overseeing these contracts has remained constant. We should not be adding to this trend, but working to reverse it.

While I agree it is important that all Americans share the sacrifice in these
challenging economic times, I believe Federal workers have already done so. The 2-year Federal pay freeze enacted as part of the Budget Control Act of 2011 will save approximately $60 billion over the next 10 years. It is important to recognize that the pay freeze harms Federal employees much lower than just the years it is in place; future salaries will build from a lower base throughout employees’ careers. The pay freeze will also reduce future retirement benefits, because they are calculated using the high theoretical examination.

Nearly two thirds of our 2 million Federal employees are employed by the Departments of Defense, Veterans Affairs, or Homeland Security—and according to the Office of Personnel Management, 4 out of 5 jobs filled since President Obama took office have been to these same agencies. These employees do critical work to keep our Nation safe and care for our veterans. A significant part of Federal employees work outside of the Washington, DC area, and they are our neighbors and constituents in each of our States. Like the rest of our constituents, they are struggling with the deepest recession since the Great Depression. Fortunately, for more job security than most workers, many have unemployed spouses and adult children, their home values and retirement savings have fallen dramatically, and like everyone else they face higher costs. Contrary to what you might hear from our colleagues, Federal employees are not overpaid. Those guarding our airports and borders, and working at our naval shipyards, may start at less than $30,000 per year. Many make less than what they could in the private sector, but they work for the American people because they love their country and they are committed to service. Further cuts to Federal pay and benefits will not only hurt these individual families, but will hinder the larger economic recovery.

At a time when close to half our Federal workforce will soon be eligible to retire, I worry that extending the pay freeze could further harm our ability to recruit the best and brightest to government service. As chairman of the Federal workforce subcommittee, I have been working with my colleagues to adopt policies to ensure that the Federal Government is viewed as the employer of choice in this country. Guaranteeing fair and competitive pay for its civilian workforce should be part of our commitment to the American people that the Federal Government has the right people, with the right skills, to run that government in an effective and efficient manner.

Our Federal civil service is made up of hard working, talented people who have dedicated their lives to serving this country. These honorable men and women provide many essential services to the American people, including keeping our Nation safe, caring for our wounded warriors, ensuring our food and drugs are safe, and responding to natural disasters. America’s public servants deserve our gratitude and respect. I thank them for their dedication, and I urge my colleagues to support them by opposing these efforts to freeze Federal pay and hiring.

Mr. CONONIE. Mr. President, earlier this week, the Senate adopted an amendment to the bill we now consider that would, among other things, give the Chief of the National Guard Bureau a seat on the Joint Chiefs of Staff. I supported this as a common-sense amendment, as I was its two legislative predecessors, the Guardians of Freedom Act and the National Guard Empowerment and State-National Defense Integration Act.

Since then, I have actively lobbied my colleagues to support the measure, and I am glad that this week, so many of them came together to support it. With more than 70 cosponsors from across the political spectrum and ulti- mately a 99-0 vote in the Senate, this amendment has the right people, with the right skills, in the right positions to enhance our national security.

A National Guard in one form or another has served our Nation bravely and honorably for 375 years. Their courage is no less respected, their families no less concerned for their well-being. They have done extraordinary work these last 10 years in Operation Enduring Freedom, Operation Iraqi Freedom, and in Operation New Dawn. But that is not what this amendment was about. This amendment was not about rewarding what has been done in the past.

Rather, it was about recognizing what we need to do for our future in order to keep our country safe. That is the key here: bringing to bear every resource we have for the defense of this Nation.

The Joint Chiefs of Staff are the top military advisers to the President and to the Secretary of Defense. They are responsible for making sure our military is prepared for every threat to our national security, but as those threats tilt toward the asymmetric, so must our military planning.

The wars in Afghanistan and Iraq have forced a fundamental transformation of our military, shifting away from a posture designed to counter Soviet aggression in Europe toward a posture that confronts asymmetric threats to American lives and interests.

Writing in a report for the Center for New American Security last year, retired General Gordon Sullivan described the National Guard as at a crossroads: “Down one path lies continued transformation into a 21st-century National Guard.” The National Guard Act of 1967 prohibits Federal agencies including the Department of Defense—from contracting for fuels that have higher

There was a clear choice, and this week the Senate made it, taking what I believe is a significant step forward in strengthening our national security.

When national defense solely meant fighting our enemies abroad, the current organizational strategy made sense. But now that we are more likely to have to defend and against threats to America’s national security here on American shores at the same time, we need the National Guard to have a seat at the table. We need the National Guard’s resources and capabilities to be a first-line consideration that matches their first-line mandate.

In my home State of Delaware, the 31st Civil Support Team is the tip of the spear of the military response to a chemical, biological, radiological, or nuclear attack by terrorists. Following the September 11th homeland security tasks, the Guard has been working to prepare the affected area to receive a response by larger units, coordinating as far up the chain as the Joint Chiefs, and that I hope General McKinley and his successors will help them focus on, is the important role the Guard can play in cyber security, an area where most threats are decidedly asymmetric.

The Delaware Air National Guard’s 166th Network Warfare Squadron is already playing a key role in our nation’s national defensive cyber capabilities working with U.S. Cyber Command, but its potential as a bridge between the Departments of Defense and Homeland Security, between Federal and State governments, and between the public and private sectors has barely been considered outside of a few circles. Determining what unique role the Guard can play in cyber security to create a more robust, more flexible defense-in-depth is just one of the new ideas I believe the Chief of the National Guard Bureau can bring to the planning process.

The men and women of the National Guard bring extraordinary capabilities to our Armed Forces, and because of the action we have taken here this week, I know that our military will be better prepared for new and emerging threats to our Nation.

Mrs. MURRAY. Mr. President, I rise today to reiterate my support for section 526 of the Energy Independence and Security Act of 2007. This section prohibits Federal agencies including the Department of Defense—from contracting for fuels that have higher...
emissions than conventional petroleum.

This is not only an issue of clean energy and a better environment but, more importantly, our Nation's security and ability to fight. The Department of Defense is the world's biggest energy consumer, using 300,000 barrels of oil every day. Given our reliance on foreign sources of oil, this is a formidable security challenge for our country.

The efforts underway at the Department to increase efficiency and expand the use of renewable energy and alternative fuel sources are critical to both the bottom line of Pentagon and to increase the safety of our warfighters. As you know, a record number of casualties in Iraq and Afghanistan have occurred while units transport fuel and supplies in military convoys. Increasing our energy and fuel efficiency not only reduces the overhead costs of the military, but it will also decrease the need for such fuel and supplies, lessening the risks posed by these convoys to our troops.

This is an important and timely issue because while the National Defense Authorization Act we are considering on the Senate floor today provides nothing to affect section 526, the House version of NDAA repeals this important law.

The Department of Defense supports this existing law and has said that it does not prevent them from purchasing the fuel it needs to meet its current mission needs. Hundreds of veterans who served in the Armed Forces from World War II through the Iraq and Afghanistan wars have asked the Senate to oppose repeal of section 526.

I urge my colleagues to join with the Department and our veterans to support this law.

I also applaud the work the DOD has done to date to move toward homegrown, renewable fuel sources, including the commitment to reduce petroleum use in its fleet by 50 percent through programs such as the Green Fleet.

To help the DOD realize its goals and to increase the security of our troops, we must dramatically scale up advanced biofuels production in the United States. Companies here in the United States have already developed technologies to produce “drop-in” ready fuels, so no new infrastructure or engine modifications are needed. These fuels are based on plants like camelina, jatropha, and algae—plants that can be grown all over the country in a variety of climates.

I believe section 526 has laid the foundation for this needed scale up of advanced biofuels, and it is time to take the next step toward ensuring that the DOD has access to a greater range of energy options than foreign sources of fossil fuels. That is why I have been working with my colleagues, Senator CANTWELL, Congressman INSLEE, and others, to put in place multiyear contracting authority for the purchase of biofuels.

We have introduced legislation in both the Senate and the House to do just that, and while that legislation in not included in this bill, I am pleased that we were able to include language that will require the Department to exercise its authorities for multiyear contracts for the purchase of advance biofuels and what additional authorities are needed for the Department to enter into such contracts going forward.

Mr. President, I look forward to working with my colleagues to ensure the final NDAA bill keeps the Department moving forward on securing and supporting renewable energy and fuel alternatives.

Mr. BAUCUS. Mr. President, I rise in support of Senator MEEKLEY’S calling for the withdrawal of American troops from Afghanistan. I support bringing our troops home for two reasons: First, we can’t afford what we are spending today in Afghanistan. Second, we need to focus on nation building here at home.

We are spending $10 billion per month in Afghanistan. Every dime of it is deficit spending. We should listen to the former Chairman of the Joint Chiefs of Staff, Admiral Mullen. He said our debt is the top security threat facing the United States. We can’t continue down this path.

Our troops continue to serve heroically on some of the toughest missions imaginable. They have done everything we have asked of them—and we have asked a lot through weekends and holidays, over frigid mountains and hot deserts. The service of the men and women of the military has been nothing short of remarkable.

It is now time to hand over the responsibility of this war to the Afghans. Afghan President Hamid Karzai recently held a Loya Jirga, or grand assembly, among leaders and elders from across Afghanistan.

The assembly approved a resolution calling for the Afghans to take the lead role of the war effort. Let’s take them up on their offer. Let’s not have American men and women doing the work that Afghans want to do for themselves.

For years we have been putting war spending on our national credit card. In 2003, I joined Senators BIDEN and CONRAD in offering an amendment to the Iraq supplemental appropriations bill that would have offset the war spending.

Instead of adopting the amendment, Congress elected to pay for the war with deficit spending. Over the past decade, we have grown our debt by $5.3 trillion. To do that, the President’s budget projects $500 billion in war spending in the coming decade. This spending is in addition to the trillions we will spend on the defense base budget. This endless deficit spending is simply not sustainable. The President’s budget projects $500 billion dollars in war spending in the coming decade. This spending is in addition to the trillions we will spend on the defense base budget. This endless deficit spending is simply not sustainable. The President’s budget projects $500 billion dollars in war spending in the coming decade. This spending is in addition to the trillions we will spend on the defense base budget. This endless deficit spending is simply not sustainable.

During our work on the Joint Select Committee on Deficit Reduction, every member of the panel came to a better appreciation of the difficult financial decisions we face as a nation. There is no choice: we have to balance our books.

But how we balance our books will reflect who we are as a nation, what we value, and where we are. Most important, these choices will determine whether the 21st century will be the American century or whether we will cede our leadership to countries such as China.

In the year ahead, Congress will make a number of hard choices, and we must be strategic about these choices. We will choose among essential investments in education, infrastructure, health care for our veterans and seniors, and maintaining the best military in the world.

And every month we spend $10 billion dollars in Afghanistan will limit what we can do at home. Every dollar we send to Afghanistan is one less dollar we can spend for health care for our seniors or education benefits for our veterans.

The tough choices must be made at a time when the world is changing rapidly. During his final press conference as the U.S. Ambassador to Japan on November 14, 1988, Terry Goude said: [Japan and the United States] will work together in the next century which will be the Century of the Pacific.

Our two nations working together will be able to compliment and guide the rest of the world as it moves into this area, into the [Pacific] basin, because we both realize that it is where it all is, where it is all about, and where our joint future lies.

Looking back 23 years later, his remarks seem prescient. According to the World Bank, China’s average annual GDP growth rate since 2001 has been 10.4 percent. Asian developing nations collectively had an average growth rate of 9.1 percent. The United States has seen an average growth of just 1.7 percent.

The 21st century will not be the American century if we don’t change course. During the first decade of this century, we spent $5.9 trillion dollars on defense spending, much of it in Iraq and Afghanistan. During that same decade, China spent $1.1 trillion. Now, which nation’s power increased more during that period?

China is flexing muscles abroad not with shiny new weapon systems but with their growing financial power. China is now the second-largest economy in the world, and it continues to grow.

We are seeing our influence wane around the world not because we are short an aircraft carrier but because some have begun to question American resolve, the ability of American political institutions to solve basic problems and to govern.

Meanwhile, millions of Americans are out of work and struggling to make ends meet. Last year, I asked the Congressional Budget Office to prepare a report that incorporates the income distribution picture this country. The statistics are sobering. The top 1 percent of earners in the United States more than doubled their

December 1, 2011
share of income in the past 30 years. The wealthiest fifth of the country earned more than the other four-fifths combined.

These are only but a few of the great challenges we face at home, and to overcome these challenges we have to work together. To compete and win in today’s world, we need to balance our budget, grow our economy, and invest in education and infrastructure. We can’t afford another year of spending tens of billions of dollars on nation building overseas.

For the 21st century to be the American century, we are going to have to make some changes. We need to bring our troops home for Afghanistan and focus on nation building here at home. I urge my colleagues to support Senator MERKLEY’s amendment.

Mr. COONS. Mr. President, another amendment that I filed to S. 1867, the Senate’s FY 2012 National Defense Authorization bill, would have advanced new clean energy opportunities and enjoyed bipartisan support. The amendment’s co-sponsors included Senators SHAHEEN, PORTMAN, GILLIBRAND, and KERRY. Unfortunately, we were not able to offer it this week because of a disagreement over scoring. It was an important opportunity missed so I wanted to take a moment to note what this amendment entailed.

Amendment No. 1265 would have confronted a critical long-term challenge facing our Nation’s military: the spiraling cost of its reliance on petroleum. The Defense Department is increasingly using more electric vehicles to become a priority for the Defense Department and the entire Federal Government.

Investing in clean energy technology is an investment in America’s energy security. Liquid petroleum accounts for two-thirds of our imported oil, and approximately 60 percent of that comes from the Persian Gulf. By empowering the Pentagon to purchase more of these energy-efficient, cost-efficient electric vehicles, we are saving taxpayer dollars and reduce our Nation’s dependence on foreign oil, utilizing more electric vehicles should become a priority for the Defense Department and the entire Federal Government.

Energy efficient upgrades ESPC is scored by the CBO rules, because the government might use ESPCs to meet the mandate. Effectively, Congress cannot tell the Federal Government to save money through efficiency. Further, while ESPCs are charged, OMB does not score them because the government does not fund costs through their use. This special score has essentially limited our ability to reduce appropriated dollars and achieve energy efficient simultaneously using private sector expertise and funding.

This amendment is something that is important to me. I am hopeful it is something that we will be able to pass down the road. In the meantime, it is an opportunity lost, to help our military prepare for the threats facing our nation.

Mrs. SHAHEEN. Mr. President, I rise today to express my disappointment that the Senate was not able to reach agreement to consider an important amendment on the Defense Authorization bill that would allow women in the military access to health care coverage as civilian women.

There are almost 241,000 women currently serving in our Armed Forces. Many of these brave women are risking their lives for our national security. Despite the sacrifices these women make to protect our freedom, they are not given the same rights as civilian women when it comes to their reproductive health care.

If a service woman becomes pregnant as a result of rape or incest, her insurance will not cover an abortion if she decides to seek one; the law as currently written expressly prohibits it. This is unconscionable. To correct this injustice, I offered an amendment to the bill that would allow a service woman the ability to receive insurance coverage for an abortion if her pregnancy is the result of rape or incest. Unfortunately, because there are some in this body who do not want this unfair law changed, we were not able to bring this amendment to the floor for a vote.

Women currently serving in the armed services are victims of discrimination. They do not have access to the same critical—and legal—reproductive health care as the civilians they protect.

Bans on abortion coverage exist for millions of women who receive their health care through government programs, but in most cases these bans allow for coverage of such care if the pregnancy is the result of rape or incest, and it does not cover an abortion if she decides to seek one; the law as currently written expressly prohibits it. This is unconscionable. To correct this injustice, I offered an amendment to the bill that would allow a service woman the ability to receive insurance coverage for a rape if her pregnancy is the result of rape or incest. Unfortunately, because there are some in this body who do not want this unfair law changed, we were not able to bring this amendment to the floor for a vote.

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I believe that every woman should have the reproductive health care coverage she needs wherever she is and whenever she needs it. I do not think that any ban on abortion is appropriate. However if Federal bans do exist, they should at least be consistent. My amendment is simple. It would permit a service woman to have an abortion covered by her military health insurance if the pregnancy is the result of rape or incest. Repealing the current ban on such coverage will simply bring the Department of Defense in line with most other federal policies.

I recently met a woman who was a victim of rape during her military service. She was stationed in Korea and was unable to receive the health care she needed and deserved. Her story was heartbreaking. Because of her unwanted pregnancy, she had to leave the service and return home.

There are thousands of women in the military, especially those posted overseas, who will try to make life as normal as possible while providing essential services and protecting our country. Some women who are victims of this law will continue to find ways to delay the health services they need. Women who give their lives for our country deserve better.

While the bill we are considering today will move forward without this important change, I pledge to ask the women in our military who are victims of this law that I will continue my fight to bring the Department of Defense in line with other Federal agencies to allow coverage for critical reproductive health care.

Mr. LUGAR, Mr. President, I commend Chairman LEVIN and Ranking Member MCCAIN, our distinguished Armed Services Committee leaders, for their amendment regarding the problem of counterfeit parts. Senator amendment 1092, which was agreed to, as modified, last Tuesday. The amendment establishes a prudent framework for countering the dangerous infiltration of counterfeit parts into our defense supply chain. I also want to commend Senator WHITEHOUSE for his work on this important issue.

The amendment would create criminal penalties for those trafficking in counterfeit parts so as to ensure that our Armed Forces have the best equipment from trusted suppliers in order to carry out their critical roles and missions. It would also significantly strengthen our supply-chain management to detect and prevent surreptitious attempts to supply our Armed Forces with counterfeit parts and components.

I have followed the hearings in the Senate Armed Services Committee regarding these matters. I wanted to take time today to raise in relation to the amendment a problem that I believe could complicate its enforcement. If we truly intend to grow our economy through exports, then we ought to pay attention to any risks that may stem from liberalizing our present export controls so as to ensure that our industrial base benefits—and not those who deal in counterfeit parts and components in other nations.

A person who commits an offense under this amendment may be punished if that person ‘had knowledge that the good or service is falsely identified as meeting military standards or is intended for use in a military or national security application.’ I am concerned that the amendment may be undermined by the export control initiatives of the administration. The administration is engaged in an effort to remove most, if not all, of the military-grade parts and components controlled on the U.S. Munitions List. Many of these will be decontrolled altogether for export and import purposes. Others will be placed under the Commerce Department’s Export Administration Regulations. Hundreds of commercial and industrial grade parts, components and systems are involved.

The reasons why this agenda presents significant challenges to dealing with counterfeit parts center on the relatively liberal legal and policy considerations for commercial trade with China. Senators Levin and Whitehouse pointed to the many problems emanating from counterfeit Chinese parts in their remarks on the floor. As we know from the hearings and studies to date, Chinese suppliers play the major role in the unauthorized supply of counterfeit parts.

We also know from the Commerce Department’s January 2010 report on counterfeit electronics, which was commissioned by the Navy Department, that the counterfeit electronics infiltrating the Defense Department supply chain and affecting weapon system reliability are predominantly commercial and industrial grade parts—so-called commercial off-the-shelf, COTS, technology.

The drawings and specifications needed to produce those parts can be—and are—freely exported to China under the Commerce Department’s Export Administration Regulations, EAR. There is no legal bar to exports of such drawings and parts to China and, in all but rare cases, they may be sent to China without an export license. The same holds true for the import of such parts into the United States after they are produced in China. In contrast, there has been a much lower incidence to date of counterfeit parts specifically designed for military use. Such parts are currently controlled on the U.S. Munitions List. Maintenance of the U.S. Munitions List is authorized by the Arms Export Control Act, AECA, and it is administered by the State Department in consultation with the Defense Department. The Foreign Relations Committee has unique jurisdiction over these matters in the Senate.

The reasons for the lower incidence of counterfeit military-grade parts are threefold: One, it is illegal to export any drawings or specifications to China that are controlled on the U.S. Munitions List, due to the statutory arms embargo imposed on China following the Tiananmen Square massacre; two, China is vigorously enforcing its International Traffic in Arms Regulations, ITAR—the State Department’s regulations which contain the U.S. Munitions List—to import any defense article into the United States from China; and three, willful violations of ITAR and the AECA are vigorously enforced by U.S. courts, with the majority of convictions resulting in prison sentences, while the majority of willful violations involving illegal exports of military or commercial products result in probation. The latter are currently enforced under the International Emergency Economic Powers Act because the Export Administration Act has lapsed.

Unfortunately, all of the deterrents inherent in control on the U.S. Munitions List could go away if and when the administration’s export control reform initiatives are implemented.

I congratulate and welcome the efforts of Senator LEVIN, Senator MCCAIN and other Senators to close down the infiltration of counterfeit parts into our defense supply chain, but I remain concerned that the administration’s agenda for export control reform will increase these problems in the future and frustrate enforcement of this amendment.

In addition, it is my understanding that the administration not only plans to remove nearly all the military-grade parts and components from the U.S. Munitions List, but also to redefine those few categories of high-end parts and components remaining on the Munitions List in a way that would seriously complicate enforcement of the amendment.

We will continue to consult with the administration on its reform agenda in the Foreign Relations Committee.

Mr. WARNER, Mr. President, I would like to ask for the attention of my colleagues on two amendments that I have filed to S. 1867, the National Defense Authorization Act of 2012.

Each of these amendments relates to the Navy’s proposal to build a new nuclear pier facility to support East Coast aircraft carriers. With annual recurring costs, this new project would likely cost just shy of a billion dollars. And if one were to look at a severe fiscal crisis the Navy cannot pay to maintain the infrastructure it currently owns. As Admiral Mullen has said, the greatest challenge to our national security is our mounting debt.

Together, these amendments would save nearly $30 million for an unnecessary Navy military construction project at Naval Station Mayport, Florida. We are awaiting completion of an independent GAO assessment of the strategic risks to our carrier fleet which include manmade and natural disasters. The study would also consider the cost and benefits of what
other measures we can take to mitigate risk.

This is not a small project. The Navy estimates its homeporting plan will cost nearly $600 million, but those costs could rise to up to $1 billion over the next eight years. Tack on to that more than $25 million in annual maintenance costs currently estimated for an additional homeport and we are signing the taxpayer up for a big bill, much of which is not funded. It’s in the “out years” as they say.

The justification for a new homeport is the mitigation of the risk of a terrorist attack, accident, or natural disaster occurring at the nuclear handling facility at the existing carrier homeport at Norfolk, VA.

However, the current Navy plan fails to take into account the two additional East Coast carrier capabilities facilities at Newport News, VA, and the Naval Shipyard. Each of these facilities maintains separate nuclear handling facilities. If, for any reason, there were damage to the existing Naval base, the Navy could simply disperse the carriers to other piers. That is a lot cheaper and more efficient than building a new, duplicative facility.

Additionally, in Navy budget filings indicate there is a 50 percent greater chance of a major hurricane hitting Mayport than Norfolk. Why would we want to build a new facility at a higher risk location?

The Navy has also identified unfunded priorities totaling $11.8 billion dollars. These priorities are in critical areas including shipbuilding, military construction, maintenance, and acquisition programs—programs which are critical to both our current and future readiness.

We must maintain our existing infrastructure properly before pursuing a duplicative homeporting project. It is more fiscally responsible for the Navy to reduce current unfunded requirements, which total tens of billions of dollars.

We have had some recent developments that I want to highlight that cast more doubt on the wisdom of embarking on this enormous expenditure. Responding to a letter I wrote, along with other colleagues in the Virginia delegation, the Navy’s new CNO, Admiral Greenert has said that it is time to take a fresh look at the costs of this project. Given the current fiscal restraints, Admiral Greenert wrote the Navy will be making a “comprehensive strategic review, examining every program element, including the funding required to homeport a CVN in Mayport.”

I agree with Admiral Greenert. With the serious fiscal issues facing our Nation, the prudent course of action is to focus on taking care of the infrastructure we already have instead of buying new infrastructure which we do not need and cannot afford.

Mr. JOHNSON of South Dakota. Mr. President, I want to discuss the amendment to the pending Defense authorization bill negotiated between my two Banking Committee colleagues, Senators Menendez and Kirk, designed to address the deceptive and fraudulent practices, sanctions evasion, facilitation of proliferation, and other illicit behavior by the Iranian regime.

Ten days ago, President Obama issued an Executive order designed to further isolate and penalize Iran for its refusal to live up to its international obligations regarding its nuclear program. As he noted, for nearly 20 years the Iranian Government has failed to abide by its obligations under the Nuclear Non-Proliferation Treaty, violated repeated U.N. Security Council resolutions, and ignored its legal commitments to the International Atomic Energy Agency. In the face of this intransigence, the world has spoken with one voice—at the IAEA, at the U.N., and in capitols around the world—making it clear that Iranian actions are a threat to international peace and stability and will only further isolate the Iranian regime.

The President targeted, for the first time, Iran’s petrochemical sector, prohibiting the provision of goods, services, and technology to this sector and authorizing penalties against any persons, firms, or entities that purchase such activity. He also designated for sanction a group of individuals and entities for assisting Iran’s prohibited nuclear programs, including its enrichment and heavy water programs. And he escalated the financial and economic pressure by using provisions of the USA PATRIOT Act to identify the entire Iranian banking sector—including Iran’s Central Bank—as a threat to governments and financial institutions that do business with Iran.

I strongly support enhanced sanctions on Iran, including its Central Bank, and have been working with my ranking member, Senator Shelby, on another sanctions measure to expand and refine the current law. The Iran Sanctions and Accountability Act, CISADA, enacted last year. That legislation will be marked up soon in our committee. But as in all areas of complex sanctions law, it is important to craft these provisions with an eye to ensuring that they do not have negative unintended consequences for the United States and American consumers in terms of substantially increased oil and gas prices; for our allies, whose co-operation will be vital to isolating Iran; and for our, and seemingly conflicting interaction of some of its provisions, its lack of an exception for countries cooperating with the United States on sanctions enforcement, and others. I ask consent to print in the RECORD following my statement a copy of a letter from Secretary Geithner indicating his strong opposition to the amendment.

The PRESIDING OFFICER. Without objection, so ordered (see Exhibit 1).

Mr. JOHNSON. We all agree that interactions by the international financial system should be severely reduced, not least because such interactions pose serious risks for the international banking system. But we do not want to do it in a way that could have negative consequences for some of our closest allies or for ourselves. We want to be careful that we don’t end up shooting ourselves in the head and Iran in the foot.

I know my colleagues have worked in the last week, including the Thanksgiving holiday, to make the provision more effective and to provide for additional targeting by the President, building in a national security
waiver, a lag period for implementation of the crude oil sanctions, and other measures. But I think the proviso could use further refinement. That is why I had hoped to be able to address this issue through the more deliberative committee process.

Even though I have concerns about some of the effects of this amendment in its current form, I will support it as a signal of my support for tightening the financial and economic noise around Tehran and for further isolating Iran as a means of prompting it to turn aside from its current path and come clean on its nuclear program. Even so, these implementation issues should be addressed in conference prior to the legislation being finalized.

Finally, I want to remind my colleagues that the Banking Committee is working expeditiously to adopt new comprehensive sanctions legislation and I hope will be ready to bring that legislation to the full Senate soon. It will complement and reinforce the Comprehensive Iran Sanctions and Accountability Act, CISADA, enacted a little over a year ago, and international diplomatic efforts led by the President to isolate Iran and ratchet up the pressure on its leaders. I think all of us would agree that the most effective sanctions are those that are imposed and enforced by a coalition of nations, and the administration’s building and sustaining a coalition to do precisely that is to be commended. I look forward to working with my colleagues on that effort.

Mr. REID. Mr. President, tonight the Senate will vote overwhelmingly to support our men and women in uniform, including the more than 1,100 Nevadans serving overseas, as they continue to put their lives on the line. I congratulate Senators Levin and McCain for their stewardship of this bill and for working through several difficult issues.

There is still work to be done in conference to perfect parts of this bill, including the provisions dealing with military detainees and efforts to improve key elements of TRICARE. I am pleased that today an overwhelming, bipartisan majority agreed that protecting our national security is more important than partisan politics. Today we came together to support our troops, and ensured that this Nation does everything in its power to keep America safe from those who would do us harm.

Mr. McCAIN. I yield back the 1 minute of time remaining.

Mr. LEVIN. Mr. President, I rise today to protect the families of our men and women in uniform. While these brave members of our community put their lives on the line to protect us here at home, courts abroad are using their service against them when making child custody determinations.

Although I did not submit my amendment due to concern expressed by the Senate Veterans Affairs Committee, I urge the committee to take this issue to ensure that servicemembers have a uniform standard of protection when determining the best interests of their children.

Servicemembers risk their lives in support of the contingency operations that keep our Nation safe. The amendment prohibits courts from permanently altering custody orders during a period of active duty or pre-deployment custody to be reinstated unless that is not in the best interest of the child.

This language of my amendment has enjoyed widespread support in the House for the past five years and was recently endorsed by the Department of Defense. Earlier this year Secretary Gates stated that he wanted to work with Congress to pursue the creation of a Federal uniform standard. In his letter of support dated February 15th, 2011, Secretary dates stated: “I have been giving this matter a lot of thought and believe we should change our position to one where we are willing to consider whether appropriate legislation can be crafted that provides servicemembers with a federal uniform standard of protection.”

Our men and women in uniform sacrifice a great deal to serve our country. We owe it to them to provide uniform standards that protect the men and women in uniform, including the more than 1,100 Nevadans serving overseas, as they continue to put their lives on the line. I congratulate Senators Levin and McCain for their stewardship of this bill and for working through several difficult issues.

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Mr. McCAIN. I yield back the 1 minute of time remaining.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the bill, as amended.

The Senator from Michigan.

Mr. LEVIN. Mr. President, we are going to be making a unanimous consent request. I am not even going to use my 1 minute on the other than to say thanks to everybody who has been so heavily involved, which is just about everybody in this Senate.
I want to particularly thank Senator MCCAIN. His staff and my staff have been utterly incredible. We have had hundreds of amendments we had to get through. We have done the best we can, and I want to tell my friends this so we can prepare a path for a unanimous consent. It is not perfect yet, so I cannot read it, but it is going to be something like this. For those amendments which were germane, not because of modification, but were germane.

Mr. UDALL of New Mexico. Will the Senator from Michigan yield? I don’t think we disposed of the Udall amendment.

Mr. LEVIN. I believe we did. The PRESIDING OFFICER. The Udall amendment was agreed to.

Mr. MCCAIN. Reluctantly.

Mr. LEVIN. Let me describe what this is about so we can be thinking about it before it is offered. There were 71 amendments, approximately, which were cleared. We spoke about those before. If anyone had an objection, they were not cleared. So by definition there is no objection on the substance of these amendments. However, there is objection for other reasons, one of them being the fact that if an amendment was modified to make it germane, there would be an objection on that basis.

So what Senator MCCAIN and I are talking about—and we will put it in a unanimous consent proposal and then you can determine, if you want to agree to this—is that we would work—we pass a bill tonight and do all the other things we need to do because that has to be done. We have to get to conference.

In the next couple of days Senator MCCAIN and I, working with the Parliamentarian, would go through the 71 amendments, or whatever the number is. The Parliamentarian would then advise us as to which of those amendments is germane and were germane—and these are all cleared amendments. And for that group, whatever the number is, that we are informed by the Parliamentarian is germane and were germane.

Mr. MCCAIN. It sounds simplistic, and the hour is late and we need to vote, but the fact is there were 382 amendments that were submitted. There were hundreds of amendments that were waiting, and the fact is that initially the Cornyn amendment was not agreed to, so it is a little more complicated than that. There were literally 400 or 500 amendments that were filed, and we had to at some point cut off the process. For next year’s bill we will try to get a situation where it is far more inclusive and far more informative. When you are dealing with 500 amendments, I know that each is important, but there is no way you are going to be able to get through the authorization bill with that many amendments that are filed, and that is just a fact. We are doing the best we can to accommodate the Senator from Texas and the Senator from Oklahoma and every other Senator who didn’t get their amendment voted on.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. If I may be permitted to thank the distinguished chairman for that offer. It is unclear to me how this will actually be executed—and all of this could have been avoided, from my perspective, if a simple unanimous consent request had been allowed to modify an amendment that I had that was not germane to make it germane so we could have a simple up-or-down vote, something that was in the nature of a technical correction, which I would think as a matter of custom and courtesy would be allowed. But apparently that is not the way things are operating.

All of these convulsions are being engaged in simply to avoid an objection to a unanimous consent request to modify an amendment to make it germane. It could all be avoided and we could have taken care of this in 10 or 15 minutes. I don’t understand if the distinguishing characteristic is actually making that unanimous consent request at this time or merely explaining what his intentions are. I will try to work with him, but I am not yet sure this is going to work as he hopes it will. My objection was that any amendment that was not germane when filed but could be made germane by modification, as mine could, would not be permitted to be in this managers’ package or passed by unanimous consent.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, as a future edition of the RECORD.) (Rollcall Vote No. 212 Leg.)

The bill (S. 1867), as amended, was passed by the Senate, be inserted in the Journal of the Senate, and the text of S. 1867, as amended, and passed by the Senate, be inserted in lieu thereof; that H.R. 1540, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; that the Senate insist on its amendments to a concurrent resolution with the House on the disagreeing votes of the two Houses; and the Chair be authorized to appoint conferences on the part of the Senate, with the Armed Services Committee appointed as conferees which points of order be considered waived by virtue of this agreement; and all with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEVIN. I thank everybody and I thank the Chair.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 93, nays 7, as follows: (Rollcall Vote No. 212 Leg.)
support the vast majority of the Defense authorization bill. However, because I believe we can protect our national security without infringing on critical constitutional values, I could not support this bill. The bill fails to clarify that under no circumstances can an American detainee be detained indefinitely without trial. And it mandates for the first time that suspects arrested in the United States will be detained by the military rather than domestic and civilian law enforcement, who have successfully convicted in civilian courts over 400 terrorists. Finally, the bill would make it more difficult to close the detention center at Guantanamo Bay, for which I have long fought because the detention facility is a stain on our honor and a recruiting tool for terrorists around the world.

Not only do these provisions violate the core values upon which our freedom rests, but they won't make us safer. The CIA Director Petraeus, Intelligence Director Clapper, and FBI Director Mueller all said these provisions will needlessly hurt, rather than help, our national security.

The PRESIDING OFFICER (Mr. Udall of New Mexico). The Senator from Michigan.

Mr. LEVIN. Mr. President, I will be very brief for obvious reasons. But this is a golden moment for us. The proud tradition of the Senate Armed Services Committee has been maintained every year since 1961 and continues with the Senate's passage of the 50th consecutive national defense authorization bill. It always takes a huge amount of work to get a bill of this magnitude done. It could not happen without the support of all the Senators on the committee. I will not thank each and every one—the subcommittee chairs, the ranking members, our staff, the floor staff here, who do extraordinary work. But the bipartisanship of this committee dominates again, and we hope that flavor will continue to dominate forever in the committee and hope it will permeate this Senate.

We always have to work long and hard to pass this bill and no two of these bills are alike. But it's worth every bit of effort we put into it because it is for our security, for our troops, and for their families. I thank all Senators for their roles in keeping our tradition going.

Our committee's bipartisanship also makes this moment possible. I am proud to serve with Senator MCCAIN and grateful for his partnership and friendship. I also want to thank our very dedicated and capable Senate floor staff on both sides of the aisle—Gary Myrick, Trish Engle, Tim Mitchell, and Meredith Melody on the Democratic side and David Schiappa, Laura Dove, Ashley Messick, and Patrick Kilcur on the Republican side. They help us get there across the finish line and we are very grateful to them and all others here on the floor and in both cloakrooms.

Finally, I thank all our committee staff members for their extraordinary drive and many personal sacrifices to get this bill done. Led by Rick DeBabes, our committee's staff director; Peter Levine, our general counsel; and the minority staff director, our staff really has given their all to get this bill passed. So to all of you and to all your families, thank you for your hard work. Take a few minutes to celebrate this moment and the time we put to work in conference with the House so we can bring a conference report back to the Senate before the holidays.

Mr. President, they all deserve recognition and, as a tribute to their pro-

to tell the Senator how tremendous it was happening, and I thank him.

The PRESIDING OFFICER. The majority leader.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. As the order that is now before the Senate indicates, I have the ability to designate who will be the speakers. We have 1 minute on one and 1 minute on the other. Those 2 minutes will be used by the senior Senator from Pennsylvania, Mr. CASEY.

The PRESIDING OFFICER. Under the previous order, the Armed Services Committee is discharged from further consideration of H.R. 1540 and the Senate will proceed to its consideration; all after the enacting clause is stricken out and the text of S. 1397 is amended, is inserted in lieu thereof; the bill, as amended, is considered read a third time and passed, and the motion to reconsider is made and laid upon the table.

The Senate insists on its amendment, and requests a conference with the House on the disagreeing votes of the two Houses, and the Chair appoints Mr. LEVIN, Mr. LIEBERMAN, Mr. REID, Mr. AKAKA, Mr. NELSON of Nebraska, Mr. WELLS, Mr. MCCASKEY, Mrs. BROWN of Colorado, Mrs. HAGAN, Mr. BERGICH, Mr. MANCHIN, Mrs. SHAHEEN, Mrs. GILLIBRAND, Mr. BLUMENTHAL, Mr. MCCAIN, Mr. INHOFE, Mr. SESSIONS, Mr. CHAMBLISS, Mr. WICKER, Mr. BROWN of Massachusetts, Mr. PAYNE, Mr. COLLINS, Mr. GRAHAM, Mr. CORNYN, and Mr. VITTER conferees on the part of the Senate.

Middle Class Tax Cut Act of 2011—Motion to Proceed

The PRESIDING OFFICER. Under the previous order, there is 2 minutes equally divided prior to a vote on the motion to proceed to S. 1397.

The Senator from Pennsylvania.

Mr. CASEY. Mr. President, this Middle Class Tax Cut Act is very simple. It does two things for employers and also has economic benefits.

Last year, the Senate came together in a bipartisan bill. We passed a tax bill that, among other things, reduced payroll taxes for employees. This legislation expands that. Instead of just saying we are going to have a reduction of 2 percent of the payroll tax, this legislation cuts it in half. So you are cutting the payroll tax in half. That is
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take-home pay, $1,500 in the pockets of the average working family in America.

Secondly, it allows us to provide a cut as well for businesses, cutting in half the payroll tax for businesses. It is good public policy. It will create lots of jobs at a time when the American people are telling us, with one voice, they want us to do one thing here: create jobs or create the conditions for job creation so small businesses can hire. At the same time, they want us to come together in a bipartisan way.

I urge a “yes” vote.

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

Who yields time in opposition?

The Senator from South Dakota.

Mr. THUNE. Mr. President, there are a lot of Republicans here who agree with one of the basic principles in the Democratic bill; that is, there is no reason why people ought to suffer even more than they already are from the President’s failure to turn this job crisis around.

What the Republicans have proposed is an alternative to this bill that ensures that no one sees a tax hike this year. The biggest difference is that the Republican proposal ensures that no one’s taxes get raised in a down economy.

There is simply no reason that preventing a tax hike in this bad economy needs to be paid for by raising taxes on the very employers whom we are counting on to help jolt this economy back to life, which is exactly what the Democrats have put forward. So the Republican proposal would ensure that no one sees a tax increase next year. It avoids the gratuitous hit on job creators, and, even better, our plan reduces the Federal deficit by more than $111 billion.

This is a dramatic expansion of this particular provision, which we cannot afford when we already have a $15 trillion debt. There is a right way and wrong way to do this. This is the wrong way in the Democratic proposal. The Republican proposal is the right way.

I urge our colleagues to vote against this bill.

The PRESIDING OFFICER. The time has expired.

Mr. BROWN of Massachusetts. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. Under the previous order, 60 votes are required for adoption.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

TEMPORARY TAX HOLIDAY AND GOVERNMENT REDUCTION ACT—MOOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, there is 2 minutes of debate equally divided on the motion to proceed to S. 1931.

The Senator from Nevada. Mr. HELLER. Mr. President, the Senate today has an opportunity to put aside some of the partisan differences and come together and do something that will benefit all Americans. The legislation I propose is a solution, and I support solutions which Republicans, Democrats, and Independents can all support.

By supporting my legislation and imposing tax increases on employers, Congress can also preserve opportunity for job growth in the future. Increasing taxes on small businesses will not help my State overcome the highest unemployment rate in the Nation. By asking millionaires and billionaires to pay higher premiums for government health care, my proposal asks the richest Americans to do more, just like my colleagues on the other side of the aisle ask that they should.

Lastly, this proposal is the only one that has a chance of passing the House of Representatives and be signed into law. I urge all of my colleagues to support this piece of legislation and this effort to help Americans already struggling to make ends meet.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, the problem with this proposal—and I hope we are reaching the point where we are actually coming together in a bipartisan way—is that it does not help small businesses. What we should be doing is cutting the payroll tax in half for employees and cutting it in half for employers so we can help small businesses.

This bill does not do that. All it does is take the existing cut in the payroll tax and keep that in place.

We like that part of it. We should expand the tax cut for workers and also have a separate cut in the payroll tax for employers, so 160 million workers and lots of businesses can get the benefit of this payroll tax cut to put money in people’s pockets, grow the economy, and move the economy forward. I urge a “no” vote.

The PRESIDING OFFICER. The question is on agreeing to the motion. Mr. HELLER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Under the previous order, 60 votes are required to adopt the motion to proceed.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 20, nays 78, as follows:

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The PRESIDING OFFICER (Mr. COONS). Under the previous order requiring 60 votes for the adoption of this motion, the motion is rejected.
PAYROLL TAX HOLIDAY
Mr. MORAN. Mr. President, just a few moments ago we cast several votes in regard to the so-called payroll tax holiday. I opposed both the Republican amendment and the Democratic amendment.

There were significant differences between these two versions of this legislation; in part, the differences at least included the way that the provisions were paid for. While I may support the pay-fors, I objected to what the pay-fors are paying for. I support freezing the pay of Members of Congress, the elimination of certain benefits to millionaires, and reducing the Federal workforce. But wouldn’t we be better using the proceeds of these reductions in spending to reduce the debt and deficit rather than a short-term change that reduces the revenues going to the Social Security and Medicare trust funds? When are we going to admit we are broke?

I am reminded of a plan approved by Congress just several years ago where we borrowed money to give citizens a $600 rebate, all in the name of a stimulus. We wanted to stimulate the economy and, in my view, what we did was we stimulated little and increased the debt a lot.

Many of us have expressed support for the concepts contained in the Bowles-Simpson deficit reduction plan. Their recommendations are very important and I have paid a lot of attention to them and expressed our desire to proceed in that way. Many times we have said that. But the legislation we just voted on uses many of their suggested reductions in spending, not for deficit reduction but for another stimulus plan. The Bowles-Simpson plan has been hijacked once again in the name of stimulating the economy.

These proposals also undermine the foundation of Social Security. We are reducing the payments into the trust fund. We should leave the trust fund alone and cut spending and use those savings to pay down our annual deficits and live within our means. Once again, we are putting off difficult decisions to pay-fors, I objected to what the pay-fors are paying for. These provisions related to the detention of American citizens—without the standard rights of the fifth and sixth amendment—have been an object of intense debate on the floor of the Senate over the last several days.

As a Senator who has now been here 3 years, I can say unequivocally that this debate was extremely valuable. Folks came from both parties on both sides of this issue and shared their insights, both from their life experiences, from their scholarly knowledge of the law, and certainly from their philosophy, and I commend all who participated in that debate. I listened to a great deal of that debate on both sides. I thought this was extraordinarily important; issues surrounding our Bill of Rights and the rights of American citizens, protection from the abuse of power.

Some came to this floor and said that essentially the detention provisions in this bill simply clarify existing law and will enhance our national security, and they did so with sincere hearts and sharp minds. Others came, equally sincere, equally learned, and argued the opposite side; that the detention provisions in this bill constitute a deviation from the 5th and 6th amendment right to due process and the sixth amendment right to a speedy trial by impartial jury, as well as a sixth amendment right to confront the witnesses against him or her. Maybe it is useful to take a look at what the fifth and sixth amendments actually say.

One of the last clauses of the fifth amendment notes that:

No person shall be deprived of life, liberty, or property without due process of law.

I think we all grow up in this country absolutely believing in this fundamental value that the government cannot take from you your life, your liberty or your property without the process of law.

The sixth amendment notes that, in prosecutions, the accused shall enjoy the right to a speedy and public trial—and I emphasize public trial—by an impartial jury of the state. It goes on to note that the accused shall be able to confront the witnesses against him and to have the assistance of counsel. So these basic issues of speedy and public trial, an impartial jury, the assistance of counsel, and the ability to confront
the witnesses against you, all of these are contained in the sixth amendment and all relevant to this debate over detention.

Most of this conversation is about a section of the bill called section 1031, subtitled reference pursuant to the authorization of the use of military force.

It uses this fancy word ‘covered persons,’ and it is what is referred to in everyday speech as enemy combatants. So section 1031 is about the ability of the Armed Forces to detain enemy combatants.

The reason this is framed this way is that there is a historical exception under constitutional findings of the Supreme Court to amendment five and amendment six that the Court made in 1984 in the title of the section to give a sense of what this is all about.

Section 1031. Affirmation of authority of the Armed Forces of the United States to detain covered persons pursuant to the authorization of the use of military force.

That exception is that if an individual is fighting on the side of the enemy against the United States, they do not have the same rights because they are now an enemy combatant in time of war, and they can be detained for the duration of the conflict. This was adjudicated in World War II over individuals who assisted with sabotage in New York, and it was found that the standard rights of speedy public trial, trial by jury, right to counsel do not apply if you are an enemy combatant. Instead, you are put into the framework of a war setting to be treated as a member of the opposing army.

So this exception has historically been extremely narrow. You are on the battlefield or you are directly working as a member of the enemy force against the United States. It should be extremely narrow, and it should be substantial hurdles for the State to be able to simply claim that you are an enemy combatant and thereby strip you of your fifth and sixth amendment rights.

But what we have in this bill, in section 1031, is not this narrow set of provisions based on the historical understanding of an enemy combatant. Instead, we have a definition that says “a person who was a part or substantially supported al-Qaida, the Taliban, or associated forces, engaged in hostilities against the United States or coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of enemy forces.”

On first reading, it may sound as if that individual is directly involved in combat, but listen to the words embedded in this. First of all, it says “a part of,” with no conception of what “a part of” means. Did you write one sympatheic e-mail in your lifetime? Does that make you “a part of”? We have no standard here.

“Substantially supported” is understood to mean material support, but no contingency for intent. If you donated money to a charity and that charity used it to support Taliban activities somewhere in the world or some other group that had an association with the Taliban, you have substantially supported, under this conversation.

Then it says “the U.S. or its coalition partners.” What is the definition of that? A few weeks ago, you might have noticed in the news that there were a lot of protests going on in Bahrain. We have a military facility in Bahrain. Is Bahrain a coalition partner? Since we utilize a partnership with them to supply our forces in the Middle East? Yes, probably so, because there is no definition of “coalition partner.” With individuals who were standing up for human rights and got into a battle with police in a public square, they are engaging in a belligerent act against a coalition partner.

I hope you can start to see that the standard understanding that has been constitutionally established over time is completely gutted in this simple paragraph. That should be of grave concern to all Americans who care about our constitutional rights to a fair hearing.

What happens when the government suspects you have done something? I want to take you to a case in Oregon. We had a case regarding an individual named Brandon Mayfield. Brandon Mayfield was born in Kansas. Brandon Mayfield got his law degree in Topeka, Kansas. Brandon Mayfield is an Army veteran. Brandon Mayfield is married with three children and lives with family in a Topeka suburb.

Brandon Mayfield is a Muslim convert, and in 2004 FBI agents raided his law office, his home, and his family farm to collect evidence, believing he was a terrorist mastermind behind the Madrid bombings. The reason why is an FBI agent concluded that a partial fingerprint matched Brandon Mayfield’s. When they go back and they find out what’s the government now labels him an enemy combatant, and what right does Brandon Mayfield have to contest this? Basically, no rights. The law provides only that there will be a hearing; that the rules of the hearing will be set by the executive branch—by the President, if you will; that the attorney will be assigned by the executive branch; that the rules of evidence will be determined by the executive branch; that this hearing will occur sometime but when? We’ve been hearing that for months. The executive branch has not set the rules of the hearing; the executive branch has not appointed an attorney that the individual would like to employ, without rights to evidence, without an ability to confront the witnesses against him or her—without any of these rights, that person can now be locked away indefinitely. The right to a speedy trial, there is no commitment to a fair hearing.

I hope this continues to receive substantial attention. I would have hoped there would be hearings about this phenomenal change in U.S. law adopted tonight because this sort of thing should not be done lightly. It should not be placed at the last second into a Defense Authorization bill without extensive discussion, evaluation, cross-examination by experts on all sides of this issue.

There is another feature of this bill that I think deserves attention, and that is that it creates a presumption for a certain type of crime to be tried in military tribunals rather than in civil courts. Many of my colleagues are much more familiar with this than I am, but they have come to the floor and noted that 300 individuals who have been accused of terrorist-related crimes have been tried in civilian courts and found guilty, versus 6 in military courts. They have noted that because the FBI is immersed in the process of getting evidence out of individuals, they are masters at it, which explains the statistics. They can be tried in military tribunals rather than in civil courts. But the law tonight creates a presumption that they can be tried in a military court under an argument that several of my colleagues have made that simply the military is better at it. But there is not one shred of evidence brought that the military is better and lots of evidence about the sophisticated, experienced, systematic, and successful efforts of the FBI.

Mr. President, I would like to conclude by summarizing that all that we hold dear as Americans in this Constitution about our fair rights as citizens has been trampled on tonight. This has happened twice before in this Chamber, and the Supreme Court has thrown it out twice before. I hope they will find a case that will put before the Court again because it is the responsibility of the Court to keep taking us back to this document, this Constitution, when we forget from the Constitution, when we forget what it says. There should not be a situation that the government can simply assert that the President, once what the President is—his
President or any future President, whether it be President Bush, whether it be President Obama, whether it be the next President of the United States or one of five Presidencies into the future—they should not be able to say: You, Mr. President, I am calling you an enemy combatant. I am locking you up. I am assigning your defender—your court attorney if you will. I am deciding the rules of evidence. I am deciding if it is going to be secret. And after I conclude that there is enough evidence because of a partial fingerprint, I am locking you up forever, and there is not a damned thing you can do about it.

Brandon Mayfield was locked up, and he might have been locked up forever if this law had been in place. But the FBI made a mistake. The FBI completely botched the fingerprint comparison. It was Spain that brought it to our attention. Spain kept saying: America, you have the wrong guy. America, you have the wrong fingerprint. And it was Spain that found the right match, and it was finally our own system that said: Yes, we made a mistake, and we are setting Brandon Mayfield free. But under what was done tonight, he may never have the light of day outside of his prison. That is not right. It is not, absolutely not a contributor to the security of this country to strip away fair rights of due process, to summon that evidence, to confront your accusers and make sure that a just decision occurs.

Mr. President, I yield the floor.

RECOGNIZING WORLD AIDS DAY

Mr. DURBIN. Mr. President, today is World AIDS Day, a time for us to reflect on one of the worst plagues the world has experienced. This year also marks the 30th anniversary of the first appearance of the disease in the United States.

For three decades this preventable disease has devastated families and communities around the world. It has killed millions of people. But there has been a strong global response from the research community, governments, health workers, and patient advocates to fight this disease and save lives. This battle has yielded notable victories, and I am proud of the leadership the United States has demonstrated in the fight against AIDS.

The number of newly infected people in the world is steadily declining. Successful treatments have saved 2.5 million lives in developing countries. Advancements have been made in HIV testing and prevention, and biomedical innovations have created powerful drugs that can transform AIDS from a death sentence into a more manageable chronic disease. Most recently, promising tests in gene therapies and vaccines are giving researchers renewed hope for a way to prevent the spread of HIV. Some scientists are becoming optimistic about the possibility of a cure.

Despite this considerable progress, however, an estimated 34 million people in the world are still suffering from AIDS—5 million more than in 2002. Only about half of them have access to ongoing medical treatment that is essential to making HIV/AIDS a manageable disease.

Today President Obama announced two new initiatives that will enable us to build on our successful efforts to combat HIV/AIDS here in America. First, the United States will commit $15 million to the Ryan White program, which is currently helping 450,000 HIV-positive people in the United States. In addition, we will commit $35 million to State AIDS drug assistance programs.

I commend the President and his administration on these critical new commitments. They represent the next step in America’s first-ever National HIV/AIDS Strategy, which the President introduced in 2010. They remind us that AIDS doesn’t just affect people in developing countries. 1.2 million people are currently living with HIV/AIDS in the United States, and over 600,000 people here have died from this deadly virus.

Thirty years into this epidemic, the burden of this disease in America continues to be disproportionately borne by gay and bisexual men and people of color. While African Americans represent 12 percent of the U.S. population, they account for almost half of all new infections each year.

In the State of Illinois, over 37,000 people have HIV or AIDS. Eighty-three percent of those people make their homes in Chicago—a city that has been one of the world’s leaders in the fight against HIV/AIDS. The Chicago AIDS Foundation—an entire nation waiting to die.

Their children, playing in the yard, had already lost one parent and were now about to be orphaned. As I sat with those mothers, all of whom had begun to feel like a terminal ward of a hospital—an entire nation waiting to die. That is not true anymore. Today, because of discoveries by scientists and the determination of people of conscience, there is hope in Uganda and other desperately needed nations that have been hit hard by the HIV/AIDS pandemic.

There is also hope here at home. The United States continues to demonstrate its leadership in eliminating HIV/AIDS, but we cannot allow our efforts to fall for lack of funding and support. The elimination of HIV/AIDS is one of our most important commitments to the people of this country and the world, and we ought to keep that promise.

We need to cut the deficit, but let’s be smart about it. The fact is that every dollar we cut from HIV/AIDS research and treatment this year means additional funding will be required the next year and the next. But this is not just about saving taxpayer dollars, as important as that is. This is about saving lives. Every dollar not funded this year will exact a horrible toll. Men, women, and children will die who otherwise could have been saved. People who would have lived longer, healthier lives will have to rely on overly burdened programs such as Medicare and Medicaid just to survive. We must not allow that to happen.

Several years ago, I visited a program in Uganda for women who were dying of AIDS. We sat on the porch, and the women showed me scrapbooks they were making. They were gathering together photos, notes, and other items about their lives so that their children would have some way to remember them after they died. Their children, playing in the yard, had already lost one parent and were now about to be orphaned. As I sat with those mothers, all of whom had begun to feel like a terminal ward of a hospital—an entire nation waiting to die. That is not true anymore. Today, because of discoveries by scientists and the determination of people of conscience, there is hope in Uganda and other desperately needed nations that have been hit hard by the HIV/AIDS pandemic.

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Mr. LEVIN. Mr. President, just as a building needs a foundation, every community needs pillars—people who provide strength, inspiration, guidance, and leadership, people to rally around in tough times. Today, the city of Flint, MI, is missing one of its pillars.

Bishop Odis Floyd of New Jerusalem Full Gospel Baptist Church died this week at the age of 71 after a long illness. For more than four decades, he was the spiritual leader of the church he helped his grandfather found. At an imposing 6-foot-6, with a powerful preaching and singing voice, he became known around the country for his stirring sermons and appeared on a number of gospel music albums. Whether in quiet conversation with a church member or in powerful preaching from the pulpit, he was a spiritual giant.

His faith taught him to reach out beyond himself, not just with spiritual guidance but to lend a hand to those in need. The church’s charitable and outreach efforts under his leadership have had an enormous impact. They include programs to provide safe housing for the homeless, educational assistance to those who need medical care, food, and clothing; counseling and social work services, and much more.

Bishop Floyd also was a valued adviser to business and community leaders in Flint, in Michigan, and beyond. I was fortunate to visit with him on many occasions, and I valued those visits for his knowledge of the community and his concern for Flint ran deep, and no matter the challenge, he was always at the forefront of those looking for solutions. His commitment to his community was profound and provided a shining example to others. Whether it was in preaching the gospel he felt so deeply or in reaching out to help others, one word sums up the dedication, enthusiasm and accomplishments of eighth grade students.

Mr. LEVIN. Mr. President, this past August I had the opportunity to visit Beaver County, Utah, where I met an educator who is working tirelessly to prepare our Nation’s youth for success in our transformative economy. This rural area of southwest Utah is home to my State’s major energy initiatives, including the largest wind farm in Utah.

In 2001 a local shop teacher, Andy Swapp, observed that Milford, UT could capitalize on the powerful winds in the area. Enthusiastic about renewable energy, the class applied to Utah’s anemometer loan program to erect a 20 meter meteorological tower. As the students collected and analyzed the wind data, they attracted the attention of a wind power inspector named Curtis Whittaker. Mr. Whittaker was impressed with the preliminary data but more so with the dedication, enthusiasm and accomplishments of eighth grade students. Whether it was in teaching the students to apply their classroom lessons to developing solutions for affordable, abundant energy. As the commercial wind farm developed, Mr. Swapp’s classes were continually relied upon for data collection while receiving training in wind farm maintenance operations. Over the last decade, Mr. Swapp’s students participated in all phases of completing Utah’s largest commercial wind farm.

Mr. Swapp’s instruction to fostering student learning and success is not limited to wind power. His classes at Milford High School won a Rocky Mountain Power “Bluesky” grant to install a 10 kilowatt array of solar panels on the front lawn of the school, and a roof top mounted solar array. The students were allowed to work with the contractor, helping install the $125,000 system. The students are now monitoring the energy production to compare the dual axis tracker with the standard technology. His classes also participate in national electric race car construction contests.

To broaden the education of his students, Mr. Swapp organized the Milford Renewable Energy Fair. With support from South West Applied Technology College, the fair has grown to include secondary schools from all over the State and major energy companies. Milford High School is also home to the Southwest Renewable Energy Center, which Mr. Swapp helped devise to promote the energy-rich area of Beaver County and Southwest Utah. It is a collaboration of K-12 schools, technical colleges, 4-year universities, State-wide economic advancement districts, research and development partnerships and technology commercialization firms. This center connects students to jobs, internships, and scholarships.

Mr. Swapp is an outstanding example of educators bringing learning to life and helping students envision a sustainable future. Mr. Swapp’s students have enrolled in energy and engineering programs at Southern Utah University and Southwest Applied Technology College. They have secured high-skill, high paying jobs in their hometowns. Their paths have been inspired by the curiosity, creativity and dedication of their teacher.

Prior to becoming an educator, Mr. Swapp served our country as a career infantry Sergeant in the U.S. Army. During his service, he returned to Utah to offer rural students the very best in education, to expand their horizons, and to foster a positive attitude for their future. Mr. Swapp has been an example to his students by completing an Associate of Science, AS, from Dixie State College, a Bachelor of Science from Southern Utah University, and a Master of Science from Utah State University.

Mr. President, I was really impressed with what I experienced in meeting Andy. I wanted to highlight the important, innovative work of a successful educator engaged in leading our Nation into the future.
Mr. HARKIN. Mr. President, I wish to pay tribute to a much respected and beloved leader in America’s disability community, the late Dr. Susan Daniels.

Dr. Daniels acquired her disability at a very young age. Though she spent much of her early years in rehabilitation institutes and hospitals, her parents advocated for her full inclusion in school and in the life of her local community. As a consequence, Susan attended regular elementary and secondary schools. She went on to graduate summa cum laude from Marquette University, and to earn her master’s degree at Mississippi State University and her Ph.D. from the University of North Carolina. And I would note that she achieved these things before the days of accessible campuses.

While still in her twenties, Dr. Daniels served as chair of the Department of Rehabilitation Counseling at Louisiana State University Medical Center. There, she developed an innovative program to train individuals to work directly in community-based settings with people with developmental disabilities. This program became a core element in Louisiana’s efforts to deinstitutionalize people with disabilities.

Throughout her adult life, Dr. Daniels was a passionate advocate for people with disabilities. She served as Associate Commissioner of the Rehabilitation Services Administration in the U.S. Department of Education, and as Associate Commissioner of the Administration on Developmental Disabilities, ADD, in the U.S. Department of Health and Human Services. While at ADD she developed the Home of Your Own Program to assist people with developmental disabilities in their quest to become homeowners in their communities. It is one of Dr. Daniels’ living legacies that this Home of Your Own Program is now operating in 27 States.

Perhaps Dr. Daniels’ greatest accomplishment was her leadership in passing the Ticket to Work and Work Incentive Improvement Act of 1999. As deputy commissioner of the Social Security Administration, she worked tirelessly to lay the groundwork for this legislation. The Ticket to Work Act created employment incentives and healthcare provisions for workers with disabilities, and removed many of the systemic barriers that often required citizens with disabilities to make a stark choice between working or retaining their health coverage. Two of the most important provisions of this legislation are the authorization for a State Medicaid buy-in program to allow individuals to maintain health coverage after returning to work, and a continuation of Medicare coverage for individuals who are working.

Dr. Daniels was also very active in the fight for disability rights internationally. She attended many conferences and research forums in Africa, Europe, and Asia. And she advised governments on the best ways to set up social insurance programs for individuals with disabilities. She served as president of the U.S. International Council on Rehabilitation, and was Rehabilitation International’s deputy vice president. In 1998, she played a lead role in convening the International Women with Disabilities Leadership Forum.

Dr. Daniels was the recipient of many awards for her work, including the prestigious Henry B. Betts Award, which honors individuals who have made transformative differences in the lives of people with disabilities.

Dr. Daniels held leadership roles in a wide range of national and international organizations, but she also worked for change at the individual level, mentoring and sponsoring countless young men and women with disabilities both in the U.S. and abroad.

Susan’s husband, John Watson, and many other family members, friends, and colleagues will gather for a memorial service in her honor at the National Press Club here in Washington on December 4. I will be with them in spirit as they celebrate a determined advocate and a truly bright light, a woman who was and is an inspiration to people with disabilities around the world.

ADDITIONAL STATEMENTS

TRIBUTE TO HALEY BARTON

Mr. BARRASSO. Mr. President, I would like to take the opportunity to express my appreciation to Haley Barton for her hard work as an intern in my Washington, DC, office. I recognize her efforts and contributions to my office as well as to the State of Wyoming.

Haley is a native of Wyoming and graduated from Lander Valley High School. She attends the University of Wyoming, where she is majoring in political science and history. Throughout her internship, she has demonstrated a strong work ethic which has made her an invaluable asset to our office. The quality of her work is reflected in her great efforts over the last several months. I want to thank Haley for the dedication she has shown while working for me and my staff. It was a pleasure to have her as part of our team. I know she will have continued success with all of her future endeavors. I wish her all my best on her next journey.

TRIBUTE TO MANDI MOSHER

Mr. BARRASSO. Mr. President, I would like to take the opportunity to express my appreciation to Mandi Mosher for her hard work as an intern in my Casper office. I recognize her efforts and contributions to my office as well as to the State of Wyoming.

Mandi is a native of Wyoming and graduated from Glenrock High School. She attends the University of Wyoming where she is majoring in social work. She has demonstrated a strong work ethic which has made her an invaluable asset to our office. The quality of her work is reflected in her great efforts over the time she has been with us.

I want to thank Mandi for the dedication she has shown while working for me and my staff. It was a pleasure to have her as part of our team. I know she will have continued success with all of her future endeavors. I wish her all my best on her next journey.

TRIBUTE TO AMY BLACK

Mr. BARRASSO. Mr. President, I would like to take the opportunity to express my appreciation to Amy Black for her hard work as an intern in my Washington, DC, office. I recognize her efforts and contributions to my office as well as to the State of Wyoming.

Amy is a native of Wyoming and graduated from Kelly Walsh High School. She attends the University of Wyoming, where she is majoring in political science. Throughout her internship, she has demonstrated a strong work ethic which has made her an invaluable asset to our office. The quality of her work is reflected in her great efforts over the last several months.

I want to thank Amy for the dedication she has shown while working for me and my staff. It was a pleasure to have her as part of our team. I know she will have continued success with all of her future endeavors. I wish her all my best on her next journey.
TRIBUTE TO RIO SMITH

Mr. BARRASSO. Mr. President, I rise today to recognize and pay tribute to an outstanding public servant, Ed Strickfaden. Today, the Idaho State Police will be naming a building after Ed, who served as the director of the Idaho State Police and was a 35-year veteran of the department. He is very deserving of this honor, and I congratulate him on this special day.

Ed Strickfaden graduated from Council High School, located in a small rural town in southwestern Idaho. He honorably served in the U.S. Air Force before beginning his career with the Idaho State Police. In 1967, he was hired as a port of entry officer, and from there he worked his way up the rung the department in almost every region of the State.

In 1980, he was promoted from a patrolman in the Lewiston area to a sergeant in Twin Falls. By 1984, he was the district commander in Idaho Falls, then moving to the district commander position in Coeur d’Alene the following year.

He served in the headquarters office beginning in 1991, first as a major in charge of field operations, then as a deputy superintendent of the Idaho State Police. He was appointed ISP superintendent by Gov. Phil Batt and served 4 years in that position prior to his appointment as director of the Department of Law Enforcement by Gov. Dirk Kempthorne in January 1999.

Colonel Strickfaden undertook a major reorganization of the Idaho State Police, streamlining its functions and enhancing training through the school of law enforcement. He was an indispensable part of the Idaho State Police.

Today, the Idaho State Police and the people of Idaho honor this humble man by putting his name on the building at ISP headquarters. It is a fitting tribute to a great leader and a wonderful human being. We are all very grateful for the many years of service Colonel Ed Strickfaden has provided to our great State.

I would be remiss if I did not also mention Colonel Strickfaden’s wonderful wife, Barbara, for her strong support throughout Ed’s career. Together, they have served the people of Idaho with great distinction.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to all that you have done for your listeners and for our great State.

TRIBUTE TO KALEIGH WILLIAMS

Ms. AYOTTE. Mr. President, today I wish to honor the memory of Charles Nichols II, a World War II veteran who helped start the Pease Greeters—a New Hampshire-based volunteer group that honors the brave U.S. service members who touch down at Portsmouth’s Pease Air National Guard Base.

Kaleigh Williams graduated from Cheyenne Central High School. She attends Stonehill College in Massachusetts where she is majoring in political science. She has demonstrated a strong work ethic which has made her an invaluable asset to our office. The quality of her work is reflected in her great efforts over the time she has been with us.

I want to thank Kaleigh for the dedication she has shown while working for me and my staff. It was a pleasure to have her as part of our team. I know she will have continued success with all of her future endeavors. I wish her all my best on her next journey.

TRIBUTE TO PEASE GREETERS

Mr. BROWN. Mr. President, I rise today to honor Bob Conners, the retiring long-time voice on radio for thousands of Ohioans in Central Ohio, who broadcasted his final show on WTVP on November 30, 2011.

Bob and I have not always agreed on the issues, but he has always been the fair and dignified in discussions ever since he took to the airwaves back in 1964. And he is always armed with a quick wit. I spoke with Bob earlier this week.

He told me that during his retirement he plans to turn his love for the radio to law and language. When I asked which one, he said he wanted to master English first. That endearing sense of humor earned him the trust of listeners across Central Ohio. And as those who have listened to him over the years know, he has not only mastered English, he has mastered morning radio.

Growing up in St Marys, PA, Bob first wanted to become a radio actor, inspired by the Lone Ranger and encouraged by his father. He got his start on the airwaves when he was in high school, earning $45 per month as a radio deejay. After graduating from high school, Bob worked in Erie, Buffalo, San Diego, and Pittsburgh. He served our nation and volunteered for the Army in 1956.

By 1964, he joined WTVP in Central Ohio. Bob cemented his loyal following in the afternoons transitioning from Classic Rock to the Morning Show. Some of the most memorable stories of his time on air relate to his beloved Ohio State Buckeyes football team, led at the time by the famed Woody Hayes.

"The Morning Monarch," as he would be known while hosting the Bob Conners Show beginning in 1978, he brought in more listeners and would eventually range 33 years, six U.S. presidents, and five Ohio State football coaches. As he enriched the lives of his listeners, he also served his community away from the microphone, volunteering with the Boys and Girls Clubs of Columbus and the Charity Newsies.

Bob Conners had the ear of his listeners because they could trust him, whether they agreed or disagreed with him. It is that admirable trait we will miss with his retirement. But it is that endearing quality that’s earned him this retirement and no more 3 a.m. wake-up calls.

Bob, I wish you and Linda all the best in your retirement. Thank you for
the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:36 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 394. An act to amend the National Labor Relations Act with respect to representation hearings and the timing of elections of labor organizations under that Act.

ENROLLED BILL SIGNED

At 6:13 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 394. An act to amend title 28, United States Code, to clarify the jurisdiction of the Federal courts, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. Inouye).

MEASURES PLACED ON THE CALENDAR

The following bills and joint resolutions were read the second time, and placed on the calendar:

S. 1830. A bill to prohibit earmarks.

S. 1931. A bill to provide civilian payroll tax relief, to reduce the Federal budget deficit, and for other purposes.

S. Res. 30. Joint resolution extending thecooling-off period under section 10 of the Railway Labor Act with respect to the dispute referred to in Executive Order No. 13586 of October 6, 2011.

S. Res. 31. Joint resolution applying certain conditions to the dispute referred to in Executive Order 13586 of October 6, 2011, between the enumerated freight rail carriers, common carriers by rail in interstate commerce, and certain of their employees represented by labor organizations that have not agreed to extend the cooling-off period under section 10 of the Railway Labor Act beyond 12:01 a.m. on December 6, 2011.

S. Res. 32. Joint resolution to provide for the resolution of the outstanding issues in the current railway labor-management dispute.

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–4115. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Emergency Measures; Transboundary Air Pollution” (FRL No. 9535–4) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4116. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Polyethylene glycol: Tolerance Exception” (FRL No. 8892–1) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4117. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; State to act on a permit for the Keystone XL Pipeline” (FRL No. 9498–8) received in the Office of the President of the Senate on November 29, 2011; to the Committee on Environment and Public Works.

EC–4126. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Revisions to Control Volatile Organic Compound Emissions for Surface Coatings and Graphic Arts” (FRL No. 9466–6) received in the Office of the President of the Senate on November 29, 2011; to the Committee on Environment and Public Works.

EC–4127. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning; Louisiana; Baton Rouge Area; Redesignation to Attainment for the 1997 8-Hour Ozone Standard” (FRL No. 9466–6) received in the Office of the President of the Senate on November 29, 2011; to the Committee on Environment and Public Works.

EC–4128. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning; North Carolina; Redesignation of the Hickory-Morganton-Lenoir 1997 Annual Fine Particulate Matter Nonattainment Area to Attainment” (FRL No. 9466–6) received in the Office of the President of the Senate on November 29, 2011; to the Committee on Environment and Public Works.

EC–4130. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning; North Carolina; Redesignation of the Winston-Salem–High Point 1997 Annual Fine Particulate Matter Nonattainment Area to..."
EC–4132. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Determination of Clean Data for the 2006 Fine Particulate Standard for the Commonwealth of Virginia; and Approval of a Change in the State Implementation Plan; Texas; Revisions to the New Source Review (NSR) State Implementation Plan for the City of Dallas (SIP); General Definition; Definition of Modification of Existing Facility” (FRL No. 9489-8) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2011; to the Committee on Environment and Public Works.

EC–4133. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Determination of Clean Data for the 2006 Fine Particulate Standard for the Commonwealth of Virginia; and Approval of a Change in the State Implementation Plan; Texas; Revisions to the New Source Review (NSR) State Implementation Plan for the City of Dallas (SIP); General Definition; Definition of Modification of Existing Facility” (FRL No. 9489-8) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2011; to the Committee on Environment and Public Works.

EC–4134. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; Delaware; Amendments to the Control of Volatile Organic Compound Emissions from Off-street Liquefied Petroleum Gas Dispensing Stations; Off-site Liquefied Petroleum Gas Dispensing Stations” (FRL No. 9487-1) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2011; to the Committee on Environment and Public Works.

EC–4135. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Approval and Promulgation of Air Quality Implementation Plans; Virginia; Update to Materials Incorporated by Reference” (FRL No. 9480-3) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2011; to the Committee on Environment and Public Works.

EC–4136. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled “Oil Pollution Prevention; Spill Prevention, Control, and Countermeasure (SPCC) Rule—Compliance Date Amendment for Farms” (FRL No. 9484-4) received during adjournment of the Senate in the Office of the President of the Senate on November 22, 2011; to the Committee on Environment and Public Works.

EC–4137. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled “List of Approved Spent Fuel Storage Casks: MAGNASTOR System, Revision 2” (RIN1530-AO1) received in the Office of the President of the Senate on November 29, 2011; to the Committee on Environment and Public Works.

EC–4138. A communication from the Chief of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Proposed Method of Accounting for Credits for Property Other than Capital Gains or Receivables” (Notice 2011-99) received in the Office of the President of the Senate on November 30, 2011; to the Committee on Finance.

EC–4139. 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 “Examination of returns and claims for refund, credit, or abatement; method of determining deficiency” (Rev. Proc. 2011-58) received in the Office of the President of the Senate on November 30, 2011; to the Finance Committee.

EC–4140. 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 “Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability” (Rev. Proc. 2011-59) received in the Office of the President of the Senate on November 28, 2011; to the Committee on Finance.

EC–4141. A communication from the Federal Register Liaison Officer, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Approval of OHP Facility; Southern California” (FRL No. 9506-1) received during adjournment of the Senate in the Office of the President of the Senate on November 29, 2011; to the Committee on Finance.

EC–4142. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled “Animal Husbandry; Declaration of Certifiable Color Additives” (Docket No. FDA-2009-N-0025) received in the Office of the President of the Senate on November 30, 2011; to the Committee on Finance.

EC–4143. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement to include the export of defense articles, including, technical data, and defense services to the Secretaria de la Defensa Nacional, for a radar system for the Mexican Aerospace program the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–4144. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement to include the export of defense articles, including, technical data, and defense services to the Secretaria de la Defensa Nacional, for a radar system for the Mexican Aerospace program the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–4145. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement to include the export of defense articles, including, technical data, and defense services to the Secretaria de la Defensa Nacional, for a radar system for the Mexican Aerospace program the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–4146. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement to include the export of defense articles, including, technical data, and defense services to the United Kingdom for the design, development and manufacture of up-to-date and maintenance of AC and DC electrical power generating systems, motors, motor drive systems, and system control units utilizing chilled water for the air conditioning system for hospitals and allied facilities for the United Kingdom military and defense services to the United Kingdom for the design, development and manufacture of upgrades to the Brimstone Weapon System for the British Army the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–4147. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled “Aircraft; Small Business Utilization; Sale of Defense Articles to Federal Contractors” (81 FR 22855) received in the Office of the President of the Senate on November 30, 2011; to the Committee on Foreign Relations.

EC–4148. A communication from the Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled “Animal and Plant Health Inspection Service; Petitions to Modify an Agreement to Include the Export of Defense Articles, Including, Technical Data, and Defense Services to the United Kingdom under the Arms Export Control Act; Sale of Defense Articles to Federal Contractors” (81 FR 6187) received in the Office of the President of the Senate on November 30, 2011; to the Committee on Foreign Relations.

EC–4149. A communication from the Secretary of Education, transmitting, pursuant to law, the report of a rule entitled “Safeguards; Aircraft; Telecommunications; Sale of Defense Articles to Federal Contractors” (81 FR 4126) received in the Office of the President of the Senate on November 30, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–4150. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Aircraft; Small Business Utilization; Sale of Defense Articles to Federal Contractors” (81 FR 31738) received in the Office of the President of the Senate on November 30, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–4151. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Aircraft; Small Business Utilization; Sale of Defense Articles to Federal Contractors” (81 FR 31738) received in the Office of the President of the Senate on November 30, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–4152. A communication from the Budget Officer, Office of the Treasurer, National Gallery of Art, transmitting, pursuant to law, the financial statements for the National Gallery of Art for the year ended September 30, 2011 and the auditor’s report thereon; to the Committee on Homeland Security and Governmental Affairs.

EC–4153. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual Management Report on the Status of Audits for the period from April 1, 2011 through September 30, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–4154. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Semiannual Report of the Inspector General for the period from April 1, 2011 through September 30, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–4155. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Semiannual Report of the Inspector General for the period from April 1, 2011 through September 30, 2011; to the Committee on Homeland Security and Governmental Affairs.
to the Committee on Homeland Security and Governmental Affairs.

EC–4156. A communication from the Chair-
man of the Council of the District of Colum-
bia, transmitting, pursuant to law, a report
on D.C. Act 19–234 “Cooperative Housing As-
sociation Economic Interest Recordation
Tax Temporary Amendment Act of 2011”; to
the Committee on Homeland Security and
Governmental Affairs.

EC–4157. A communication from the Chair-
man of the Council of the District of Colum-
bia, transmitting, pursuant to law, a report
on D.C. Act 19–235 “Real Property Tax Ap-
peals Commission Establishment Clarifica-
tion Amendment Act of 2011”; to the Com-
mittee on Homeland Security and Governmental
Affairs.

EC–4158. A communication from the Chair-
man of the Council of the District of Colum-
bia, transmitting, pursuant to law, a report
on D.C. Act 19–236 “Emergency Local Gov-
ernment Fiscal Relief Amendments Act of
2011” to the Committee on Homeland Security and
Governmental Affairs.

EC–4159. A communication from the Chair-
man of the Council of the District of Colum-
bia, transmitting, pursuant to law, a report
Equitable Real Property Tax Relief Act of 2011”;
to the Committee on Homeland Security and
Governmental Affairs.

EC–4160. A communication from the Chair-
man of the Council of the District of Colum-
bia, transmitting, pursuant to law, a report
on D.C. Act 19–238 “Vacant TaxClarification
Amendment Act of 2011”; to the Committee
on Homeland Security and Governmental
Affairs.

EC–4161. A communication from the Chair-
man of the Council of the District of Colum-
bia, transmitting, pursuant to law, a report
on D.C. Act 19–239 “Arthur Capper/Carr-
rollsburg Public Improvements Revenue
Bonds Amendment Act of 2011”; to the Com-
mittee on Homeland Security and Govern-
mental Affairs.

EC–4162. A communication from the Sec-
retary of Health and Human Services, trans-
mitting, pursuant to law, the Department of
Health and Human Service’s Semiannual Re-
port of the Inspector General for the period
from April 1, 2011 through September 30, 2011;
to the Committee on Homeland Security and
Governmental Affairs.

EC–4163. A communication from the Direc-
tor, Office of Personnel Management, trans-
mitting, pursuant to law, the Semiannual Re-
port of the Inspector General for the pe-
riod from April 1, 2011 through September 30,
2011 and the Management Report for the period
ending September 30, 2011; to the Committee
on Homeland Security and Governmental
Affairs.

EC–4164. A communication from the Sec-
retary of Energy, transmitting, pursuant to
law, the Department of Energy’s Semiannual
Report of the Inspector General for the pe-
riod from April 1, 2011 to September 30, 2011;
to the Committee on Homeland Security and
Governmental Affairs.

EC–4165. A communication from the Ad-
ministrator of the Agency for International
Development (USAID), transmitting, pursu-
ant to law, the Semi-Annual Report of the In-
spector General for the period from April 1,
2011 through September 30, 2011; to the Com-
mittee on Homeland Security and Gov-
ernmental Affairs.

EC–4166. A communication from the Ac-
cing Chief Financial Officer, Corporation for Na-
tional and Community Service, transmitting,
pursuant to law, the Semi-Annual Re-
port of the Inspector General and the Cor-
poration’s Performance and Accountability Re-
port on Final Action for the period from April 1, 2011 through September 30, 2011;
all people of the United States, particularly people with disabilities; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

At the request of Mr. Pryor, the name of the Senator from Delaware (Mr. Coons) was added as a cosponsor of S. 491, a bill to amend title 38, United States Code, to recognize the service in the reserve components of the Armed Forces of certain persons by honoring them with status as veterans under law, and for other purposes.

At the request of Mr. Casey, the name of the Senator from Colorado (Mr. Bennett) was added as a cosponsor of S. 506, a bill to amend the Elementary and Secondary Education Act of 1965 to address and take action to prevent bullying and harassment of students.

At the request of Mr. Casey, the name of the Senator from Louisiana (Mr. Vitter) was added as a cosponsor of S. 606, a bill to amend the Federal Food, Drug, and Cosmetic Act to improve the priority review voucher incentive program relating to tropical and rare pediatric diseases.

At the request of Mr. Kohl, the name of the Senator from California (Ms. Feinstein) was added as a cosponsor of S. 678, a bill to increase the penalties for economic espionage.

At the request of Ms. Mikulski, the name of the Senator from New Jersey (Mr. Menendez) was added as a cosponsor of S. 797, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

At the request of Ms. Cantwell, the name of the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 810, a bill to prohibit the conducting of invasive research on great apes, and for other purposes.

At the request of Mr. Casey, the names of the Senator from Colorado (Mr. Udall), the Senator from Oregon (Mr. Merkley) and the Senator from Rhode Island (Mr. Reed) were added as cosponsors of S. 834, a bill to amend the Higher Education Act of 1965 to improve education and prevention related to campus sexual violence, domestic violence, dating violence, and stalking.

At the request of Ms. Landrieu, the name of the Senator from North Carolina (Mr. Burr) was added as a cosponsor of S. 881, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase transactions, including disclosures of all costs to consumers under such agreements, to provide substantive rights to consumers under such agreements, and for other purposes.

At the request of Mr. Menendez, the name of the Senator from Louisiana (Ms. Landrieu) was added as a cosponsor of S. 1122, a bill to amend title 23, United States Code, to establish standards limiting the amounts of arsenic, lead, and glass beads used in pavement markings.

At the request of Mrs. Gillibrand, the name of the Senator from Vermont (Mr. Sanders) was added as a cosponsor of S. 1214, a bill to amend title 10, United States Code, regarding restrictions on the use of Department of Defense funds and facilities for abortions.

At the request of Mr. Tester, the name of the Senator from Alaska (Mr. Begich) was added as a cosponsor of S. 1358, a bill to amend the Family and Medical Leave Act of 1993 to provide leave because of the death of a son or daughter.

At the request of Mr. Bennet, the name of the Senator from Vermont (Mr. Sanders) was added as a cosponsor of S. 1358, a bill to amend title 10, United States Code, regarding restrictions on the use of Department of Defense funds and facilities for abortions.

At the request of Mr. Tester, the names of the Senator from Idaho (Mr. Crapo) and the Senator from Connecticut (Mr. Blumenthal) were added as cosponsors of S. 1544, a bill to amend the Securities Act of 1933 to require the Securities and Exchange Commission to exempt a certain class of securities from such Act.

At the request of Mr. Toomey, the name of the Senator from Iowa (Mr. Harkin) was added as a cosponsor of S. 1578, a bill to amend the Safe Drinking Water Act with respect to consumer confidence reports by community water systems.

At the request of Mr. Tester, the name of the Senator from Iowa (Mr. Harkin) was added as a cosponsor of S. 1733, a bill to establish the Commission on the Review of the Overseas Military Facility Structure of the United States.

At the request of Mr. Cornyn, the name of the Senator from Wyoming (Mr. Enzi) was added as a cosponsor of S. 1738, a bill to rescind the 3.8 percent tax on the investment income of the American people and to promote job creation and small businesses.

At the request of Mrs. Hagan, the name of the Senator from Massachusetts (Mr. Brown) was added as a cosponsor of S. 1747, a bill to amend the Fair Labor Standards Act of 1938 to modify provisions relating to the exemption for computer systems analysts, computer programmers, software engineers, or other similarly skilled workers.

At the request of Mr. Kink, the name of the Senator from Maryland (Ms. Mikulski) was added as a cosponsor of S. 1753, a bill to require operators of Internet websites that provide access to international travel services and market overseas vacation destinations to provide on such websites information to consumers regarding the potential health and safety risks associated with traveling to such vacation destinations, and for other purposes.

At the request of Mr. Leahy, his name was added as a cosponsor of S. 1792, a bill to clarify the authority of the United States Marshal Service to assist other Federal, State, and local law enforcement agencies in the investigation of cases involving sex offenders and missing children.

At the request of Mr. Whitehouse, the name of the Senator from California (Ms. Feinstein) was added as a cosponsor of S. 1792, supra.

At the request of Mr. Udall of New Mexico, the name of the Senator from Pennsylvania (Mr. Casey) was added as a cosponsor of S. 1798, a bill to direct the Secretary of Veterans Affairs to establish an open burn pit registry to ensure that members of the Armed Forces who may have been exposed to toxic chemicals and fumes caused by open burn pits while deployed to Afghanistan or Iraq receive information regarding such exposure, and for other purposes.

At the request of Mr. Lautenberg, the name of the Senator from Iowa (Mr. Harkin) was added as a cosponsor of S. 1816, a bill to amend title 23, United States Code, to modify a provision relating to minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.

At the request of Mr. Rubio, the names of the Senator from Alaska (Mr.
BEGICH) and the Senator from Mississippi (Mr. WICKER) were added as cosponsors of S. 1866, a bill to provide incentives for economic growth, and for other purposes.

S. 1761
At the request of Mr. Brown of Massachusetts, the name of the Senator from Nebraska (Mr. JOHANNES) was added as a cosponsor of S. 1871, a bill to prohibit commodities and securities trading based on nonpublic information relating to Congress, to require additional reporting by Members and employees of Congress of securities transactions, and for other purposes.

S. 1765
At the request of Mr. Brown of Ohio, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1876, a bill to require the establishment of a Consumer Price Index for Elderly Consumers to compute cost-of-living increases for Social Security benefits under title II of the Social Security Act.

S. 1886
At the request of Mr. Leahy, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1886, a bill to prevent trafficking in counterfeit drugs.

S. 1894
At the request of Mr. Schumer, the name of the Senator from Minnesota (Ms. Klobuchar) was added as a cosponsor of S. 1894, a bill to deter terrorism, provide justice for victims, and for other purposes.

S. 1900
At the request of Mr. Menendez, the name of the Senator from Maine (Ms. Collins) was added as a cosponsor of S. 1900, a bill to add to title XVIII of the Social Security Act to preserve access to urban Medicare-dependent hospitals.

S. 1903
At the request of Mrs. Gillibrand, the name of the Senator from Nebraska (Mr. JOHANNES) was added as a cosponsor of S. 1903, a bill to prohibit commodities and securities trading based on nonpublic information relating to Congress, to require additional reporting by Members and employees of Congress of securities transactions, and for other purposes.

S. 1912
At the request of Mr. Casey, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1917, a bill to create jobs by providing payroll tax relief for middle class families and businesses, and for other purposes.

S. 1929
At the request of Mr. Blumenthal, the name of the Senator from California (Mrs. Boxer) was added as a cosponsor of S. 1929, a bill to require the Secretary of the Treasury to mint coins in commemoration of Mark Twain.

S. 1930
At the request of Mr. Toomey, the name of the Senator from Florida (Mr. Rubio) was added as a cosponsor of S. 1930, a bill to prohibit earmarks.

S. 1932
At the request of Mr. Lugar, the name of the Senator from New Hampshire (Ms. Ayotte) was added as a cosponsor of S. 1932, a bill to require the Secretary of State to act on a permit for the Keystone pipeline.

AMENDMENT NO. 980
At the request of Mr. Webb, the names of the Senator from Ohio (Mr. Portman), the Senator from South Dakota (Mr. Thune), the Senator from Nebraska (Mr. JOHANNES), the Senator from Oklahoma (Mr. Inhofe), the Senator from Alaska (Ms. Murkowski) and the Senator from Wyoming (Mr. Enzi) were added as cosponsors of amendment No. 980 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 1024
At the request of Mr. Toomey, the names of the Senator from Pennsylvania (Mr. Casey) and the Senator from Indiana (Mr. Coats) were added as cosponsors of amendment No. 1024 intended to be proposed to H.R. 2354, a bill making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes.

AMENDMENT NO. 1114
At the request of Mr. Begich, the name of the Senator from New Mexico (Mr. Udall) was added as a cosponsor of amendment No. 1114 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1120
At the request of Mrs. Shaheen, the name of the Senator from Vermont (Mr. Sanders) was added as a cosponsor of amendment No. 1120 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1125
At the request of Mrs. Feinstein, the names of the Senator from Oregon (Mr. Merkley) and the Senator from Oregon (Mr. Wyden) were added as cosponsors of amendment No. 1125 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1128
At the request of Mrs. Feinstein, the names of the Senator from Utah (Mr. Lee), the Senator from Oregon (Mr. Merkley) and the Senator from Oregon (Mr. Wyden) were added as cosponsors of amendment No. 1128 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1145
At the request of Mr. Tester, the name of the Senator from Iowa (Mr. Harkin) was added as a cosponsor of amendment No. 1145 intended to be proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1152
At the request of Mr. Pryor, the name of the Senator from Delaware (Mr. Coons) was added as a cosponsor of amendment No. 1152 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1182
At the request of Mr. Sessions, the name of the Senator from Virginia (Mr. Webb) was added as a cosponsor of amendment No. 1182 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1202
At the request of Mr. Udall of New Mexico, the names of the Senator from Iowa (Mr. Harkin), the Senator from Michigan (Ms. Stabenow) and the Senator from West Virginia (Mr. Manchin) were added as cosponsors of amendment No. 1202 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1203
At the request of Mr. Udall of New Mexico, the names of the Senator from Utah (Mr. Tester), the Senator from Oregon (Mr. Merkley) and the Senator from Oregon (Mr. Wyden) were added as cosponsors of amendment No. 1203 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1206
At the request of Mrs. Boxer, the name of the Senator from Michigan
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(Ms. STABENOW) was added as a cosponsor of amendment No. 1206 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1225

At the request of Ms. KLOBUCHE, the name of the Senator from Colorado (Mr. UDALL), the Senator from California (Mrs. BOXER), and the Senator from Mississippi (Mrs. McCASKILL) were added as cosponsors of amendment No. 1414 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1123

At the request of Mr. BENNET, the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 1225 intended to be proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1247

At the request of Mr. MURRAY and the Senator from Missouri (Mrs. MCCASSIDY), the name of the Senator from West Virginia (Mrs. HAGAN) was added as a cosponsor of amendment No. 1294 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 1353

At the request of Mr. RUBIO, the name of the Senator from Florida (Mr. CUBA) was added as a cosponsor of amendment No. 1451 proposed to S. 1867, an original bill to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HAGAN (for herself, Ms. COLLINS, Mr. SCHUMER, Mr. KIRK, and Mr. AKAKA): S. 1867, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the 75th anniversary of the March of Dimes Foundation; to the Committee on Banking, Housing, and Urban Affairs.

Mrs. HAGAN. Mr. President, today I am proud to introduce the March of Dimes Commemorative Coin Act. For almost 75 years, the March of Dimes has fought to combat and prevent diseases that strike our youngest children, while also supporting mothers-to-be and families with infants in intensive care. The March of Dimes was founded in 1938 by President Franklin Roosevelt as the National Foundation for Infantile Paralysis, at a time when polio was on the rise. The Foundation established a polio patient aid program and funded research for vaccines developed by Jonas Salk, MD, and Albert Sabin, MD. These vaccines effectively ended epidemic polio in the United States.

Today one in 33 babies born in the United States is affected by a birth defect, and tragically, more than 5,500 infants die every year because of a birth defect. Moreover, an additional 500,000 children are diagnosed with development disabilities each year. Almost 13 percent of babies born in America are born prematurely—an increase of 36 percent since the early 1980s. In 2003, the March of Dimes took on the cause of reducing the number of infants who are born prematurely. And thanks to the great work of the March of Dimes and others, after three decades of increase, the pre-term birth rate has now dropped for the third year in a row.

You would be hard pressed to find someone today who doesn’t have a friend, a family member, a neighbor or a coworker who’s had a child born prematurely or born with one of the myriad of birth defects. A month ago, I had the pleasure of meeting the 2011 March of Dimes National Ambassador: Lauren Fleming, and her parents, Nikkii and Densel from Marvin, NC. Lauren was born three and a half months early and weighed just 2 pounds, 1 ounce. She spent the first 5 months of her life in the intensive care unit, being treated for respiratory distress and undergoing multiple surgeries. In part, because of the March of Dimes and the support provided by the March of Dimes, Lauren is now an adorable, vivacious 7-year old, and a hero to young children and their families throughout the country.

Although some progress has been made over the past several decades on reducing and preventing birth defects and prematurity, we need organizations such as the March of Dimes to continue to push for more research, more innovation and more prevention efforts.

The March of Dimes makes a difference. By investing millions of dollars to study premature births, birth defects, and infant mortality, including $5.6 million in North Carolina over the past 5 years, the March of Dimes is helping to ensure that we can reduce these occurrences.

But we can do more. That is why today I am introducing the March of Dimes Commemorative Coin Act of 2011. This bill would mint coins in recognition and celebration of the March of Dimes’ 75th anniversary in 2014. Proceeds from the commemorative coin will be used to support the March of Dimes’ Prematurity Campaign, an intensive multi-year campaign to raise awareness among health professionals and the general public and find the causes of prematurity.

Not only will the Commemorative Coin raise awareness of the March of Dimes’ efforts, but it will also help raise more funds. I simply cannot think of a more appropriate way to honor the March of Dimes than to mint actual “dimes” celebrating their work.

I want to thank my Republican colleagues, Senator SUZAN COLLINS, as well as Senators SCHUMER, KIRK, and AKAKA for joining me in cosponsoring this measure.

I urge my other colleagues to join us in supporting this important bill.

By Ms. SNOWE: S. 1867, a bill to amend chapter 6 of title 5, United States Code (commonly
known as the Regulatory Flexibility Act), to ensure complete analysis of potential impacts on small entities of rules, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. SMITH. Mr. President, I rise today to introduce the Regulatory Flexibility Improvements Act of 2011. Originally introduced in the House by Representative LAMAR SMITH of Texas, this targeted regulatory reform bill would strengthen the Regulatory Flexibility Act, RFA, the seminal legislation enacted in 1980 that requires Federal agencies to consider the cost and impact of proposed regulations on small businesses if such regulation would significantly affect a substantial number of small entities.

As a steadfast proponent for regulatory reform, I have been deeply troubled by this chamber’s unwillingness to act on an issue so critical to our Nation’s job creators. In stark contrast, our House counterparts are poised to pass this legislation, offering relief to our Nation’s small business job creators. I encourage my colleagues in the Senate to seize this opportunity and support this legislation.

If accepted, this is a solution in need of a problem, there is ample evidence to the contrary. In fact, an October 24 Gallup poll of American small business owners revealed that the number one problem they face is “complying with government regulations.” What I find increasingly frustrating is that although small businesses repeatedly express their concerns, the Senate continues to sit idly by, failing to take serious action!

At a time when unemployment stands at an unacceptable nine percent, and small businesses are struggling to create jobs, the imperative to focus our attention on regulatory reform couldn’t be clearer. Unfortunately, small businesses which historically create two-thirds of all new jobs, face an unequal federal regulatory burden. A September 2010, study commissioned by the Small Business Administration, SBA, Office of Advocacy found that small firms with fewer than 20 employees bear a disproportionate burden in complying with federal regulations. They pay an annual regulatory cost of $10,585 per employee, which is 36 percent higher than the regulatory cost facing large firms.

This must change, and the Regulatory Flexibility Improvements Act of 2011 aims to do just that. This bill reforms the flawed rulemaking process to ensure that federal agencies consider small business impact before a rule is promulgated, not after. For example, one provision of this legislation would expand the small business review panel process to apply to all agencies. These panels currently only apply to the Environmental Protection Agency, EPA, Office of the Federal Register, OSHA, and, thanks to an amendment that I included in the Wall Street Reform legislation, the new Consumer Financial Protection Bureau, CFPB. These panels have worked well at EPA and OSHA since 1996. Why not apply this stipulation to every Federal agency, so small businesses are considered at the forefront of the rulemaking process?

Another provision would require agencies to consider foreseeable “indirect” economic effects when determining whether a rule will have a significant impact on a substantial number of small entities. Currently, “direct” economic impacts are considered in the analysis. The RFA has already saved billions for small businesses by forcing government regulators to address the direct impact of proposed rules on small firms. If billions of dollars can be saved by filtering out overly cumbersome or duplicative direct regulatory mandates upon small business while improving workplace safety and environmental conditions, even more can be saved by filtering out overly cumbersome or bureaucratic costs to those small businesses indirectly impacted by regulation.

This type of commonsense reform is why the Regulatory Flexibility Improvements Act enjoys the support of more than 14 million Americans representing small business advocacy organizations, including the U.S. Chamber of Commerce and the National Federation of Independent Business, NFIB.

President Obama himself has identified government regulations as harmful to job creation. In a January 18 Wall Street Journal op-ed, he wrote that, “[s]ometimes, those rules have gotten out of balance, placing unreasonable burdens on business—burdens that have stifled innovation and have had a chilling effect on growth and jobs.” More recently, my friend, former Democratic Senator Blanche Lincoln, partnered with NFIB President Dan Danner to write an open letter to the President calling for sensible regulatory reform.

Winston Churchill once said, “If you have 10,000 regulations, you destroy all respect for the law!” And certainly, looking at the expanding universe of rules waiting on the horizon, and the vast labyrinth of existing ones, we should ponder how business can dedicate any time and resources to their principal mission of creating products, offering services, innovating and growing.

Consider that, since President Obama took office, his administration has approved 613 Federal rules, 129 of which have an economic impact topping $100 million. In fact, the President’s health reform legislation alone mandates 41 separate rulemakings, at least 100 additional regulatory guidance documents, and 129 reports, according to the U.S. Chamber of Commerce. How can our Nation’s small businesses compete in a global economy when Washington, DC lowered the bar and threw them with overwhelming regulatory burdens year after year? How can entrepreneurs grow their companies when the regulatory environment dissuades them from investing in new equipment or hiring additional workers?

While members of both parties are now calling for small business regulatory reform, the United States Senate remains skeptical. Hence, I urge my colleagues to support this critical legislation.

Mr. President, I ask unanimous consent that the text of the bill and a letter of support be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

S 1938

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 “Regulatory Flexibility Improvements Act of 2011”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.
SEC. 2. Clarification and expansion of rules covered by the Regulatory Flexibility Act.
SEC. 3. Expansion of report of regulatory agenda.
SEC. 4. Requirements providing for more detailed analyses.
SEC. 5. Repeal of waiver and delay authority; Additional powers of the Chief Counsel for Advocacy.
SEC. 7. Periodic review of rules.
SEC. 8. Judicial review of compliance with the requirements of the Regulatory Flexibility Act available after publication of the final rule.
SEC. 10. Clerical amendments.

SEC. 2. CLARIFICATION AND EXPANSION OF RULES COVERED BY THE REGULATORY FLEXIBILITY ACT.

(a) IN GENERAL.—Paragraph (2) of section 601 of title 5, United States Code, is amended to read as follows:

“(2) RULE.—The term ‘rule’ has the meaning given such term in section 551(4) of this title, except that such term does not include a rule of particular (and not general) applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances.”

(b) EXPANSION OF RULES COVERED BY THE REGULATORY FLEXIBILITY ACT.—Section 601 of title 5, United States Code, is amended by adding at the end the following new paragraph:

“(9) Economic impact.—The term ‘economic impact’ means, with respect to a proposed or final rule—
“(A) any direct economic effect on small entities of such rule; and
“(B) any indirect economic effect on small entities that is reasonably foreseeable and results from the interaction of such rule with other Federal rules recently issued or拟 to be issued by the agency, or with the small entity’s other business activities.

(c) INCLUSION OF RULES WITH BENEFICIAL EFFECT.—

(1) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—Section 606(a) of title 5, United States Code, is amended, in the first paragraph designated as paragraph (6), by striking “and inserting “Each initial regulatory flexibility analysis shall also contain a detailed description of alternatives to the proposed rule which minimize any adverse significant economic impact or maximize any beneficial significant economic impact on small entities.”.

(2) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 606(a) of title 5, United States Code, is amended, in the first paragraph designated as paragraph (6), by striking the period at the end and inserting “or a recordkeeping requirement, and without regard to whether such requirement is imposed by statute or regulation.”.

(d) INCLUSION OF RULES AFFECTING TRIBAL ORGANIZATIONS.—Section 606(a) of title 5, United States Code, is amended by striking “subject to section 6(f)(4) of title 5, United States Code, to read as follows:

“(3) LAND MANAGEMENT PLAN DEFINED.—Section 606(a) of title 5, United States Code, is amended by adding at the end the following:

“(10) LAND MANAGEMENT PLAN.—

“(10) LAND MANAGEMENT PLAN.—

“(A) IN GENERAL.—The term ‘land management plan’ means—

“(i) any plan developed by the Secretary of Agriculture under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);


“(B) REVISION.—The term ‘revision’, when used with respect to a land management plan, means any change to a land management plan which—

“(i) in the case of a plan described in subparagraph (A)(i), is made under section 6(f)(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); or

“(ii) in the case of a plan described in subparagraph (A)(ii), is made under section 1610.5 of title 43, Code of Federal Regulations (or any successor regulation).

“(C) AMENDMENT.—The term ‘amendment’, when used with respect to a land management plan, means any change to a land management plan which—

“(1) in the case of a plan described in sub-paragraph (A)(i), is made under section 6(f)(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)); or

“(2) F INAL REGULATORY FLEXIBILITY ANALYSIS.—

“(1) IN GENERAL.—Section 606(a) of title 5, United States Code, is amended by striking the period at the end and inserting “or a recordkeeping requirement, and without regard to whether such requirement is imposed by statute or regulation.”.

“(2) COLLECTION OF INFORMATION.—Para- graph (7) of section 601 of title 5, United States Code, is amended to read as follows:

“(7) COLLECTION OF INFORMATION.—The term ‘collection of information’ has the meaning given such term in section 3502(3) of title 44.

“(3) RECORDKEEPING REQUIREMENT.—Para- graph (8) of section 601 of title 5, United States Code, is amended to read as follows:

“(B) RECORDKEEPING REQUIREMENT.—The term ‘recordkeeping requirement’ has the meaning given such term in section 3502(3) of title 44.

“(c) DEFINITION OF SMALL ORGANIZATION.—

“(1) IN GENERAL.—Subsection (a) of section 602 of title 5, United States Code, is amended by striking the words “(or any successor regulation) and with respect to” and inserting “terminates and Education Assistance Act (25 U.S.C. 450h))’’ after “subordinate’’.

“(d) INCLUSION OF RULES AFFECTING TRIBAL ORGANIZATIONS.—Section 602 of title 5, United States Code, is amended—

“(1) in subsection (a)—

“(B) by inserting ‘or adopts a revision or amending a land management plan, after ‘United States.’.

“(2) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Subsection (a) of section 601 of title 5, United States Code, is amended, in the first sentence—

“(A) by striking ‘or’ after ‘proposed rule,’; and

“(B) by inserting ‘or publishes a revision or amendment to a land management plan, after ‘United States.’.

“(3) LAND MANAGEMENT PLAN DEFINED.—Section 602(b) of title 5, United States Code, is amended by adding at the end the following:

“(1) LAND MANAGEMENT PLAN.—

“(A) IN GENERAL.—The term ‘land management plan’ means—

“(i) any plan developed by the Secretary of Agriculture under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); and


“(B) REVISION.—The term ‘revision’, when used with respect to a land management plan, means any change to a land management plan which—

“(i) in the case of a plan described in sub-paragraph (A)(i), is made under section 6(f)(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); or

“(ii) in the case of a plan described in subparagraph (A)(ii), is made under section 1610.5 of title 43, Code of Federal Regulations (or any successor regulation).

“(C) AMENDMENT.—The term ‘amendment’, when used with respect to a land manage-ment plan, means any change to a land management plan which—

“(1) in the case of a plan described in sub-paragraph (A)(i), is made under section 6(f)(4) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(f)(5)); or

“(2) final regulatory flexibility analysis required under this section shall contain a detailed statement—

“(1) describing the reasons why action by the agency is being considered;

“(2) describing the objectives of, and legal basis for, the proposed rule;

“(3) estimating the number and type of small entities to which the proposed rule will apply;

“(4) describing the projected reporting, recordkeeping, and other compliance re-quirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report and record;

“(5) describing all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule, or the reasons why such a description could not be provided;

“(6) estimating the additional cumulative economic impact of the proposed rule on small entities beyond that already imposed or that would result if the agency takes action, and why such an estimate is not available; and

“(7) describing any disproportionate eco-nomic impact on small entities or a specific class of small entities.

(b) FINAL REGULATORY FLEXIBILITY ANALYSIS.—

“(1) IN GENERAL.—Section 604(a) of title 5, United States Code, is amended—

“(A) in paragraph (4), by striking “an explana-tion” and inserting “a detailed explana-tion’’;

“(B) in each of paragraphs (4), (5), and the first paragraph designated as paragraph (6), by inserting “detailed” before “description’’; and

“(C) by adding at the end the following:

“(7) a description any disproportionate economic impact on small entities or a specific class of small entities.

(2) INCLUSION OF RESPONSE TO COMMENTS ON CERTIFICATION OF PROPOSED RULE.—Para- graph (2) of section 606(a) of title 5, United States Code, is amended by inserting “(or certification of the proposed rule under section 606(b))’’ after “initial regulatory flexi-bility analysis’’.

SEC. 3. EXPANSION OF REPORT ON REGULATORY AGENDA.

Section 602 of title 5, United States Code, is amended—

“(1) in subsection (a)—

“(A) in paragraph (2), by striking “, and” at the end and inserting a semicolon;

“(B) by redesignating paragraph (3) as para-graph (4); and

“(C) by inserting after paragraph (2) the fol-low-
agency, and shall publish in the Federal Register the final regulatory flexibility analysis, or a summary thereof which includes the telephone number, mailing address, and link to the website where the complete analysis may be obtained.”.

(c) Cross-references to other analyses.—Subsection (a) of section 605 of title 5, United States Code, is amended to read as follows:

“(a) A Federal agency shall be treated as satisfying any requirement respecting the contents of an agenda or regulatory flexibility analysis under section 602, 603, or 604, if such agency provides in such agenda or analysis a cross-reference to the specific portion of the agenda or analysis required by any other law and which satisfies such requirement.”.

(2) Certifications.—Subsection (b) of section 605 of title 5, United States Code, is amended, in the second sentence, by striking “statement providing the factual” and inserting—

“detailed statement providing the factual and legal”.

(e) Quantification requirements.—Section 607 of title 5, United States Code, is amended to read as follows:

“§ 607. Quantification requirements

“In complying with sections 603 and 604, an agency shall provide—

(1) a quantifiable or numerical description of the proposed rule and alternatives to the proposed or final rule; or

(2) a more general descriptive statement and a detailed statement explaining why quantification is not practicable or reliable.”.

SEC. 5. REPEAL OF WAIVER AND DELAY AUTHORITIES.—Subsection (a) of section 605 of title 5, United States Code, is amended, by striking subsection (b) and all that follows through the end of the section and inserting the following:

“(b)(1) Prior to publication of any proposed rule described in subsection (e), the agency making the rule shall notify the Chief Counsel for Advocacy of the Small Business Administration and provide the Chief Counsel for Advocacy with—

(A) all materials prepared or utilized by the agency in making the proposed rule, including the draft of the proposed rule, except as provided in paragraph (2); and

(B) information on the potential adverse and beneficial economic impacts of the proposed rule on small entities and the type of small entities that might be affected.

(2) An agency shall provide a summary of any draft if the rule—

(A) relates to the internal revenue laws of the United States; or

(B) is proposed by an independent regulatory agency (as defined in section 3502(15) of title 5).

(c) Cross-references to other analyses.—Section 609 of title 5, United States Code, is amended, by striking subsection (b) and all that follows through the end of the section and inserting the following:

“§ 609. Additional powers of Chief Counsel for Advocacy

“(a) Not later than 270 days after the date of the enactment of the Regulatory Flexibility Improvements Act of 2011, each agency shall publish in the Federal Register and make available on the website of the agency a plan for the periodic review of rules issued by the agency which the Chief Counsel determines have a significant economic impact on a substantial number of small entities. Such determination shall be made without regard to whether the agency performed an analysis under section 604. The purpose of the review shall be to determine whether such rules should be continued without change, or amended with the stated objectives of applicable statutes, to minimize any adverse significant economic impacts or maximize any benefits accruing to small entities. The plan shall be to determine whether such rules should be continued without change, or amended with the stated objectives of applicable statutes, to minimize any adverse significant economic impacts or maximize any benefits accruing to small entities. The plan shall include a section that details how an agency will conduct outreach to and meaningfully include small entities in the comment and notice processes of the rulemaking. The plan shall include a section that details how an agency will conduct outreach to and meaningfully include small entities in the comment and notice processes of the rulemaking. The plan shall include a section that details how an agency will conduct outreach to and meaningfully include small entities in the comment and notice processes of the rulemaking. The plan shall include a section that details how an agency will conduct outreach to and meaningfully include small entities in the comment and notice processes of the rulemaking.

(c) The plan shall include a section that details how an agency will conduct outreach to and meaningfully include small entities in the comment and notice processes of the rulemaking. The plan shall include a section that details how an agency will conduct outreach to and meaningfully include small entities in the comment and notice processes of the rulemaking.
entities and gather their input on existing agency rules.

"The legislation strengthens the regulatory enforcement fairness Act of 1996 (5 U.S.C. 601 note) is amended to read as follows:

"The agency shall publish in the Federal Register notices on the website of the agency a list of rules to be reviewed pursuant to such plan. Such publication shall include a brief description of the rule, the reason why the agency determined that the rule has a significant economic impact on a substantial number of small entities (without regard to whether it had prepared a final regulatory flexibility analysis for the rule), and request comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman to consider the enforcement of the rule."

SEC. 8. JUDICIAL REVIEW OF COMPLIANCE WITH THE REQUIREMENTS OF THE REGULATORY FLEXIBILITY ACT AVAILABLE AFTER PUBLICATION OF THE FINAL RULE.

(a) In General.—Paragraph (1) of section 611(a) of title 5, United States Code, is amended by striking "final agency action" and inserting "final agency action and making such rules.

(c) **TIME FOR BRINGING ACTION.**—Paragraph (3) of section 611(a) of title 5, United States Code, is amended—

(1) by striking "final agency action" and inserting "final agency action and making such rules.

(2) by striking the item relating to section 607 and inserting the following new item:

"607. Quantification requirements.

(3) by striking the item relating to section 608 and inserting the following:

"SEC. 9. JURISDICTION OF COURT OF APPEALS OVER RULES IMPLEMENTING THE REGULATORY FLEXIBILITY ACT.

(a) In General.—Section 2342 of title 28, United States Code, is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period at the end and inserting "; and"

(3) by adding at the end the following new subparagraph:

"(8) all final rules under section 608(a) of title 5."

(b) CONFORMING AMENDMENTS.—Paragraph (3) of section 2341 of title 28, United States Code, is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) in subparagraph (E), by striking the period at the end and inserting "; and"

(3) by adding at the end the following new subparagraph:

"(F) the Office of Advocacy of the Small Business Administration, when the final rule is under section 608(a) of title 5."

(c) AUTHORIZATION TO INTERVENE AND COMMENT ON AGENCY COMPLIANCE WITH ADMINISTRATIVE PROCEDURE.—Subsection (b) of section 612 of title 5, United States Code, is amended by inserting "chapter 5, and chapter 7."

SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 601 of title 5, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking "(1) the term" and inserting the following:

"(1) Agency. The term;"

(2) in paragraph (3)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking "(3) the term" and inserting the following:

"(3) Small Business. The term;"

(3) in paragraph (5)—

(A) by striking the semicolon at the end and inserting a period; and

(B) by striking "(5) the term and inserting the following:

"(5) Small Governmental Jurisdiction. The term;"

(4) in paragraph (6)—

(A) by striking "and" at the end and inserting a period; and

(B) by striking "(6) the term and inserting the following:

"(6) Small Entity. The term."

(b) Section 605.—The heading of section 605 of title 5, United States Code, is amended to read as follows:

"SEC. 605. Incorporations by reference and certifications."

(c) TABLE OF SECTIONS.—The table of sections for chapter 6 of title 5, United States Code, is amended—

(1) by striking the item relating to section 605 and inserting the following new item:

"605. Incorporations by reference and certifications."

SEC. 11. AGENCY PREPARATION OF GUIDES.

Section 212(a)(5) of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) is amended to read as follows:

"The agency shall submit to Congress a report regarding the results of its review pursuant to the provisions of the Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 601 note) to the Congress, the Small Business Administration, and, in the case of agencies other than independent regulatory agencies (as defined in section 552(10) of title 5) to the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget. Such report shall include a description of any rule or a group of related rules where the agency determined that the rule has a substantial economic impact on a substantial number of small entities or disproporionate economic impact on a specific class of small entities, or maximize any benefical significant economic impact of the rule on a substantial number of small entities to the extent possible consistent with the stated objectives of applicable statutes. In amending or rescinding the rule, the agency shall consider the following factors:

(1) The continued need for the rule.

(2) The nature of complaints received by the agency from small entities concerning the rule.

(3) Comments by the Regulatory Enforcement Ombudsman and the Chief Counsel for Advocacy of the Small Business Administration.

(4) The complexity of the rule.

(5) The extent to which the rule overlaps, duplicates, or conflicts with other Federal rules. The act includes the head of the agency determines to be infeasible, State, territorial, and local rules.

(6) The contribution of the rule to the cumulative economic impact of all Federal rules on the class of small entities affected by the rule, unless the head of the agency determines that such calculations cannot be made and reports that determination in the annual report required under subsection (d).

(7) The length of time since the rule has been evaluated or the degree to which technology or economic conditions, or other factors have changed in the area affected by the rule.

(8) The agency shall publish in the Federal Register notices on the website of the agency a list of rules to be reviewed pursuant to such plan. Such publication shall include a brief description of the rule, the reason why the agency determined that the rule has a significant economic impact on a substantial number of small entities (without regard to whether it had prepared a final regulatory flexibility analysis for the rule), and request comments from the public, the Chief Counsel for Advocacy of the Small Business Administration, and the Regulatory Enforcement Ombudsman to consider the enforcement of the rule."

SEPTEMBER 21, 2011.


MEMBERS OF THE U.S. HOUSE OF REPRESENTATIVES: We are writing to express our support for H.R. 527, the Regulatory Flexibility Improvements Act of 2011, and to ask you to cosponsor this legislation, if you have not done so already. The legislation improves the regulatory process by strengthening agency analysis of a rule’s impact on small businesses.

Small businesses are the backbone of our nation’s economy, and their ability to operate efficiently and free of unnecessary regulatory burdens is critical for our country’s economic recovery. Research from a 2010 study released by the Small Business Administration (SBA) Office of Advocacy illustrates that the small business community is disproportionately affected by burdensome federal regulations. This legislation addresses that small business challenge directly.

H.R. 527 gives the SBA Office of Advocacy additional authorities and requires the Office to establish standards for conducting a “regulatory flexibility analysis” during the rulemaking process. It improves transparency and ensures that agencies thoughtfully consider the impact of regulations on small businesses.

The legislation would also improve the accuracy and benefit-cost analysis by requiring agencies to consider the indirect impact of regulations on small business.

Finally, the legislation’s provisions on predicate review of rules are in line with President Obama’s Executive Order 13563, which requires agencies to conduct a retrospective analysis of existing rules to identify and modify rules in need of reform.

The legislation strengthens the regulatory process and builds upon the intent of Congress when the Regulatory Flexibility Act was originally enacted in 1980.
Thank you for your support of small business and we urge you to cosponsor the Regulatory Flexibility Improvements Act of 2011, H.R. 327.

Mr. BLUMENTHAL submitted the following concurrent resolution:

S.E.N.A.T.E.
December 1, 2011

WHEREAS every Sunday, Laura Pollán led mass attendance in Havana, Cuba; and

WHEREAS Laura Pollán was often subjected to physical and verbal assaults during her weekly peaceful marches; and

WHEREAS Laura Pollán brought international attention to Cuban human- and civil-rights abuses in Cuba; and

WHEREAS Laura Pollán passed away on October 14, 2011; now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors Laura Pollán for her peaceful struggle to bring human rights and democracy to Cuba; and

(2) honors the bravery of Laura Pollán and her dedication to human and civil rights in Cuba; and

WHEREAS Ms. Pollán’s peaceful dissidence to Cuba will no longer be incarcerated or subjected to human-rights abuses.

Whereas the Act entitled “An Act to increase the ability of certain Federal agencies to provide access to physically handicapped persons to facilities owned or operated by Federal agencies, and for other purposes” was referred to the Committee on Health, Education, Labor, and Pension;

WHEREAS in 2008, 16.9 percent of veterans, amounting to more than 13,000,000 people, reported having a service-related disability to the Department of Veterans Affairs; and

WHEREAS according to the Current Population Survey of the Bureau of the Census, the number of people in the United States that report having a disability is at a 20-year high;

WHEREAS Mr. BLUMENTHAL submitted the following concurrent resolution, which was referred to the Committee on Health, Education, Labor, and Pensions:

WHEREAS in 2009, 12 percent of all people in the United States reported having some disability.

Whereas Federal funds are so designed and constructed as to be accessible to the physically handicapped”, approved August 12, 1968 (42 U.S.C. 12101 et seq.), was enacted to ensure that certain federally funded facilities are designed and constructed to be accessible to physically handicapped persons with ready access to, and use of, post offices and other Federal facilities; and

WHEREAS automatic doors, though not mandated by either the Architectural Barriers Act of 1968 or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), provide greater degree of self-sufficiency and dignity for people with disabilities, and the elderly, who may have limited strength to open a manual door;

WHEREAS a report commissioned by the Architectural Barriers Act of 1968, was enacted to ensure that certain federally funded facilities are designed and constructed to be accessible to physically handicapped persons with ready access to, and use of, post offices and other Federal facilities; and

WHEREAS automatic doors, though not mandated by either the Architectural Barriers Act of 1968 or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), provide greater degree of self-sufficiency and dignity for people with disabilities, and the elderly, who may have limited strength to open a manual door;

WHEREAS the Act entitled “An Act to increase the ability of certain Federal agencies to provide access to physically handicapped persons to facilities owned or operated by Federal agencies, and for other purposes” was referred to the Committee on Health, Education, Labor, and Pensions:

WHEREAS in 2009, 12 percent of all people in the United States reported having some disability.

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WHEREAS automatic doors, though not mandated by either the Architectural Barriers Act of 1968 or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), provide greater degree of self-sufficiency and dignity for people with disabilities, and the elderly, who may have limited strength to open a manual door;

Whereas Federal funds are so designed and constructed as to be accessible to the physically handicapped”, approved August 12, 1968 (42 U.S.C. 12101 et seq.), was enacted to ensure that certain federally funded facilities are designed and constructed to be accessible to physically handicapped persons with ready access to, and use of, post offices and other Federal facilities; and

WHEREAS automatic doors, though not mandated by either the Architectural Barriers Act of 1968 or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), provide greater degree of self-sufficiency and dignity for people with disabilities, and the elderly, who may have limited strength to open a manual door;

Whereas Federal funds are so designed and constructed as to be accessible to the physically handicapped”, approved August 12, 1968 (42 U.S.C. 12101 et seq.), was enacted to ensure that certain federally funded facilities are designed and constructed to be accessible to physically handicapped persons with ready access to, and use of, post offices and other Federal facilities; and

WHEREAS automatic doors, though not mandated by either the Architectural Barriers Act of 1968 or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), provide greater degree of self-sufficiency and dignity for people with disabilities, and the elderly, who may have limited strength to open a manual door;

Whereas Federal funds are so designed and constructed as to be accessible to the physically handicapped”, approved August 12, 1968 (42 U.S.C. 12101 et seq.), was enacted to ensure that certain federally funded facilities are designed and constructed to be accessible to physically handicapped persons with ready access to, and use of, post offices and other Federal facilities; and

WHEREAS automatic doors, though not mandated by either the Architectural Barriers Act of 1968 or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), provide greater degree of self-sufficiency and dignity for people with disabilities, and the elderly, who may have limited strength to open a manual door;

Whereas Federal funds are so designed and constructed as to be accessible to the physically handicapped”, approved August 12, 1968 (42 U.S.C. 12101 et seq.), was enacted to ensure that certain federally funded facilities are designed and constructed to be accessible to physically handicapped persons with ready access to, and use of, post offices and other Federal facilities; and

WHEREAS automatic doors, though not mandated by either the Architectural Barriers Act of 1968 or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), provide greater degree of self-sufficiency and dignity for people with disabilities, and the elderly, who may have limited strength to open a manual door;

Whereas Federal funds are so designed and constructed as to be accessible to the physically handicapped”, approved August 12, 1968 (42 U.S.C. 12101 et seq.), was enacted to ensure that certain federally funded facilities are designed and constructed to be accessible to physically handicapped persons with ready access to, and use of, post offices and other Federal facilities; and

WHEREAS automatic doors, though not mandated by either the Architectural Barriers Act of 1968 or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), provide greater degree of self-sufficiency and dignity for people with disabilities, and the elderly, who may have limited strength to open a manual door;

Whereas Federal funds are so designed and constructed as to be accessible to the physically handicapped”, approved August 12, 1968 (42 U.S.C. 12101 et seq.), was enacted to ensure that certain federally funded facilities are designed and constructed to be accessible to physically handicapped persons with ready access to, and use of, post offices and other Federal facilities; and

WHEREAS automatic doors, though not mandated by either the Architectural Barriers Act of 1968 or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), provide greater degree of self-sufficiency and dignity for people with disabilities, and the elderly, who may have limited strength to open a manual door;

Whereas Federal funds are so designed and constructed as to be accessible to the physically handicapped”, approved August 12, 1968 (42 U.S.C. 12101 et seq.), was enacted to ensure that certain federally funded facilities are designed and constructed to be accessible to physically handicapped persons with ready access to, and use of, post offices and other Federal facilities; and

WHEREAS automatic doors, though not mandated by either the Architectural Barriers Act of 1968 or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), provide greater degree of self-sufficiency and dignity for people with disabilities, and the elderly, who may have limited strength to open a manual door;
 Whereas the laws of the State of Connecticut require automatic doors in certain shopping malls and retail businesses, the laws of the State of Delaware require an automatic door or calling device for newly constructed or renovated facilities managed by the General Services Administration, including post offices;

Whereas the United States was founded on principles of equality and freedom, and these principles require that all people, even those people with disabilities, are able to engage as equal members of society; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the immense hardships that people with disabilities in the United States must overcome every day;

(2) reaffirms its support of the Act entitled “An Act to insure that certain buildings financed, wholly or in part, with federal funds are so designed and constructed as to be accessible to the physically handicapped,” approved August 12, 1968 (42 U.S.C. 4151 et seq.), commonly known as the Architectural Barriers Act of 1968 and the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and encourages full compliance with such Acts;

(3) recommends that the United States Postal Service and Federal agencies install power-assisted doors at post offices and other federally funded facilities, as applicable, to ensure equal access for all people of the United States; and

(4) pledges to continue to work to identify and remove the barriers that prevent all people of the United States from having equal access to the services provided by the Federal Government.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1455. Mr. BROWN of Ohio submitted an amendment intended to be proposed by him to the bill H.R. 2354, making appropriations for energy and water development and for other purposes; which was ordered to lie on the table.

SA 1456. Mrs. FEINSTEIN (for herself, Mr. LEVIN and Mr. DURBIN) proposed an amendment to the bill S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 47, line 13, strike “$237,623,000” and insert “$227,247,000.”

On page 66, line 13, strike “$88,024,000” and insert “$86,400,000.”

SA 1456. Mrs. FEINSTEIN (for herself, Mr. LEVIN and Mr. DURBIN) proposed an amendment to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On page 47, line 13, strike “$237,623,000” and insert “$227,247,000.”

On page 66, line 13, strike “$88,024,000” and insert “$86,400,000.”

SA 1457. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 2354, making appropriations for energy and water development and related agencies for the fiscal year ending September 30, 2012, and for other purposes; which was ordered to lie on the table; as follows:

On p. 360, between lines 21 and 22, insert the following:

(e) Nothing in this section shall be construed to affect existing law or authorities, relating to the detention of United States citizens, lawful resident aliens of the United States or any other persons who are captured or arrested in the United States.

The hearing will be held on Thursday, December 8, 2011, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to consider the nomination of Arunava Majumdar, to be Under Secretary of Energy.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510–6150, or by email to Allison.Seyferth@energy.senate.gov.

For further information, please contact Sam Fowler at (202) 224–7571 or Allison Seyferth at (202) 224–4905.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on December 1, 2011, at 10 a.m. in SD–106. The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on December 1, 2011, at 10 a.m., to conduct a hearing entitled “Spurring Job Growth Through Capital Formation While Protecting Investors.”

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on December 1, 2011, at 10 a.m.,
held a hearing entitled, “U.S. Strategic Objectives Towards Iran.”

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on December 1, 2011, at 2:30 p.m. to conduct a hearing entitled “Insider Trading and Congressional Accountability.”

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

COMMITTEE ON INDIAN AFFAIRS

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

COMMITTEE ON THE JUDICIARY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on December 1, 2011, at 10 a.m., in SD–226 of the Dirksen Senate Office Building to conduct an executive business meeting.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES AND INTERNATIONAL SECURITY

Mr. LEVIN. 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 National Security be authorized to meet during the session of the Senate on December 1, 2011, at 10:30 a.m. to conduct a hearing entitled, “The financial and Societal Costs of Medicating America’s Foster Children.”

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

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Tiffany Griffin, a fellow in Senator BINGAMAN’s office, be granted the privilege of the floor during today’s session of the Senate.

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

Mr. REID. Mr. President, I ask unanimous consent that Roger Yang, a member of the staff of Senator MERKLEY, be granted the privilege of the floor today.

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

NATIONAL GUARD AND RESERVE DEBT RELIEF ACT EXTENSION OF 2011

Mr. MERCER. Mr. President, I ask unanimous consent that the President proceed to the immediate consideration of H.R. 2192, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2192) to exempt for an additional 4-year period, from the application of the means test provisions of chapter 7, qualifying members of reserve components of the Armed Forces and members of the National Guard who, after September 11, 2001, are called to active duty or to perform a homeland defense activity for not less than 90 days.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, in 2008, I was proud to join Senator DURBIN in support of the National Guard and Reservists Debt Relief Act, which President Bush signed into law. This last week I have been able to arrange on behalf of the Senate Judiciary Committee for expedited action on the bill’s extension that the Senate is passing unanimously. I commend Chairman LAMAR SMITH and the House Judiciary Committee for moving this legislation, and Representative COHEN, the bill’s author, for his leadership and attention to details. Without this measure, the authority we provided to help our Guard and Reserve families would expire. By taking this action we preserve the assistance this authority provides.

It is a privilege to work on behalf of the men and women who serve in the Vermont National Guard. They have and continue to make all Vermonters proud. I cannot say enough about the men and women who serve in the National Guard. They and their families deserve the full support of Congress for the sacrifices they make. Especially now, where multiple conflicts have demanded even more of them, when so many have been called into active service, we need to keep them foremost in our thoughts.

Extending the protections of the National Guard and Reservists Debt Relief Act for another 4 years is the right thing to do. The bill the Senate passes today will exempt qualifying members of the Guard and Reserve from the harsh means test imposed in our bankruptcy laws a few years ago. As a result of Congress’s enactment of a 2005 bankruptcy measure, passed at the behest of large banks and credit card companies, Americans to this day face the difficult decision to seek the protection of the bankruptcy court now face onerous requirements to demonstrate that they are experiencing sufficient hardship to enter chapter 7 bankruptcy. Under the National Guard and Reservists Debt Relief Extension Act, qualified members of the Guard and Reserve will be protected against the burden of this requirement for another 4 years.

In my view, no American, particularly in times of such economic hardship, should have this burdensome requirement of the so-called means test imposed upon them. The bankruptcy system was established to protect Americans and give them a fresh start. The enactment of bankruptcy law on its head. I opposed this provision in the Senate in 2005, and continue to have serious misgivings about a policy that presumes that Americans facing extreme financial hardships are abusing the bankruptcy process.

Passage of the National Guard and Reservists Debt Relief Extension Act is a step forward toward correcting our current policy.

I also note that passage of this legislation is another example of the good cooperation that exists between the Senate and House Judiciary Committees operating across the aisle and across the Capitol. Last night, the Senate passed H.R. 394, the Federal Courts Jurisdiction and Venue Clarification Act, a bill sponsored by Chairman SMITH to bring clarity to the operation of Federal jurisdictional and venue statutes, thereby helping to reduce wasteful litigation over these issues.

The bipartisan bill passed in the House by Representatives by HOWARD COBLE, ranking member JOHN CONVES, Jr., and HANK JOHNSON of Georgia. Companion legislation was introduced in the Senate by Senator KLOUNIS, who chairs the Senate Judiciary Committee’s Subcommittee on Administrative Oversight and the Courts, and was cosponsored by Senator Sessions, the ranking member on the subcommittee.

These two bills are just the most recent examples of legislation I have worked with Chairman SMITH to enact. Of course, we worked together to enact the Leahy-Smith America Invents Act to revitalize our patent laws. We worked together on authorizing the extension of the term of FBI Director Mueller, which required a statutory exception, and on reauthorizing the USA PATRIOT Act.

Other examples include H.R. 368, Representative HANK JOHNSON’s bill to clarify removal provisions for matters filed in State courts against Federal agencies and officers; H.R. 398, Representative LOFGREN’s bill to toll certain time periods for those in active service to our country; S.1637, Senator KLOUNIS of Nebraska’s bill to clarify how time is calculated under the Federal Rules; and H.R. 2944, Chairman SMITH’s bill to extend the authority of the U.S. Parole Commission.

In addition to these nine measures, we are continuing to work on a number of additional bills, including: S. 1639, Senator TESTER’s bill to amend the American Legion charter; and S. 1541, Senator BENNET’s bill to revise the Blue Star Mothers charter. The look forward to our continued collaborative relationship. Our successful efforts across the aisle and across the Capitol show that the partisan gridlock
that has become all too prevalent these days does not govern everywhere.

Mr. MERKLEY. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 2192) was ordered to a third reading, was read the third time, and passed.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. MERKLEY. Mr. President, I ask unanimous consent that on Monday, December 5, 2011, at 4:30 p.m., the Senate proceed to executive session to consider the following nominations: Calendar items Nos. 363, 364, 365, and 406, under the previous order.

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

ORDERS FOR MONDAY, DECEMBER 5, 2011

Mr. MERKLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Monday, December 5, 2011; 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; that following any leader remarks, the Senate be in a period of morning business until 4:30 p.m. with Senators permitted to speak therein for up to 10 minutes each; and that following morning business, the Senate proceed to executive session under the previous order.

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

PROGRAM

Mr. MERKLEY. Mr. President, the next rollcall vote will be Monday at 5:30 p.m. on confirmation of one of the judicial nominations. We expect the remaining three judges to be confirmed by consent.

As a reminder, cloture was filed on the nomination of Caitlin Joan Halligan, to be U.S. Circuit Judge for the District of Columbia. That cloture vote will occur at noon on Tuesday.

ADJOURNMENT UNTIL MONDAY, DECEMBER 5, 2011, AT 2 P.M.

Mr. MERKLEY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 9:52 p.m., adjourned until Monday, December 5, 2011, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

MARILYN B. TAVENNER, OF VIRGINIA, TO BE ADMINISTRATOR OF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, VICE DONALD M. BERWICK, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

RICHARD M. SCOTT

WITHDRAWAL

Executive message transmitted by the President to the Senate on December 1, 2011 withdrawing from further Senate consideration the following nomination:

DONALD M. BERWICK, OF MASSACHUSETTS, TO BE ADMINISTRATOR OF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES, VICE MARK B. MCCLELLAN, WHICH WAS SENT TO THE SENATE ON JANUARY 26, 2011.
EXTENSIONS OF REMARKS

OAKHURST PRESBYTERIAN CHURCH

HON. HENRY C. “HANK” JOHNSON, JR. OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, December 1, 2011

Mr. JOHNSON of Georgia. Mr. Speaker, I submit the following Proclamation.

Whereas, Oakhurst Presbyterian Church has been and continues to be a beacon of light to our county for the past ninety years; and

Whereas, Pastors Gibson “Nibs” Stroupe and Pastor Caroline Leach and the members of the and Oakhurst Presbyterian Church family today continues to uplift and inspire those in our county; and

Whereas, this remarkable and tenacious Church of God has given hope to the hopeless, fed the needy and empowered our community for the ninety (90) years by preaching the gospel and living the gospel; and

Whereas, Oakhurst has produced many spiritual warriors, people of compassion, people of great courage, fearless leaders and servants to all, but most of all visionaries who have shared not only with their Church, but with DeKalb County and the world their passion to spread the gospel of Jesus Christ; and

Whereas, the U.S. Representative of the Fourth District of Georgia has set aside this day to honor and recognize the Oakhurst Presbyterian Church family on their 90th Anniversary and for their leadership and service to our District;

Now therefore, I, HENRY C. “HANK” JOHNSON, JR. do hereby proclaim September 25, 2011 as Oakhurst Presbyterian Church Day in the 4th Congressional District.

Proclaimed, this 25th day of September, 2011.

WORKFORCE DEMOCRACY AND FAIRNESS ACT

SPREAD OF HON. RUSH D. HOLT OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 30, 2011

The House in Committee of the Whole House on the state of the Union had under consideration the bill (H.R. 3094) to amend the National Labor Relations Act with respect to representation hearings and the timing of elections of labor organizations under that Act.

Mr. HOLT. Mr. Chair, I rise in strong opposition to the Election Prevention Act, H.R. 3094. As a member of the House Committee on Education and Workforce, I voted against this fundamentally flawed bill when we considered it and I will oppose it again today.

The majority deceptively named this bill the Workplace Democracy and Fairness Act, which should tell us all that this bill has nothing to do with workplace democracy or fairness. If they wanted to deal with those issues they would bring to the floor the Employee Free Choice Act, which I have long been a co-sponsor of.

Today again the Majority is showing the American public that the Majority don’t think we have a jobs crisis in America, and that getting Americans back to work is not their top priority.

Getting the American economy back on track and helping to create jobs is my first, second and third priority. Unlike the Majority, I remain committed to creating jobs immediately and expanding educational opportunity for all Americans. Unfortunately, my amendment to help keep almost 400,000 teachers in the classroom was rejected on procedural grounds.

Rather than bringing to the floor legislation to help create jobs, we are wasting the time of this House attempting to undermine workers rights.

The Election Prevention Act continues an assault on the National Labor Relations Board (NLRB) and the work it does to uphold the rights of workers across our county. This bill will NOT help create a single job. Rather, the bill would allow employers to delay union organizing elections in the hopes of discouraging workers from organizing, encourage frivolous litigation and manipulate the procedures of union elections.

The NLRB has proposed real changes to restore fairness to the union election process and reduce unnecessary delays. For example, the proposed rules would allow the electronic filing of petitions, ensure that all parties receive timely information about pending matters, and allow for the consolidation of all appeals into a single post-election appeals process. These are sensible changes. Yet, the Election Prevention Act would override these proposed rules, and make arbitrary delays commonplace.

This bill is one more solution in search of a problem. The problem is jobs; the solution is Congress taking bold steps to get Americans back to work. At a town hall I recently held, no one asked me about the NLRB, they asked me about jobs and economic growth.

We should be mindful of why Congress approved the National Labor Relations Act (NLRA) and established the NLRB in 1935. Senator Robert Wagner who wrote the NLRA reminded his colleagues that in 1935 “in the highest income bracket, one in five of the families in the United States were earning as much as the 42 percent at the bottom.”

Today’s economic conditions are remarkably similar.

Yet, instead of helping workers organize and bargain collectively to help raise wages, improve workplace safety and ensure a comfortable retirement, the Election Prevention Act ignores the economic crisis facing American workers and makes the American Dream even harder to achieve.

A TRIBUTE TO CRAIG SAMUEL

HON. EDOMPHUS TOWNS OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Thursday, December 1, 2011

Mr. TOWNS. Mr. Speaker, I rise today to honor Mr. Craig Samuel for his culinary expertise that has infused Brooklyn with tastes from all over the world while celebrating the roots of New York culture.

Born and raised in Bedford Stuyvesant, Brooklyn, Mr. Samuel developed a strong talent in visual art, and ultimately attended New York City’s Art and Design High School. While in high school, his artist’s eye was evidenced at home, as he created culinary dishes that were not only delicious, but also beautiful to look at. Mr. Samuel developed a love for the art of cooking at a very early age.

After High School, Mr. Samuel attended Temple University, where he followed his father’s wishes and majored in business and economics. Early in his college career, Mr. Samuel’s father passed away. After that life-altering event, he soon found himself at the Philadelphia Restaurant School. Never lacking in courage, Mr. Samuel decided that he would approach the chef/owner of the most revered restaurant in Philadelphia, which was also one of the most important restaurants in the world of haute cuisine, Le Bec Fin.

His time spent at Le Bec Fin strengthened that Craig had the talent, stamina, and discipline to compete in the culinary world. After graduating at the top of his class in culinary school and completing his internship, he headed back to New York and ultimately became the executive chef at both The Cub Room and City Hall Restaurants. During this time Mr. Samuel left the U.S. to cook in Spain and in France and do a food tour of Italy. After coming back to the U.S. he decided it was time to open up a venue of his own.

In 2005, while still executive chef at City Hall Restaurant, Mr. Samuel and his good friend and sous chef, Ben Grossman teamed up to go into the barbecue business in Brooklyn. They opened The Smoke Joint in Fort Greene in 2006. Since that time, Mr. Samuel has opened Peaches Restaurant and Peaches Hot-House and has had numerous favorable reviews in Time Out, The New York Times, New York Magazine, New York Press, the Village Voice and many others. The Smoke Joint has the unmatched honor of being the only Brooklyn based barbecue restaurant featured in the world renowned Michelin Guide.

Mr. Samuel is happily married to Laura. They have two children, Tiara, who is currently a junior attending The Fashion Institute of Technology, and Alana who is in her sophomore year at The Saint Paul’s School in Concord, NH.
Mr. Speaker, I would like to recognize Mr. Craig Samuel for his exceptional foresight in the culinary business that has provided Brooklyn with tastes from around the country.

**SOUTHEASTERN FEDERAL REGIONAL DIRECTORS**

**HON. HENRY C. “HANK” JOHNSON, JR. of GEORGIA IN THE HOUSE OF REPRESENTATIVES**

Thursday, December 1, 2011

Mr. JOHNSON of Georgia. Mr. Speaker, I submit the following Proclamation.

Whereas, the Southeastern Region of the United States has many citizens that work to make our Region a worthy instrument for good; and

Whereas, President Barack Obama appointed five outstanding individuals to serve as directors of the Southeastern agencies, Cassius Butts, Small Business Administration, Gwendolyn Keys-Fleming, Environmental Protection Agency, Edward Jennings, Department of Housing and Urban Development, Paulette Norvel Lewis, U.S. Department of Labor and Carls V. Williams, Department of Health and Human Services, each individual being charged to bring community service, honor and excellence in government; and

Whereas, the Southeastern Regional Directors are promoting and providing the concept of One Community-One Goal by working with and for individuals in all walks of life to make our Region a place where the needs of the people are met; and

Whereas, these directors give of themselves tirelessly and unconditionally to serve our community and our nation by providing leadership and service; and

Whereas, the lives of many in our district are touched by the leadership and service given by these directors; and

Whereas, the U.S. Representative of the Fourth District of Georgia has set aside this day to honor and recognize Cassius Butts, Gwendolyn Keys-Fleming, Edward Jennings, Paulette Norvel Lewis and Carls V. Williams for their outstanding service to America;

Now therefore, I, HENRY C. “HANK” JOHNSON, Jr. do hereby proclaim October 27, 2011 as Southeastern Federal Regional Directors Day in the 4th Congressional District of Georgia.

Proclaimed, this 27th day of October, 2011.

**HONORING RICHARD “RICK” ROBINSON**

**HON. JEFF DENHAM of CALIFORNIA IN THE HOUSE OF REPRESENTATIVES**

Thursday, December 1, 2011

Mr. DENHAM. Mr. Speaker, I rise today to acknowledge and honor Richard (Rick) Robinson, Stanislaus County Chief Executive Officer, and to thank him for his leadership and dedication to the citizens of Stanislaus County.

Richard (Rick) Robinson was appointed Stanislaus County Chief Executive Officer in September, 2004. Prior to his appointment in Stanislaus County, he had, since 1991, held the position of Chief Administrator with Tehama County. Rick started his local government career in 1981 in the Tehama County Auditor-Controller’s Office as an Accountant. In 1986, he was elected Auditor-Controller and ran unopposed for a second four-year term in 1990.

Mr. Robinson currently serves on several local committees, including the Community Hospice Board of Directors, the Governing Board of Doctors Medical Center, Stanislaus Workforce Alliance Board of Directors, and the Valley First Credit Union Supervisory Committee.

Rick was recently honored by the Stanislaus County Equal Rights Commission as a recipient of the 2011 Annual Dale Butler Equal Rights Award for exemplary service in equal employment opportunity matters and leadership in promoting equal rights.

Faced with severe financial challenges during the current economic crisis, Mr. Robinson led an effort to develop a multi-year framework around which the County Budget functions—a strategy which enables the County to address both current and future year budget shortfalls in a systematic and proactive manner.

During his career with Stanislaus County, Rick led many efforts aimed at strengthening the County Health Care safety net, including successful initiatives to attain the Federally Qualified Health Care Facility Designation in the County’s Hospital, a multi-year effort to retain the County Residency Program, and the sale and transition of the Stanislaus Behavioral Health Center to private ownership.

Mr. Robinson has also led efforts to create an Animal Services Joint Powers Agency, construct a state-of-the-art Animal Shelter, create the new Modesto Regional Fire Authority, securitize future tobacco settlement revenues in excess of $40 million and establish, with board approval, a capital facilities revolving loan fund to assist in financing future County construction projects, and coordinate the County’s 2011 redistricting efforts.

Rick was an honors graduate of California State University, Chico, earning his degree in Business Administration with an emphasis in Accounting. He is a lifetime selection to Beta Gamma Sigma, the national scholastic honor society for business graduates.

As Chief Executive Officer with Stanislaus County, under the direction of the Board of Supervisors, Mr. Robinson oversees all aspects of Stanislaus County government, which includes 26 County departments, a $900 million operating budget and over 3600 employees.

Rick has been married to his wife Kathy for thirty-seven years. They have four children and eight grandchildren.

Mr. Speaker, please join me in honoring and commending Richard (Rick) Robinson, Stanislaus County Chief Executive Officer, for his numerous years of selfless service to the betterment of our community.

**A TRIBUTE TO KESHA TOWNSEL**

**HON. EDOLPHUS TOWNS of NEW YORK IN THE HOUSE OF REPRESENTATIVES**

Thursday, December 1, 2011

Mr. TOWNS. Mr. Speaker, I rise today to honor Kesha Townsel for her devotion to the public education and youth in Brooklyn.

Ms. Townsel has served Brooklyn with tastes from around the country.

Mr. Speaker, I would like to recognize Ms. Townsel for her unwavering support to education and youth in Brooklyn.

**UNJUST IMPRISONMENT OF ALAN GROSS**

**HON. CHARLES B. RANGEL of NEW YORK IN THE HOUSE OF REPRESENTATIVES**

Thursday, December 1, 2011

Mr. RANGEL. Mr. Speaker, I rise today to express my sincere concern over the unjust imprisonment of Alan Gross by the Cuban government. A true humanitarian, Mr. Gross was sentenced in March to 15 years in prison for “acts to undermine the integrity and independence” of Cuba.

Before the sentencing earlier this year, Mr. Gross had already been imprisoned for two years without charge. He was in Cuba as part of a USAID contract to provide support to members of the Cuban Jewish community.
Mr. Gross is an international development specialist and social worker. He has positively impacted the lives of people in over 50 countries, including the West Bank, Gaza, Iraq, Afghanistan, Africa, and Haiti. His work has always been focused on helping people.

I join my constituents of the Jewish Community Relations Council of New York, Mr. Gross’ wife Judy, their two daughters, and my colleague Senator Ben Cardin and Congressman Chris Van Hollen in calling for the speedy and unconditional release of Allan Gross.

PERSONAL EXPLANATION

HON. MIKE ROSS
OF ARKANSAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. ROSS of Arkansas. Mr. Speaker, on Wednesday, November 30, 2011, I was not present for rollcall vote 869 on passage of H.R. 3094, the Workforce Democracy and Fairness Act.

Had I been present for rollcall 869, I would have voted "no."

A TRIBUTE TO THEOPHINE ABAKPORO

HON. EDELOPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. TOWNS. Mr. Speaker, I rise today to honor Theophine Abakporo for his dynamic approach to healthcare in my district of Brooklyn, New York.

Dr. Abakporo, M.D. is the Medical Director/Chairman, Emergency Services of Wyckoff Heights Medical Center and an Assistant Professor of Emergency Medicine in Clinical Medicine at Weill Cornell Medical College/New York Presbyterian Hospital. Dr. Abakporo has worked with Wyckoff for the last fourteen years, except during temporary assignments to other senior roles in the Division. Specifically, in 2009, Loretta served as her Division’s Acting Assistant Attorney General, pending confirmation to that post of Thomas Perez. From August 2010 through June 2011, Loretta led the Civil Rights Division’s Employment Litigation Section as its Acting Chief.

A civil rights legal pioneer, Loretta became one of the highest ranking women and persons of color to serve in the Justice Department and the first African-American woman to hold the positions in the Civil Rights Division of Acting Assistant Attorney General and Deputy Assistant Attorney General.

As a Member of Congress representing Americans who know all too well the sting of injustice, I am here to salute Loretta’s tireless work and long service upholding the civil and constitutional rights of all Americans. As Robert F. Kennedy once said, “few will have the greatness to bend history itself; but of each of us: in our time, the total; of all those acts will be written in history. And that history will judge us by the quality of that action.” Loretta has done just that.

Again, I ask the House to celebrate Loretta as a servant to her family and country as well as defender of the civil rights of all people, including the residents of the Nation’s capital.

PERSONAL EXPLANATION

HON. ELEANOR HOLMES NORTON
OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Ms. NORTON. Mr. Speaker, I rise today to ask my colleagues in the House of Representatives to join me in recognizing Loretta King, a champion for civil rights, a loving wife and mother, and a dedicated public servant.

Today, Loretta is celebrating her retirement most recently as the career Deputy Assistant Attorney General in the United States Department of Justice, Civil Rights Division. In total, Loretta has dedicated more than 32 years of her life in defense of our Nation and the public at large.

Loretta’s career is one self-sacrifice and commitment to protecting the rights of all Americans, without regard to race, gender, or political affiliation.

As a career-track civil servant, Loretta epitomizes a Justice Department lawyer; Loretta did so without seeking the limelight, year after year, day in and day out, for all her career. Starting as a law clerk while completing her studies, Loretta literally rose up the ranks at the Justice Department to become the Acting Assistant Attorney General for Civil Rights, the government’s chief civil rights advocate.

After graduating in 1990 from American University, Washington College of Law, Loretta was chosen by the Justice Department’s Legal Honors Program. From 1980 to 1990, Loretta served as a line attorney in the Civil Rights Division’s Employment Litigation Section, tasked with enforcing Title VII of the 1964 Civil Rights Act. In this post, Loretta led and settled the Justice Department’s first sexual harassment case as well as its first paternity leave case. Over the next 20 years, Loretta worked in both the Justice Department’s Civil and Civil Rights Divisions. In 1992, Loretta was tapped to serve as the Deputy Chief of the Civil Rights Division’s Voting Section. In 1994, Loretta was elevated to her current role as the Civil Rights Division’s Deputy Assistant Attorney General, where she has served continuously for 17 years, except during temporary assignments to other senior roles in the Division. Specifically, in 2009, Loretta served as her Division’s Acting Assistant Attorney General, pending confirmation to that post of Thomas Perez. From August 2010 through June 2011, Loretta led the Civil Rights Division’s Employment Litigation Section as its Acting Chief.

As a civil rights legal pioneer, Loretta became one of the highest ranking women and persons of color to serve in the Justice Department and the first African-American woman to hold the positions in the Civil Rights Division of Acting Assistant Attorney General and Deputy Assistant Attorney General.

As a Member of Congress representing Americans who know all too well the sting of injustice, I am here to salute Loretta’s tireless work and long service upholding the civil and constitutional rights of all Americans. As Robert F. Kennedy once said, “few will have the greatness to bend history itself; but of each of us: in our time, the total; of all those acts will be written in history. And that history will judge us by the quality of that action.” Loretta has done just that.

Again, I ask the House to celebrate Loretta as a servant to her family and country as well as defender of the civil rights of all people, including the residents of the Nation’s capital.

HONORING CHICK-FIL-A

HON. HENRY C. “HANK” JOHNSON, JR.
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. JOHNSON of Georgia. Mr. Speaker, I regret missing a floor vote on Wednesday, November 30, 2011. Had I registered my vote, I would have voted: “No” on rollcall No. 869, On Final Passage of H.R. 3094—the Workforce Democracy and Fairness Act.

WHEREAS, we need businesses to set up shop in our communities to provide the goods and services that are needed in order for our citizens to survive and thrive on a day-to-day basis; and

WHEREAS, in 2001, Mr. Tony Royal opened his 1,000th Chick-fil-A Restaurant at Turner Hill Road near in Lithonia, Georgia to serve the citizens of DeKalb County, Georgia and nearby communities; and

WHEREAS, Mr. Royal is the owner and operator of the restaurant, he credits all of the success to his team: the sales, the community outreach, the ownership, the partnership, and the promotion of scholarships; and

WHEREAS, Mr. Royal and the Chick-fil-A team at Turner Hill continues to be a resource...
for citizens in DeKalb County and beyond with excellent service, providing employment opportunities and providing a product that "keeps America moving"—contributing to the local and national economy; and
Whereas, the U.S. Representative of the Fourth District of Georgia is officially honoring, recognizing and congratulating Mr. Tony Royal and Chick-fil-A at Turner Hill on their tenth (10th) anniversary as a business anchor in our District;
Now therefore, I, HENRY C., "HANK" JOHNSON, Jr. do hereby proclaim November 1st, 2011 as Chick-fil-A Day in the 4th Congressional District of Georgia.
Proclaimed, this 1st day of November, 2011.

HON. ZELLA GHARAT
HON. JEFF DENHAM
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. DENHAM. Mr. Speaker, I rise today to recognize and honor Mr. Zella Ghart, who after 33 years as a member of the Stanislaus County Board of Education, has announced her plans to retire effective December 13, 2011.
A retired legal assistant, Ghart was first appointed to the County Board of Education on June 6, 1978. Throughout the years, she has worked with four county superintendents, including Neal Wade, John Allard, Martin Peterson and the current superintendent, Tom Changnon. She’s seen many changes in education since 1978. “Special education programs were fairly new when I started, and I’ve watched the Head Start program grow over the years,” said Ghart. “I was on the Board when we purchased our current Outdoor Education site and was there for our first county Academic Decathlon and our first Youth Entertainment Stage Company performance.” She also remembers the important vote to purchase SCOE’s administration building at 1100 H Street, she said.

Stanislaus County Superintendent of Schools Tom Changnon praised Ghart for her invaluable contributions to the Board. “Zella always has the best interest of students in mind,” said Changnon. “She is an advocate for children and a valuable member of the Board. We will miss her.”

“I’ve seen a lot of changes over the past 33 years, and I’ve also seen opportunities for students expand,” said Ghart. “From charter schools to specialized academies, there are a multitude of programs in place to ensure that every student can succeed,” she said. “I’m proud of all that we’ve accomplished over the years.”

Through its role of long-range policy development and other critical functions, the County Board works with the Stanislaus County Superintendent of Schools and staff to offer the most effective educational programs and district support services. The County Board of Education has responsibility for approving the annual county office budget, adopting policies governing the operation of the Board, acting as the appeals board for student expulsions, acting as the appeals board for inter-district transfers, acting as the appeals board for Charter School petitions, establishing the County Superintendent’s salary, and may serve as the landlord and owner of property.

The Board also encourages the involvement of families and communities and is a vehicle for citizen access to communication about SCOE’s programs and services. Regular meetings of the Stanislaus County Board of Education are open to the public and are held on the second Tuesday of each month beginning at 8:30 a.m. Meetings are generally held at the Stanislaus County Office of Education, unless otherwise announced.

Mr. Speaker, please join me in thanking Zella Ghart for her 33 years of dedicated service as a member of the Stanislaus County Board of Education.

A TRIBUTE TO LCG COMMUNITY SERVICES, INC.

HON. EDOLPHUS TOWNS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. TOWNS. Mr. Speaker, I rise today to honor the LCG Community Services, Inc. for its mission to provide client-centered services to low-income individuals with one or more special needs to constituents in my district of Brooklyn, New York.

LCG Community Services, Inc. (LCG) is a 501(c)(3) not-for-profit community based organization that began operations in 2006. LCG offers their services to individuals that have special needs, such as homelessness, mental illness, and developmental disabilities, the elderly, chronic illness, HIV/AIDS, substance abuse, and victims of domestic violence. LCG serves over 5,000 consumers per year from many different nationalities and ethnicities.

LCG recognizes that a home is the foundation necessary to begin addressing other critical individual needs. As such, LCG takes particular pride in their housing programs. LCG provides transitional and permanent housing in congregate and scatter-site settings. LCG, through its HAC division, also operates a group home for orphaned children in Haiti. The group home established in December 2010 is a place for adolescent orphan boys to grow up in a safe, supportive environment after the earthquake.

LCG believes that educating consumers is the most effective method of advocacy. Through health fairs, dinners, and various other programs, LCG provides workshops, seminars, and educational materials to the community at-large.

LCG has found that integrating celebrity entertainment with education can be a very powerful tool in reaching out to children and young adults. LCG organizes an annual, summer, Children’s Health Awareness Day, with famous entertainers that are attended by over 2,500 families. Every Thanksgiving, LCG Community Services hosts over 500 seniors for Thanksgiving dinner at Boy’s and Girl’s High School, in Brooklyn. These are individuals who have found themselves alone during the Thanksgiving holiday. They also provide mental health professionals, and staff from medical clinics that speak to the seniors and who are available to answer questions.

LCG also has a comprehensive guardianship and court evaluation program. United Guardianship Services of New York (UGSNY), UGSNY was formed to assist the elderly, many of whom are no longer capable of making their own health and financial decisions. UGSNY’s goal is to provide the highest level of care, through the use of dedicated legal, financial and social service personnel. UGSNY works closely with the New York State Court system, Adult Protective Services and other city and state agencies to provide comprehensive assistance with the respect and dignity that our elderly deserve.

Mr. Speaker, I would like to recognize LCG Community Services, Inc. for their continued involvement with the less fortunate.

IN COMMEMORATION OF TED TRAMBLEY’S CYCLING CAREER ON HIS 60TH BIRTHDAY

HON. DENNIS A. CARDOZA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. CARDOZA. Mr. Speaker, it is with great honor that I rise today to recognize a dedicated and gifted athlete on his 60th birthday, Ted Trambley.

In commemoration of his birthday, I want to honor him and his achievements as an exceptional cyclist, culminating this year with a truly inspired race to the top of Mount Haleakala in Hawaii this summer in record time. Born in 1951, Ted Trambley grew up in Pleasant Hill, California and graduated College Park High School in 1969 and California State University, Hayward in 1975 where he was a gymnast and avid cyclist. It was in college that cycling became one of his true passions in life and he began a career in racing that has spanned over four decades.

Ted has belonged to several racing clubs over the years, including the Diablo Wheelman, Strada Sempre Duro, and his current club, Taleo.

Of the many races he has finished over his career, one of his most memorable was the Davis Double Century, a 200 mile race in a single day. In 1974, early in his career and at the height of his competitive peak, he was barely edged out of the lead and finished second. He continued this race annually for four years.

He also participated in the Death Ride through the Sierra Nevada Mountains in California, racing 129 miles and climbing over 15,000 feet of elevation. A race not for the faint of heart.

Since 1986, Ted has been competing in the annual Mt. Diablo Mountain Challenge, a 10.8 mile race climbing 3,249 feet where he regularly finishes among the fastest and at the very top of his age group. Drawing between 800 and 1,100 riders each year, this is one of the premier races in the San Francisco Bay Area.

These races are just a sample of his long and storied career, but it was this year, in 2011, at the Cycle to the Sun in Hawaii, on the island of Maui, that Ted Trambley truly demonstrated the strength and endurance that has defined his character for so many years. This race is one of the most difficult bike races in the world, climbing over 10,000 feet of elevation and travelling over 36 miles while its gradient sometimes reaches 18%. As a comparison, the famed Mont Ventou in the

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Tour de France is only a 5,336 foot climb over 13.6 miles.

Ted Trambley won his age group with a time of 3 hours, 43 minutes, and 39 seconds and finished 35th overall. A tremendous achievement, he should be proud knowing he has conquered the course.

He has mentioned retirement from the racing circuit, but I truly doubt that he will hang up his cleats. It is near impossible to give up a lifelong passion.

Although he has accomplished these amazing feats of athletic endurance over four decades of training and dedication, he could not have done so without the tireless support of his wife, Mary Ann, and his two sons, Sean and Kyle.

Mr. Speaker, I ask that my colleagues join me in honoring a truly remarkable athlete, husband, and father, Ted Trambley.

RECOGNIZING GEORGIA OLIVE FARMS

HON. JACK KINGSTON
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. KINGSTON. Mr. Speaker, I rise today to commend Georgia Olive Farms for successfully harvesting the first olive crop in the eastern United States in nearly 125 years.

An Italian vacation inspired Jason Shaw to envision olives being grown in, of all places in the world, South Georgia. To make this vision a reality, he partnered with his brother Sam Shaw and cousin Kevin Shaw and the trio planted their first olive orchard near Lakeland, Georgia in 2008. They later established a cooperative association with George Hughes and Berrien Sutton of Homerville, Georgia to create Georgia Olive Farms.

Georgia Olive Farms was organized in 2009 near Lakeland, Georgia to establish and develop the innovative agricultural venture of mechanical olive harvesting. In September, they successfully harvested approximately three tons of arbequina olives to be processed into high quality extra virgin olive oil. This harvest marks a milestone in southern agriculture, as this was the first harvest of olives in not just the south, but in the entire eastern United States since the late 1800s. To make matters even more significant, this year marks a milestone in southern agriculture, as this was the first harvest of olives in not just the south, but in the entire eastern United States since the late 1800s.

The 2010–2011 season was one full of accomplishments for the Spiders—setting a school record for number of wins, 29, and points scored, 2,577. On several occasions, the Spiders defied the odds to beat top-tier programs. In November, the Spiders pulled off the upset by shocking the then-8th ranked Purdue Boilermakers by a score of 65-54. After gaining a berth to the NCAA Tournament, the Spiders carried their seven game win streak into a game against the fifth seed, Vanderbilt, and proceeded to knock off the favorite in the opening round of the tournament.

Several Richmond players took home individual accolades this past season as well. Senior guard Kevin Anderson—the 2010 Atlantic 10 Player of the Year—continued to pile up individual accolades, garnering both First-Team All-Conference honors as well as being named the 2011 A-10 Tournament MVP. Senior forward Justin Harper also earned First-Team All-Conference honors and subsequently was drafted 32nd overall in this past June’s NBA Draft, Kevin Smith, a senior forward, also was named to the A-10 All-Defensive team.

The Spiders’ success on the basketball court should come as no surprise. Led by head coach Chris Mooney, the University of Richmond has established itself as not only a leader in the A-10 but also one of the nation’s elite. Mooney’s Spiders have reached the NCAA Tournament in back-to-back years, and have also finished inside the Top 25 of the ESPN/USA Today Coaches poll the past two years. The Spiders have shown that they do not shy away from competition—having won seven of their last ten games against ranked opponents.

Mr. Speaker, please join me in commending the Richmond Spiders men’s basketball team, Coach Mooney, President Ed Ayers, and the entire community at the University of Richmond for a spectacular season and I wish them well this season.

RECOGNIZING THE UNIVERSITY OF RICHMOND MEN’S BASKETBALL TEAM FOR REACHING THE NCAA BASKETBALL TOURNAMENT’S SWEET SIXTEEN

HON. ERIC CANTOR
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. CANTOR. Mr. Speaker, I rise today to recognize the University of Richmond men’s basketball team for a remarkable 2010–2011 season, which culminated in an Atlantic 10 Conference Championship as well as a berth to the Sweet Sixteen of the NCAA Division I Men’s Basketball Tournament.

The University of Richmond, which is located in the heart of Virginia’s Seventh Congressional District, boasts a long tradition of excellence on the basketball court. Since 1984, the Richmond Spiders have earned an impressive 9 bids to compete in the NCAA Tournament and have reached the Sweet Sixteen on two of those trips.

This past March Richmond, with cross-town rival, Virginia Commonwealth University, the Spiders captivated the entire City of Richmond as one of two teams advancing to the Sweet Sixteen—a feat matched by only two other cities since 1980. The 2010–2011 season was one full of accomplishments for the Spiders—setting a school record for number of wins, 29, and points scored, 2,577. On several occasions, the Spiders defied the odds to beat top-tier programs. In November, the Spiders pulled off the upset by shocking the then-8th ranked Purdue Boilermakers by a score of 65-54. After gaining a berth to the NCAA Tournament, the Spiders carried their seven game win streak into a game against the fifth seed, Vanderbilt, and proceeded to knock off the favorite in the opening round of the tournament.

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Mr. Speaker, please join me in commending the Richmond Spiders men’s basketball team, Coach Mooney, President Ed Ayers, and the entire community at the University of Richmond for a spectacular season and I wish them well this season.

IN MEMORY OF PASTOR CHARLES HENRY WILLIAMS

HON. E. SCOTT RIGELL
OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. RIGELL. Mr. Speaker, I rise today to enter a statement into the record on behalf of my constituent, Reverend Aaron Wheeler:

“Pastor Charles Henry Williams has been a pillar of strength and love to his flock at the Morning Star Baptist Church and to the good people of the 2nd Congressional District of Virginia for more than 40 years. He has labored in the vineyard as a pastor and leader to all who knew and loved him, and his accomplishments are truly remarkable.

From the moment Dr. Williams was called to the ministry in 1967, he embraced the poor and seeking the lost for the Lord. Pastor Williams served on too numerous boards and committees to mention. Some of the organizations he served in as a faithful member and in leadership positions were the Virginia Beach Ministerial Association, Sharmay Missionary Association of Suffolk and the Tidewater Metro Minister’s Conference. And on a lighter note, Pastor Williams was honored by the Virginia Beach Afro-American Cultural Council as an “Honorary Cowboy” in 1999.

This man of God was bestowed with an Honorary Doctorate Degree from Norfolk Seminary in 1997. The former Mayor of Virginia Beach acknowledged that December 4, 1994 was officially, “Pastor Charles Henry Williams Day” in the city of Virginia Beach.

It is evident to all those who interacted with Pastor Williams just how much this humble man truly loved his family.

The people of the 2nd Congressional District of the State of Virginia give honor to Pastor Charles Henry Williams, as his untimely leaving is our loss but heaven’s gain.

The Bible rang true for his service to this world in the scripture of 2 Timothy 4:7-8: “I have fought the good fight, I have finished the race, I have kept the faith. Finally, there is laid up for me the crown of righteousness, which the Lord, the righteous Judge will give to me on that Day.”
Mr. WALDEN. Mr. Speaker, I rise today to recognize one of my colleagues and my colleagues the story of Mr. Bill Hoyt and his life-long efforts to support agriculture and ranching, which are so important to jobs and the economy in rural Oregon. Over the past two years, Bill has done a tremendous job serving as the president of the Oregon Cattlemen’s Association. Later this week, Bill’s term as president will come to an end. Before he hands over the reins I would like to pay tribute to his steadfast leadership.

Prior to serving as president of the Oregon Cattlemen’s Association, Bill served as president of the Douglas County Livestock Association and as president of the Oregon Polo Association. On top of his duties with the Oregon Cattlemen’s Association, he serves on the board of the Oregon Forage and Grassland Council and the National Cattlemen’s Beef Association. In 2009, the Oregon Agribusiness Council recognized Bill’s service to Oregon’s agricultural and ranching community by presenting him with the 2009 Voice of the Industry award.

During his tenure as president of the Oregon Cattlemen’s Association, Bill has worked to promote and protect the interests of ranchers throughout Oregon. Bill has made a concerted effort to engage the general public about issues facing ranchers. He has spent many hours and miles traveling to meetings with rotary clubs, chambers of commerce and the environmental community, telling the story of Oregon’s cattle ranchers, whose $700 million industry provides jobs throughout rural Oregon. His efforts to educate the public and build relationships with other interested groups culminated in the passage of the Livestock Compensation and Wolf Co-Existence Act during Oregon’s 2011 legislative session. This precedent-setting legislation goes beyond precedent-setting legislation goes beyond Oregon’s 2011 legislative session. This precedent-setting legislation goes beyond

Mr. WALDEN. Mr. Speaker, I rise today to honor the 10th anniversary of WE CAN, Women’s empowerment through Cape Area Networking in Harwich Port, Massachusetts.

Recognizing that every community member’s well-being contributes to that of the whole community, WE CAN’s mission has been to empower Cape Cod women of all ages undergoing challenging life transitions. It is services that bring increased opportunity, self-sufficiency, stability, and lasting positive change for themselves, their families and, ultimately, the entire community. After ten years, WE CAN remains committed to that mission.

WE CAN had its beginnings at Cape Cod Community College in a program called Women in Transition, WIT, which was designed to help women of all ages and demographics improve their lives through education. A year later, WIT became WE CAN. In its first year, they helped 15 women. Early services included emergency financial aid; programs that provided guidance on reenrolling in school and mentorship; help filling out forms for emergency fuel assistance, financial aid for education, job applications; and information and referrals to other organizations on the Cape. Now, ten years later, at the half mark of this year, WE CAN, had already handled more than 2100 contacts and served close to 1000 women.

WE CAN has a true tradition of excellence thanks to its outstanding leadership, superior volunteers, board, staff, generous community partners and motivated program participants. Based on evolving needs of the Cape population, they continued to grow in terms of the number of women and their families served;

TRIBUTE TO BILL HOYT
HON. GREG WALDEN
OF OREGON
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. WALDEN. Mr. Speaker, I urge all my colleagues to support this important measure.

WORLD AIDS DAY
HON. JESSE L. JACKSON, JR.
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. JACKSON of Illinois. Mr. Speaker, I rise today in recognition of World AIDS Day, December 1, 2011, and in support of the more than 33 million people worldwide living with AIDS, including over one million Americans.

World AIDS Day began in 1988 to raise public awareness for one of the most deadly pandemics in history. Since 1981, over 25 million people have died from HIV or AIDS related illnesses, and in 2008 alone more than 2.7 million people were newly infected. In the United States, more than one million people are living with HIV, with one in five of those cases currently unaware of their condition. HIV disproportionately affects people of color, men who have sex with men, and those without access to affordable birth control.

2011 marks 30 years since the discovery of the first AIDS cases in the United States. To date, more than 600,000 Americans in the United States and abroad have been effective as HIV infections worldwide are at their lowest levels since 1997. There is much more to be done, but I’m proud of the commitment we’ve made—research at the National Institutes of Health, prevention and education programs at the Centers for Disease Control and Prevention, the Ryan White CARE Act, the President’s Emergency Plan for AIDS Relief and the Global Fund for AIDS, TB and Malaria—and it is my hope that we will continue that great work.

Mr. Speaker, World AIDS Day provides us with an occasion to raise awareness about HIV prevention measures. With continued commitment to public health programs, research, early testing and screening, and age appropriate sexual education programs, we can work together to protect ourselves from HIV, and eradicate this disease for good.

I urge my colleagues to stand with me in supporting the Americans and people across the globe infected with HIV, and to support the efforts that will bring an eventual end to this deadly disease.

IN RECOGNITION OF THE 16TH ANNIVERSARY OF WE CAN
HON. WILLIAM R. KEATING
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. KEATING. Mr. Speaker, I rise today to honor the 10th anniversary of WE CAN, Women’s empowerment through Cape Area Networking in Harwich Port, Massachusetts.

Recognizing that every community member’s well-being contributes to that of the whole community, WE CAN’s mission has been to empower Cape Cod women of all ages undergoing challenging life transitions. It is services that bring increased opportunity, self-sufficiency, stability, and lasting positive change for themselves, their families and, ultimately, the entire community. After ten years, WE CAN remains committed to that mission.

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WE CAN has a true tradition of excellence thanks to its outstanding leadership, superior volunteers, board, staff, generous community partners and motivated program participants. Based on evolving needs of the Cape population, they continued to grow in terms of the number of women and their families served;
the development of their programs and services; and in terms of their ability to attract volunteers, secure grants and donations from area businesses and individuals.

Mr. Speaker, I urge my colleagues to join me in congratulating WE CAN, its staff, board, volunteers, community partners, and program participants on the celebration of 10 years of service to the Commonwealth of Massachusetts.

HONORING GABRIEL ZIMMERMAN
HON. JANICE D. SCHAKOWSKY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Ms. SCHAKOWSKY. Mr. Speaker, I rise today to remember Gabriel Zimmerman, who tragically lost his life in the senseless shooting on January 8, 2011, that took 5 other lives and resulted in the serious wounding of our wonderful and resilient colleague, Representative GABBY GIFFORDS.

Gabe dedicated his life to helping others. On that day, he had organized a Congress on Your Corner event so that constituents could bring their problems to Representative GIFFORDS and her staff to get them solved. We have learned a lot about Gabe’s commitment to service—his practice of going the extra mile to help improve the lives of so many.

In January 2007, Gabe began serving as Constituent Services Supervisor for newly-elected Congresswoman GIFFORDS. In that role, he oversaw an extensive constituent advocacy program, working directly with the people of Arizona’s Eighth Congressional District every day. He then served as Congresswoman GIFFORDS’ Director of Community Outreach, where he organized hundreds of events to allow constituents all over southern Arizona to meet with Congresswoman GIFFORDS. I know how much my colleague, Congresswoman GIFFORDS, relied on Gabriel and how much she valued their work together.

Margaret Bowe, a close college friend of Gabe, described him as “a warm, funny, energetic, smart, interesting person who was passionate about life.” She went on to explain “Gabe’s purpose, his motivation, his passion, was to help people, he believed in the ideals of our political system.”

I remember that day well—my thoughts and concerns went out to those involved in that horrific event but also to my own staff, who work extremely hard, putting in long hours to serve the constituents of the 9th District of Illinois. Every one of them is committed to helping people and they are regularly in the same role that Gabriel was on that January morning. They do not get the recognition that they deserve, often enough.

Our staffs are out there in our communities every day, embodying the same values Gabe worked so hard for. In remembering Gabe, we also must salute the thousands of staffers across the country, who keep his memory alive by proudly serving their communities and country.

My thoughts and prayers go out to Gabe’s family and friends, among them my colleague GABRIELLE GIFFORDS, who so deeply mourn his tragic death.

HONORING EMMA H. NEWSOME
HON. HENRY C. “HANK” JOHNSON, JR.
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. JOHNSON of Georgia. Mr. Speaker, I submit the following Proclamation.

Whereas, Thirty-five years ago a virtuous woman of God accepted her calling to serve in the Atlanta Field Office of the Department of Housing and Urban Development (HUD); and

Emma H. Newsome began her career working in various positions, she rose to the rank of Regional Director’s Liaison and has served the citizens well and our community has been blessed through her service; and

Whereas, this phenomenal woman has shared her time and talents as a Coordinator, Deputy Director, Liaison and Motivator, giving the citizens of Georgia a person of great worth, a fearless leader and a servant to all who wants to advance the lives of the citizens in our region; and

Whereas, Mrs. Newsome is formally retiring from her governmental career today, she will continue to provide civic duty because she is a cornerstone in our community that has enhanced the lives of thousands for the betterment of our District and Nation; and

Whereas, the U.S. Representative of the Fourth District of Georgia has set aside this day to honor and recognize Mrs. Emma H. Newsome on her retirement from the Department of Housing and Urban Development (HUD) and to wish her well in her new endeavors;

NOW, therefore, I, HENRY C. “HANK” JOHNSON, JR. do hereby proclaim November 4, 2011 as Mrs. Emma H. Newsome Day in the 4th Congressional District of Georgia.

Proclaimed, this 4th day of November, 2011.

HONORING MICHAEL D. “MIKE” WALDEN
HON. JEFF DENHAM
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. DENHAM. Mr. Speaker, I rise today to honor Veterans of Foreign Wars Chowchilla Post 9896 Life Member Michael D. “Mike” Walden who served his country honorably from a very young age.

Mike was born in Los Angeles in 1946; he attended local area schools before enlisting in the United States Army in June of 1963, at the age of seventeen. He completed his basic training at Fort Ord, California, and later completed specialized training in armor warfare in Fort Knox, Kentucky. Mike was next sent to Korea for twelve months for duty with the 2nd Battalion of the 10th Calvary, 7th Division at Camp Hansen located in the demilitarized zone. The unit provided security and conducted patrols while observing North Korean communist forces across the DMZ. Soon after, Mike returned to the States for duty with the 1st Battalion, 2nd Infantry, and 5th Division. After extensive training, the division was transitioned into duty with the First Infantry Division, known as the “Big Red One”. The “Big Red One” remains one of the most storied divisions of the U.S. Army, having led the way for American troops in WWII, and during WWII, was the first Army Division to fight the Germans on North Africa, Sicily, the beaches of Normandy, and the Battle of the Bulge. During his service, his division was called to fight in Vietnam. Throughout 1965, this unit was involved in significant and major combat engagements.

Mike completed a twelve month tour in Vietnam; he returned to the United States in 1966 and was discharged five days after his twentieth birthday. After serving three years and two tours in Korea and Vietnam, he was still not old enough to legally purchase a beer. For his service, he was awarded the National Defense Service Medal, the Combat Infantryman’s Badge, the Good Conduct Medal, and the Korea Defense Medal, among others.

After his retirement from the U.S. Army, Mike graduated from West Valley College and St. Mary’s College and worked as a project support engineer. He and his wife, Gayla Darlene, make their home in Chowchilla with their two children. Mike is a Life Member of the Chowchilla VFW Post 9896 and an active member of his church.

Mr. Speaker, please join me in thanking Mr. Michael D. Walden for his honorable service to our great country, and wishing him the best of luck and health in his future endeavors.

HONORING THE LEGACY OF ROSA PARKS
HON. CHARLES B. RANGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. RANGEL. Mr. Speaker, I rise today to honor the heroic spirit of one of the most remarkable women in our nation’s history by celebrating National Transit Tribute to Rosa Parks Day. Commonly known as “the first lady of civil rights” and “the mother of the freedom movement,” Rosa Parks is a heroine who will be forever remembered for her courage to stand up for what she believed.

On that fateful December 1, 1955, Rosa Parks had the strength to refuse to sit in the back of the bus, where blacks at the time were segregated from white riders in the front. By this simple yet heroic protest she inspired blacks across America to fight for their rights. I am honored to have been part of the Civil Rights Movement she helped fuel. Because of her vision for equality, America has made great strides toward a more perfect union.

It was a great privilege to attend the ceremony on October 28, 2005, when our nation bestowed Rosa Parks the highest honor by allowing her body to lie in honor in the Capitol of the United States Congress. She was the first American who had not been a government official to lie in honor. The second black person to lie in honor.

The story of Rosa Parks is proof that everyone in our great democracy, in this case a 42-year-old black woman from Montgomery, Alabama, can change the course of our country and help pave a better tomorrow for future generations. I hope we can be inspired by Rosa Parks to continue our fight for equality and justice for all Americans.
DETENTION OF ALAN P. GROSS

HON. JESSE L. JACKSON, JR.
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. JACKSON of Illinois. Mr. Speaker, I rise today to call for the immediate release of Alan P. Gross on humanitarian grounds. Mr. Gross, a 62-year-old international development specialist, has been held in a Cuban detention facility for the last two years. Mr. Gross has worked in community and international development for over 25 years and his work has positively impacted the lives of people in over 50 countries, including the West Bank, Gaza, Iraq, Afghanistan, Haiti, Gambia, Kenya, South Africa, and Ghana.

At the time of his arrest, Mr. Gross was working on behalf of the US Agency for International Development with the peaceful, non-dissident Jewish community to help establish an Intranet and improve access to the Internet. Logically, Mr. Gross brought basic technological equipment with him to assist in achieving that goal. Although he followed all appropriate procedures and declared the equipment in customs, Cuban authorities would use unsupported claims of illegality of this equipment as grounds for his imprisonment.

Shortly after his arrest on December 3, 2009, Cuban military officials placed Mr. Gross in a maximum-security military hospital, and held him for 14 months without charge. In February of this year, he was finally charged with “acts to undermine the integrity and independence” of Cuba. After a mere two day trial, he was convicted, and sentenced to 15 years in prison. His appeal to the Cuban Supreme Court was denied on August 5.

Mr. Speaker, Alan Gross is an elderly development worker, not a spy. He doesn’t speak Spanish, making him an unlikely subject in the affront of keeping him in Cuban custody.

Mr. Gross’ health has deteriorated tremendously during his incarceration. He has lost approximately 100 pounds and suffers from a number of serious health issues, some of which may become permanent. In addition, his family’s health and financial problems have placed him under extreme mental strain.

In August of 2010, Mr. Gross’ 26-year-old daughter was diagnosed with breast cancer. She underwent, and is currently recovering from a double mastectomy. His wife, Judy, recently underwent surgery as well, missing a long period of work due to her illness. His 89-year-old mother was diagnosed with inoperable cancer in February of this year. This, combined with Mr. Gross’ continued incarceration, has resulted in tremendous financial hardship for his entire family, and his inability to support them has greatly pained Mr. Gross.

In light of these events and his unjust sentence, I call upon the Cuban Government to immediately release Mr. Gross so he may receive medical treatment and help his family through this tumultuous time.

CONGRATULATING THE JOHN GLENN HIGH SCHOOL SPELL BOWL TEAM

HON. JOE DONNELLY
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. DONNELLY of Indiana. Mr. Speaker, I rise today to congratulate the John Glenn High School Spell Bowl team of Walkerton, Indiana for winning the Class II Indiana Academic Spell Bowl held on November 13, 2011 in Purdue University. Their score of 84 out of a possible 90 far surpassed runner up Plymouth High Schools’ score of 75.


The team is coached by Paul Hernandez who has led the school to 16 state titles in 25 years. This outstanding achievement was recognized by the Indiana Association of School Principals who named Mr. Hernandez the 2011 Academic Coach of the Year. The only other school to win state championship titles in two different divisions, he is the English Department Chairman, tutors the Academic Decathlon Team and supervises the nationally recognized high school literary magazine, “Aerial.”

Again, I rise to offer my congratulations to the members of the John Glenn High School Spell Bowl team and their dedicated coach for their extraordinary accomplishments throughout the competition.

PERSONAL EXPLANATION

HON. WILLIAM L. OWENS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. OWENS. Mr. Speaker, on November 4th, 2011, I missed a series of votes to attend the Change of Command ceremony at Fort Drum, New York. If I had been present, I would have voted as follows:

On Rollcall 829, Ordering the Previous Question providing for consideration of the bill (H.R. 2838) to authorize appropriations for the Coast Guard for fiscal years 2012 through 2015, and for other purposes, I would have voted Nay.

On Rollcall 830, Providing for consideration of the bill (H.R. 2838) to authorize appropriations for the Coast Guard for fiscal years 2012 through 2015, and for other purposes, I would have voted Nay.

On Rollcall 831, To facilitate the hosting in the United States of the 34th Americas Cup by authorizing certain eligible vessels to participate in activities related to the competition, and for other purposes, I would have voted Yea.

On Rollcall 832, Cummings of Maryland Amendment No. 3, I would have voted Nay.

On Rollcall 833, Thompson of Mississippi Amendment No. 4, I would have voted Nay.

HONORING THE UNIFICATION OF THE TRANSPORTATION COMMUNICATIONS UNION AND THE INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS

HON. DANIEL LIPINSKI
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. LIPINSKI. Mr. Speaker, I rise today to honor the January 1, 2012 unification of the Transportation Communications Union (TCU) and the International Association of Machinists and Aerospace Workers (IAMAW). These two distinguished unions, with railroad roots, are on course to become one strong voice for hundreds of thousands of middle-class working men and women across America.

In 1888, 19 machinists meeting in a locomotive pit in Atlanta, Georgia formed what is now IAMAW, commonly known as the “Fight ing Machinists.” Throughout their 123 year history, the Fighting Machinists have grown to represent workers in several industries, including: aerospace, transportation, government, automotive, defense, and woodworking.

Today’s TCU is also an union made of many. At its core is the union founded in 1899, which became the Brotherhood of Railway Clerks. In 1919, the union became the...
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees. To further reflect the diversity of the union’s membership, the delegates to the 1987 Convention voted to become TCU.

By joining the ranks of the Machinists, TCU will help strengthen the organization’s membership and labor movement. For more than a century, both TCU and IAMAW have stood for the welfare and prosperity of their members. Today, these unions continue to fight on behalf of their members who exemplify the values of hard work, faith, family, and community.

This unification not only brings together two unions, but also two dedicated presidents—Tom Buffenbarger and Bob Scardelletti. Tom Buffenbarger began his career as a journeyman tool and die maker at General Electric’s jet engine plant in Evendale, Ohio. In 1997, he became the youngest IAMAW President in its history. Bob Scardelletti, a life-long railroader, started out as a yard clerk in Cleveland with the New York Central Railroad in 1967. In 1971, he took on his first union position and by 1991 was elected TCU president and has been re-elected four times.

TCU and IAMAW were fundamental in building the American middle-class, and have a vital role today in preserving the American dream for working families. Their combined strength will provide continued leadership in preserving the American middle-class, and have a vital role today in preserving the American middle-class, and have a vital role today in preserving the American middle-class, and have a vital role today in preserving the American middle-class, and have a vital role today in preserving the American middle-class.

I deeply appreciate Liz for her friendship and support, and I honor her for her service to our state and our nation.

**A TRIBUTE TO RAY A. HARRIS, RAMIE L. HARRIS, AND SHEY M. HARRIS**

**HON. DON BURTON**

**OF INDIANA**

**IN THE HOUSE OF REPRESENTATIVES**

**Thursday, December 1, 2011**

Mr. BURTON of Indiana. Mr. Speaker, I rise today to pay tribute to the lives of Ray A. Harris, Ramie L. Harris and Shey M. Harris, of Marion, Indiana who perished in a tragic plane crash on November 26, 2011. Ray was 46, Ramie was 21, and Shey was 20. I join the Marion community in offering my deepest condolences to Ray’s wife, Sherry, and his son, Blake, who are left to carry on in this world without them. In one tragic day, Sherry lost her husband and two daughters. Likewise, Blake lost his father and two sisters. Other survivors include Ray’s parents and in-laws and numerous aunts and cousins.

Countless people watched the Harris family grow into something good and benefit the community around it. Ray was a true community leader. He was a supporter of the Marion Giants; served 8 years as the President of the Marion Board of Works; was a member of the Meshtingsomia Country Club, the Aero Club, Marion Pilots Club, and the Elks. Ray was a skilled hunter and fisherman. One of his favorite events was the annual Community School for the Arts, CSA, Go-Kart race.

As busy as Ray was in business and in the community, his family always came first. Ray was an attentive father and husband, rarely missing one of his children’s events. Ramie was a 2009 graduate of Marion High School where she played soccer, basketball, and tennis. Ramie’s soccer jersey number will be retired in her honor. Ramie also played in various PAL club sports and was the recipient of numerous scholarships at Marion High School. Ramie was active in Youth for Christ. She was also active in God’s House Ministries’ Children’s Ministry Department. Ramie was a junior at Wheaton College, majoring in pre-med.

Shey was a graduate of Eastbrook High School after having attended Marion High School until her junior year. Shey loved to dance and was majoring in dance with a minor in business at Anderson University at the time of her death. Shey attended and later taught at the Community School of the Arts and taught gymnastics at Mid America. Like her father and sister, Shey’s love for the Lord guided her in her daily life. She was involved in the liturgical dance program at her church and the children’s ministry department at College Wesleyan Church.

Ray, Ramie, and Shey will be forever remembered by all who knew them as a loving family who devoted their lives and talents to community and God. In their death their memory will live on through the CSA Ray Harris Family Memorial Endowment Fund that was established at the Community Foundation of Grant County as a way for the community to honor the family. The money from the endowment will go to the organization for the Shey Harris Dance Scholarship, which will be awarded to a student from CSA. The Harris family were key supporters of the organization. Shey distinguished herself as a dancer and choreographer by the choreographing the first commercial CSA did for the Gorman Center for Orthodontics and being the youngest person to teach at the organization at the age of 14. Ramie danced at the school and danced in the first show that CSA ever did. Shey’s and Ramie’s surviving brother, Blake, was the CSA’s “Go Arts Go Karts!” 2010 champion when he raced for his father’s business. Ray’s wife, Sherry, is also active in CSA events and is a former board member.

The Harris family attended God’s House Ministries and by all accounts Ray lived his life guided by their love for the Lord. At times of deep sorrow and grief, I am comforted by Psalm 23.

**Psalm 23**—A Psalm of David

The LORD is my shepherd; I shall not want. He maketh me to lie down in green pastures: he leadeth me beside the still waters. He restoreth my soul: he leadeth me in the paths of righteousness for his name’s sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies: thou anointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the LORD forever. Today, I pray for all of God’s love and healing to be bestowed upon the Harris family.

**HONORING BALD ROCK BAPTIST CHURCH**

**HON. HENRY C. “HANK” JOHNSON, JR.**

**OF GEORGIA**

**IN THE HOUSE OF REPRESENTATIVES**

**Thursday, December 1, 2011**

Mr. JOHNSON of Georgia. Mr. Speaker, I submit the following Proclamation:

Whereas, Bald Rock Baptist Church has been and continues to be a beacon of light to our county for the past one hundred fifty years; and

Whereas, Pastor Christopher Shipp and the members of the Bald Rock Baptist Church family today continues to uplift and inspire those in our county; and

Whereas, the Bald Rock Baptist Church family has been and continues to be a place where citizens are touched spiritually, mentally and physically through outreach ministries and community partnership to aid in building up our District; and

Whereas, this remarkable and tenacious Church of God has given hope to the hopeless, led the needy and empowered our community for the past one hundred fifty years.
years, being Rockdale County's first African American Congregation; and

Whereas, Bald Rock has produced many spiritual warriors, people of compassion, people of great courage, fearless leaders and servants to all, but most of all visionaries who have shared not only with their Church, but with Rockdale County their passion to spread the gospel of Jesus Christ; and

Whereas, the U.S. Representative of the Fourth District of Georgia has set aside this day to honor and recognize the Bald Rock Baptist Church family for their leadership and service to our Nation on this the 150th Anniversary of their founding;

Now therefore, I, HENRY C. “HANK” JOHN-SON, Jr. do hereby proclaim November 13, 2011 as Bald Rock Baptist Church Day In the 4th Congressional District of Georgia.

Proclaimed, this 13th day of November, 2011.

HONORING JOHN WILKINSON

HON. JEFF DENHAM
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. DENHAM. Mr. Speaker, I rise today to honor Veterans of Foreign Wars Chowchilla Post 9896 Life Member John Wilkinson, who retired from the United States Marine Corps as a Master Sergeant in 1974.

John A. Wilkinson was born in Taft, California in November 1935. During his high school years, John worked during the summer months and after school in the oil fields handling drill toll stabilizers and as a truck driver. In 1953, he enlisted in the United States Marine Corps. During his service in the U.S. Marine Corps, he served on seven aircraft carriers, twelve different shore installations, and duty with all branches of service, as well as Civil Service Personnel. He traveled to twenty foreign countries and saw duty with seven military forces. Throughout his duration of service, John graduated in many roles. In 1957, he was selected for aviation schooling and completed Aircraft Fundamentals and Jet Engine Mechanics courses and was stationed at Los Alamitos Naval Air Station where he served as a crew chief performing scheduled and non-scheduled maintenance on all aircraft systems. In 1965, John assumed a two year post as a Drill Instructor at Marine Corps Recruiting Depot in San Diego. He was deployed with his unit to Vietnam in 1970 where he served with H&MS–11, which supported Marine aircraft missions fighting the North Vietnamese and Viet Cong forces. Master Sergeant Wilkinson received numerous decorations and awards for his service, including the National Defense Medal, seven awards of the Good Conduct Medal, Vietnamese Service Medal with star, and the Meritorious Unit Commendation.

Upon his retirement from the military, John earned an Associate of Arts Degree from West Hills College and a Bachelor of Art Degree in Social Science and a teaching credential from California State University, Fresno. For thirteen years, John continued his legacy of public service as a civics, economics, and history teacher at Chowchilla Union High School. John and his late wife, Veronica, raised three children. He is now a grandfather of nine and a great-grandfather of ten. He makes his home in Los Lunas, New Mexico.

Mr. Speaker, please join me in thanking Mr. John A. Wilkinson for his honorable service to our great country, and wishing him the best of luck and health in his future endeavors.

PAYING TRIBUTE TO THE SMITHSONIAN INSTITUTES FREEDOM SISTER’S TRAVELING EXHIBITION

HON. CHARLES B. RANGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. RANGEL. Mr. Speaker, ahead of tomorrow’s announcement, today I rise to recognize the empowering Freedom Sister’s Exhibition being showcased in The Malcolm X and Dr. Betty Shabazz Memorial and Educational Center in my Congressional District. The Exhibition will be officially displayed starting February 4 thru April 22, 2012.

Often when the civil rights movement is discussed, male figureheads whose visibility in boycotts, legal proceedings, and mass demonstrations dominated media coverage in the 1950’s and ‘60’s are the only stories we would learn about. Sometimes missing and often forgotten from these memoirs are a group of extraordinary women who, while less prominent in the media, shaped much of the core and spirit of civil rights movement.

The Freedom Sister’s Exhibition shines a light on the many women that at times history seems to overlook. As the Member of Congress whose district encompasses the historical community of Harlem and in response to an overwhelming sentiment from both my local Education and Arts & Culture constituencies, it was enormously important to me that the Smithsonian bring the traveling exhibition to our beloved community.

Nine out of the twenty women being paid tribute to, have walked the streets of the great village of Harlem. Constance Baker Motley, Harriet Tubman, Ella Baker, Charlayne Hunter-Gault, De Betty Shabazz, Sonia Sanchez, Mary McLeod Be-thune, Shirley Chisholm, and Ida B. Wells all dared to dream the impossible: equality for all.

The exhibition also pays tribute to the success of such notable women as Coretta Scott King, Rosa Parks, Barbara Johnson, Fannie Lou Hamer, Myrlie Evers-Williams, Kathleen Cleaver, Mary Church Terrell, Septima Poinsette Clark, Dorothy Height, and C. Delores Tucker. I cannot stress the importance of such a marvelous showcase of these important women. The civil rights movement was spearheaded by many exceptional men such as Dr. Martin Luther King Jr. and Malcolm X, but these women among many others also fought for equality with a commitment to strengthen our Nation and making a difference for all Americans.

Let me thank Jacob Morris, Executive Director of the Harlem Historical Society for bringing this great exhibition to my attention through my District Representative, Socrates Solano. According to the information imparted to my office by the Harlem Historical Society, it was an idea conceived by New York City Council Member Yvonne Alexander, which developed into a wonderful traveling exhibit’s National tour. Let me also thank Zead Ramadan, Chair of the Malcolm X and Dr. Betty Shabazz Memorial and Educational Center for agreeing to host this truly historic exhibition.

Mr. Speaker, like Harlem, there are those in our country that ardently desire that its sons and daughters as well as our teachers and educators are given the opportunity to appreciate and learn more about the trailblazing women of courage who have had such profound historical significance. I ask that you and my distinguished colleagues, with the gratitude of our fellow citizens, join me in commending the Smithsonian Institute for paying tribute to our beloved Freedom Sisters through their traveling exhibition.

TRIBUTE TO JANE AND WILLIAM MCQUAIN AND THE WORK OF THE DWELLING PLACE

HON. CHRIS VAN HOLLEN
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. VAN HOLLEN. Mr. Speaker, I rise today to remember two of my constituents whose lives were recently tragically cut short. Ms. Jane McQuain, 51, and her son William, 11, were found murdered on October 18, 2011, triggering shock and pain throughout my congressional district.

Since 2006, Ms. McQuain and William had been receiving assistance from an outstanding organization, The Dwelling Place, whose mission is to provide housing opportunities and support services for homeless families in Montgomery County. The McQuains were one of many families helped by this program.

Ms. McQuain was an extraordinary example of the success that can be achieved through hard work and dedication. In 2006, she came to The Dwelling Place as a homeless single mother, seeking a better life for herself and her son. Two years later, she graduated from the program with permanent housing and a steady job. Ms. McQuain immediately sought to give back to the community that enabled her time to helping families in crisis who were facing similar situations. She often returned to The Dwelling Place to share her experiences and to advise families on how to succeed during and after the program. Her son, William, had a bright future. His friends and family described him as a vibrant and imaginative boy who loved sports, animals, and video games.

Both Ms. McQuain and William were extraordinary individuals, who had successfully overcome great adversity.

The Dwelling Place has been helping the homeless since 1988, when a group of activists, appalled at the rising levels of homelessness in Montgomery County, Maryland, came together to find a solution to this growing problem. The organization incorporates various aspects of affordability, length of stay, and life skills to provide housing opportunities and support services for homeless families achieve self-sufficiency. Families are assisted to develop the necessary skills they need for a brighter and more prosperous future. The Dwelling Place is not merely a place for families to live; it is a place for families to thrive. It provides families with critical training in parenting, communication literacy, and networking techniques. It also counsels individual families to work towards a strong, united, and independent family unit.
Thanks to The Dwelling Place, Ms. McQuain was able to provide her son with a happy and stable life. Although their lives were brutally cut short, their resilience and ability to overcome hardship will never be forgotten, and they will continue to inspire the many families that face similar challenges.

My congressional district is fortunate to have The Dwelling Place providing support to our community, so that families in crisis can establish new lives without fear and with the potential and support for a bright future.

I ask my colleagues to join me in remembering William McQuain and in saluting the mission of The Dwelling Place and its dedication to assisting the homeless.

RECOGNITION OF THE COMMUNITY ADOLESCENT AND EDUCATION CENTER OF HOLYOKE, MASSACHUSETTS

HON. JOHN W. OLVER
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. OLVER. Mr. Speaker, I rise today to recognize the invaluable contributions that the Community Adolescent and Education Center, Inc. of Holyoke, Massachusetts makes to the community by improving the lives of teen mothers and their children.

Among the Care Center’s core beliefs is that people living in poverty should be exposed to the same educational stimuli as those who are financially well off and that they will thrive if they receive it. The Center, therefore, works extremely hard to provide young mothers with high level programming in education, the arts and humanities, and athletics. These programs have been incredibly effective with up to 85 percent of graduates going on to college and many launching careers in social services, government and medicine.

On November 2, 2011, First Lady Michelle Obama presented the Care Center with the prestigious National Arts and Humanities Youth Program Award for its innovative humanities courses. I have been a proud supporter of the Center and its vital work, and I cannot think of a more deserving institution in my district.

Over 500 organizations from across the country were nominated for the award which, administered by the President’s Committee on the Arts and Humanities, is considered to be the highest honor for such programs in the nation. The Care Center is one of 12 after-school and out-of-school programs to receive the award and it was, in particular, recognized for its exceptional humanities programming. This included the Clemente Course in the Humanities, a free college course focusing on moral philosophy, art history, literature, writing, and American history; Introduction to Humanities, a college continuation course in partnership with Greenfield Community College; and Nautilus II, an annual anthology of poetry and art by Center teen mothers.

The Care Center is dedicated to helping young parents with low incomes obtain access to an excellent education. Center Executive Director Monica McGovern and her dedicated staff, through their revolutionary programming, have opened doors leading to successful futures for hundreds of teens and their children.

I commend the Care Center on these efforts and am confident that this national recognition can be a catalyst that allows it to help hundreds more in years to come.

ALAN GROSS
HON. JAMES A. HIMES
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. HIMES. Mr. Speaker, for the last two years, Alan Gross, a 62-year old international development specialist and social worker, has been incarcerated in a Cuban prison. Today marks the two-year anniversary of his imprisonment. Alan traveled to Cuba on behalf of USAID to help the country’s Jewish community expand its access to the Internet and establish an Intranet. This was a humanitarian mission, a mission to help a small and peaceable community improve its access to and use of the Internet. Alan’s presence and actions posed no threat to the Cuban government.

And yet, Alan has been held in a maximum-security military hospital facility in Cuba since December 2009. He has been sentenced to 15 years in prison, charged with “acts to undermine the integrity and independence of Cuba. Alan’s case is unprecedented.” The Cuban Supreme Court was denied on August 5, 2011, formally ending his legal options for release.

Mr. Speaker, today I rise and join my colleagues in calling for the immediate and unconditional release of Alan Gross. Alan Gross is not a criminal, he is a humanitarian aid worker. Alan Gross is a man whose life work has positively impacted people across the world, including in the West Bank, Gaza, Iraq, Afghanistan, Africa and Haiti. Alan Gross is a husband, a father and a son who should be released and reunited with his family immediately.

HONORING TONY ROYAL
HON. HENRY C. “HANK” JOHNSON, JR.
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. JOHNSON of Georgia. Mr. Speaker, I submit the following Proclamation:

Whereas, the U.S. Representative of the Fourth District of Georgia has set aside this day to honor and recognize Mr. Royal for an exemplary life which is an inspiration to all.

Now therefore, I, HENRY C. “HANK” JOHNSON, Jr. do hereby proclaim November 20, 2011 as Mr. Tony Royal Day in the 4th Congressional District of Georgia.

Proclaimed, this 20th day of November, 2011.

HONORING JOHNNY CHANDLER
HON. JEFF DENHAM
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. DENHAM. Mr. Speaker, I rise today to honor Veterans of Foreign Wars Chowchilla Post 9896 Life Member Johnny Chandler who served his country honorably in the United States Air Force.

After graduating from Chowchilla High School in 1998, Johnny Chandler enlisted in the United States Air Force. He completed his basic training at Lackland Air Force Base in Texas, and later completed Enlisted Aircrew Training at Sheppard Air Force Base in Texas. After completing technical surveillance specialty training in Mississippi, Washington, and Oklahoma, he was assigned to the Airborne Air Control Squadron, one of the three operational E–3 Sentry (AWACS) squadrons in the continental United States. The primary mission of the 965th was Operation Southern Watch in the skies over Southern Iraq. The mission’s objectives were to search for, track, and report enemy aircraft contacts to ground and airborne assets and intercept them if they ventured into the No-Fly Zone. While with the 965th, he participated in numerous Red Flag training missions, which are the Air Force’s equivalent of the Navy’s Top Gun School.

Johnny returned to the United States about a year later and was subsequently selected to be one of the first Airborne Surveillance Technicians to participate in the resurrection of the old 960th World War II bomber squadron. While at the Base Exchange in Incirlik Air Force Base in Turkey, Johnny worked as the television monitors as the first airliner impacted the World Trade Center on September 11, 2001. While with the 960th, he completed two tours with the Operation Northern Watch in the Northern part of Iraq, guiding American and allied aircraft to targets and monitoring enemy air defenses and missile sites. He had over 1,000 flight hours on the E–3 Sentry including 300 combat hours. In 2003, he was promoted to Staff Sergeant and was selected for cross-training in the Air Force Combat Control.

Johnny retired from the Air Force in 2005 and enrolled in Oklahoma State University’s engineering program. He graduated in May 2010 with a Bachelors of Science in Aerospace and Mechanical Engineering. During his academic career, Johnny used his engineering objectives to work on the development of a device based on robotic unmanned aerial and ground systems. He recently accepted a position as an Aerospace Engineer at the Naval Surface Warfare Center where he will be working with high-powered lasers, rail guns, conventional weapons, and unmanned aircraft. Mr. Speaker, I ask my colleagues to join me in thanking Mr. Johnny Chandler for his honorable service to our great country, and wishing him the best of luck and health in his future endeavors.
COMMENDING REP. GONZALEZ’S CONGRESSIONAL LEADERSHIP

HON. CHARLES B. RANGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. RANGEL. Mr. Speaker, I rise today to recognize the service of Congressman CHARLES GONZALEZ. I am sad that after seven great terms in the House, Congressman CHARLES GONZALEZ will not be seeking reelection. Picking right up from where his father left off, CHARLES has been a tremendous leader for the people of the Texas 20th Congressional District and the United States.

CHARLES and I share the honor of representing large Hispanic communities. As the Chairman of the Hispanic Caucus and his tenure in Congress, he has fought fiercely to better the lives of all Hispanics in America. We both proudly co-sponsored the DREAM Act.

I wish him and his family all the best America deserves the equal opportunity to

67TH ANNIVERSARY OF THE BATTLE OF COLMAR POCKET

HON. GEOFF DAVIS
OF KENTUCKY
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. DAVIS of Kentucky. Mr. Speaker, I rise today in recognition of the upcoming 67th anniversary of the Battle of Colmar Pocket. The Battle of the Colmar Pocket was fought between January 22 and February 9, 1945, to liberate the last major French city occupied by the German Army. The ferocious preliminary fighting which formed the Colmar Pocket began after the arrival of U.S. 7th Army and 1st French Army forces at Strasbourg, north of Colmar, on November 23rd and Mulhouse, south of Colmar on November 25th, 1944. These Armies, under command of the 6th Army Group under Lieutenant General Jacob L. Devers, had fought their way through the Vosges Mountains to reach these cities beginning in mid-September, the first military force in history to successfully do so.

The 1st French Army, commanded by General Jean de Lattre de Tassigny, had the mission to clear the Pocket and liberate Colmar, destroying the German forces in the Pocket or withdrawing them east of the Rhine. Initially, the 36th Infantry Division, under Major General John Dahlquist, arrived at Selestat on December 4, 1944, fixing the northern shoulder of the Pocket. Under French command, the 36th Infantry Division fought its way south to the vicinity of Kaysersberg, Ostheim, Mittelwihr, and Bennwihr, in frigid winter weather, where the division fought off fanatical German counterattacks launched in support of the German Ardennes Offensive, the Battle of the Bulge. In mid-December this stalwart division was withdrawn from the Colmar sector to rest and refurbish after its long, debilitating campaign through the Vosges. For the fighting to collapse the Pocket, two 36th Infantry Division soldiers received the Medal of Honor, Sergeant Ellis R. Weicht and T/Sgt Bernard P. Bell.

Major General Iron Mike O’Daniel’s 3rd Infantry Division then under acting Division Commander Brigadier General Robert N. Young, which had also fought its way as part of 7th Army through the Vosges Mountains to Strasbourg, was attached to II Corps of the 1st French Army under Major General Aime de Gosiliard de Monsabert, and in mid-December continued the fight to collapse the northern section of the Pocket, seizing Kaysersberg, Sigolsheim, Mittelwihr, and Bennwihr and the dominating high ground of Hill 355 above Sigolsheim and Hill 260 outside Bennwihr in the final two weeks of December 1944. For their intrepid and gallant actions in the fighting between December 15 and January 21, 1945, the following 3rd Infantry Division soldiers were awarded the Medal of Honor: 1LT Charles P. Murray, Jr.; 1LT Eli Whitely; LTC Keith L. Ware; T/Sgt Gus Kefurt; and T/Sgt Russell Dunham. As this difficult fighting was taking place, other 1st French Army units were pressing remaining German units in the Vosges Mountains at the westernmost extent of the Pocket, enabling the Pocket to shrink near Mulhouse.

The tough fighting and harsh winter weather had greatly worn down the French, and it was determined further U.S. reinforcement was needed to enable our valiant allies to finally collapse the Pocket. The first to arrive were the soldiers of Major General Norman D. Cota’s 28th Infantry Division, which had fought hard in the Bulge. They arrived on January 19th, taking over the 3rd Infantry Division’s sector in the Kaysersberg valley.

On January 22nd, the 3rd Infantry Division, now under MG O’Daniel, with attached 254th Infantry Regiment of the 63rd Infantry Division and reinforced by a combat command of the 5th French Armored Division, launched the II Corps main effort to breach enemy defenses protecting the Colmar Canal and to isolate the Pocket from the Rhine by the bridge at Neuf-Brisach. January 22nd found then Lieutenant Colonel Lloyd B. Ramsey from Somerset, Kentucky, in command of the 3rd Battalion, 7th Infantry. He had commanded the battalion since taking command in the Anzio beachhead in February 1944, and had commanded it for Operation Dragoon, the invasion of Southern France, the Southern France campaign, and through the Vosges. Leading his battalion across the ill River, through minefields against dug-in enemy machine gun positions south of the village of Guemar in a night attack, Ramsey showed outstanding leadership and gallantry which led to the award of the Silver Star. Despite being wounded by enemy shell fragments, he ensured his battalion continued advancing in the face of stubborn resistance, breaking through the enemy positions and enabling the rest of the division to drive south.

Ramsey would continue his sterling combat service and go on to achieve the rank of Major General, and commanded the AMERICAL Division in Vietnam from 1969 until 1970. He was severely injured in a helicopter crash in Vietnam and eventually was forced to retire for medical reasons in 1974. MG Ramsey is a proud son of Kentucky, and a member of the University of Kentucky Hall of Fame.

The 3rd Infantry Division’s dogged attack and imaginative scheme of maneuver enabled it to reach and cross the Colmar Canal the night of January 22–23 after a week of very heavy fighting. This combat included a serious incident at the bridge across 111 at the Maison Rouge where the failure of the bridge resulted in isolated battalions of the 30th and 15th Infantry Regiments defending unsupported against several enemy armored counterattacks. For actions during January 22nd through the 26th, two Medals of Honor would be awarded to 3rd Infantry Division soldiers, PFC Jose F. Valdez and 2LT Audie L. Murphy.

The XXI Corps, commanded by Major General Frank W. Milburn, took command of the 3rd Infantry Division, the 28th Infantry Division, the 75th Infantry Division commanded by Major General Roy E. Porter, the 5th French Armored Division, and the 12th Armored Division commanded by Major General Roderick C. Allen at the end of January and continued the attack which succeeded in the 3rd Infantry Division’s seizure of NeufBrisach. The 75th Infantry Division attacked and protected the 3rd Infantry Division’s west flank. The 28th Infantry Division launched its attack from the Kaysersberg valley and cleared the suburbs of Colmar, troubling 1st and the French 5th Armored Division to enter the city on February 2nd. Immediately thereafter, the 12th Armored Division was committed for a drive south and
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on February 5th. met French elements advancing north at Rouffach. French forces completed the cleansing of the Pocket and destruction of the enemy’s final bridge across the Rhine at Chalampe on 9 February 9th, 1945. For this final phase of the fight, one more Medal was awarded to the 3rd Infantry Division’s T/Sgt Forrest E. Peden. The Battle of the Colmar Pocket, overshadowed by the Battle of the Bulge to the north, saw some of the bitterest fighting of the war and resulted in the award of the Presidential Unit Citation to the entire 3rd Infantry Division with its attachments, as well as the award of the fourragère of the Croix de Guerre embroidered Colmar. The 109th Infantry Regiment of the 28th Infantry Division was also awarded the fourragère.

Mr. Speaker, I ask the House to join me in congratulating and thanking the surviving veterans of the Battle of the Colmar Pocket on the upcoming 67th anniversary of this battle which liberated Colmar and cleared the Germans from southern Alsace. I especially would like to express my thanks and admiration to the veterans of the Battle of the Colmar Pocket on December 1, 2011.

OUR UNCONSCIONABLE NATIONAL DEBT

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 1, 2011

Mr. COFFMAN of Colorado. Mr. Speaker, on January 26, 1995, when the last attempt at a balanced budget amendment passed the House by a bipartisan vote of 300-132, the national debt was $4,801,405,175,294.28.

Today, it is $15,110,498,560,876.77. We’ve added $10,309,093,385,852.49 to our debt in 16 years. This is $10 trillion in debt our nation, our economy, and our children could have avoided with a balanced budget amendment.

U.S. CITIZEN OF DISTINCTION CORPORAL/DETECTIVE ROBERT “SHANE” WILSON

HON. HENRY C. “HANK” JOHNSON, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 1, 2011

Mr. JOHNSON of Georgia. Mr. Speaker, I declare Robert “Shane” Wilson U.S. Citizen of Distinction.

Whereas, our lives have been touched by the life of this one man . . . who has given of himself in order for others to stand; and

Whereas, Corporal/Detective Robert “Shane” Wilson served eight (8) years in the City of Doraville Police Department and gave life answering a call to duty; and

Whereas, Corporal/Detective Wilson never asked for fame or fortune, nor found a job too small or too big; but gave of himself, his time, his talent and his life to uplift those in need by demonstrating unwavering commitment to protecting and serving the citizens of Doraville and DeKalb County; and

Whereas, he was a husband, a father, a son, a brother and a friend; he was also our warrior, a man of great integrity who remained true to the uplifting and service to our community; and

Whereas, the U.S. Representative of the Fourth District of Georgia recognizes Corporal/Detective Robert “Shane” Wilson as a citizen of worth and so of the Distinction; Now therefore, I, HENRY C. “HANK” JOHN-

SON, Jr. do hereby attest to the 112th Congress that Corporal/Detective Robert “Shane” Wilson is deemed worthy and deserving of this “Congressional Honor” by declaring Corporal/Detective Robert “Shane” Wilson U.S. Citizen of Distinction in the 4th Congressional District of Georgia.

Proclaimed, this 17th day of November, 2011.

WORKFORCE DEMOCRACY AND FAIRNESS ACT

SPREECH OF

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 30, 2011

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 3094) to amend the National Labor Relations Act with respect to representation hearings and the timing of elections of labor organizations under that Act.

Mr. COSTELLO. Mr. Chair, I rise in strong opposition to H.R. 3094, the so-called Workforce Democracy and Fairness Act of 2011.

Since coming to Congress, I have been a strong advocate for the right of every employee to form a union and collectively bargain for their rights. This bill represents the most recent attempt to put the interests of businesses over the rights of workers, another in a long line of Republican attempts to strip unions of fundamental rights that working Americans enjoy.

H.R. 3094 is designed to derail fair, legal union elections by mandating delays and encouraging frivolous, distracting lawsuits. At a time when we should be pursuing policies that will strengthen our middle class, this bill will only make it harder for working families to maintain their paychecks, secure health insurance, plan for retirement, and achieve the American Dream.

As our economy continues to recover, it is my hope that Congress can come together to pass legislation that puts Americans back to work and maintains the strongest and most competitive workforce in the world. H.R. 3094 will not achieve either of these goals, and I urge my colleagues to oppose it.

HONORING SGT. ARNOLD TRUITT DIXON

HON. JEFF DENHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 1, 2011

Mr. DENHAM. Mr. Speaker, I rise today to honor Sgt. Arnold Truitt Dixon, a veteran of World War II, who is celebrating his 90th birthday on January 1, 2012.

Sgt. Arnold Dixon, as he was known in the military, was known to those at home simply as Truitt. Truitt is the eldest son of Mattie and Henry Dixon, born on January 1, 1922, in Ada, Oklahoma. He migrated to California in 1940, and married Lena Owens on November 11, 1941. Their only daughter Janice was born on October 13, 1942. Unfortunately, Lena passed away in January 1985, after a long illness. Soon thereafter, Janice entered his life and they were married on March 9, 1985.

Truitt and Lena were happily married with a two-year old daughter, when the call came from the United States Army to report for active duty. On September 15, 1944, Truitt reported to duty at Fort Ord, California. Basic training was very tough. He was being trained as a Combat Infantryman and took his training very seriously, which would pay off in the later years of his army career.

With basic training and schooling completed, Truitt was aboard a troop ship with thousands of other soldiers travelling to parts unknown. After days of sailing, it was finally announced their destination was the Philippine Islands. After landing in the Philippines patrols were formed to find the remaining Japanese soldiers. His leadership earned him the nickname of Battle of the Colmar Pocket and was due to the fourragère of the Croix de Guerre awarded Colmar. The 109th Infantry Regiment of the 28th Infantry Division was also awarded the fourragère.

Mr. Speaker, I ask the House to join me in congratulating and thanking the surviving veterans of the Battle of the Colmar Pocket on the upcoming 67th anniversary of this battle which liberated Colmar and cleared the Germans from southern Alsace. I especially would like to express my thanks and admiration to the veterans of the Battle of the Colmar Pocket on December 1, 2011.
(worlds AIDS day  
HON. DANNY K. DAVIS  
OF ILLINOIS  
IN THE HOUSE OF REPRESENTATIVES  
Thursday, December 1, 2011  
Mr. DAVIS of Illinois. Mr. Speaker, the fight to arrest HIV—AIDS must continue. Today is December 1, World AIDS Day and in Chicago at the Ruth Rothstein Core Center at 2020 West Harrison St., Chicago, Governor Pat Quinn, and a group of AIDS professionals activists organized by Benny Montgomery, a retired member of my Congressional staff are holding a press conference as we do every year to kick off a day of awareness raising and action to help in the fight against HIV and AIDS. I am generally able to be with this group. However, my duties as a Member of Congress have kept me here in Washington, DC. Nevertheless, I am pleased to be represented by my assistant Ms. Cherita Logan, our Deputy District Director, who is a long time aids activist and education program director herself.

We recognize that although some programs have been made, as a matter of fact much progress has been made, but we still have much further to go; therefore I urge each one of us to do as many and collectively as we can to fight this dreadful disease.

ERADICATING HIV/AIDS IN OUR COMMUNITIES  
HON. CHARLES B. RANGEL  
OF NEW YORK  
IN THE HOUSE OF REPRESENTATIVES  
Thursday, December 1, 2011  
Mr. RANGEL. Mr. Speaker, today we unite in solidarity to eradicate HIV/AIDS in our communities across the world. We stand together to raise awareness about the epidemic so we can prevent further spread of the deadly virus and give hope to the 33.3 million people worldwide who are suffering from this terrible illness.

In the United States alone, the Centers for Disease Control and Prevention estimates that over one million people are HIV positive. What is even more tragic is that one in five people infected are unaware of it. HIV/AIDS is one of the leading causes of death for both the African American and Hispanic communities and presents a great hazard to our society.

I believe Congress has a moral obligation to continue to fund to eliminate HIV/AIDS despite our budgetary challenges. Earlier this year I introduced the National Black Clergy for the Elimination of HIV/AIDS Act which would authorize several federal health agencies such as the National Institute of Health, Office of Minority Health of the Department of Health and Human Services, and the CDC to increase grants to faith-based organizations in the African American community.

This year’s theme for World AIDS Day is ‘Getting to Zero’. That means zero new infections, zero discrimination, and zero AIDS-related deaths. These are common goals shared globally regardless of race, religion or political ideologies. Yet we can only accomplish these goals in America if we work together, Democrats and Republicans, in supporting bold initiatives and legislation to combat HIV/AIDS in our communities.

HONORING HARRIS MEMORIAL CHURCH OF GOD IN CHRIST  
HON. DALE E. KILDREE  
OF MICHIGAN  
IN THE HOUSE OF REPRESENTATIVES  
Thursday, December 1, 2011  
Mr. KILDREE. Mr. Speaker, on December 4, 2011 Harris Memorial Church of God in Christ will celebrate its 65th year of devotion to the Lord. Founded in January of 1946 by the late Superintendent Theodore R. Harris the church started out as Elm Park Church of God in Christ in a partially finished structure. With the help of his bride Missionary Erma I. Harris they set out to create a place where souls could be saved and the community could be served. During the church’s infancy Brother Willie Parker was called to join the congrega- 

As the congregation grew, Pastor Harris sought Gods vision and decided to build a sanctuary. In 1959, with great celebration and thanks to the Lord, the sanctuary was built. The congregation was empowered by the success the Lord had bestowed upon the young church and the congregation paid off the sanctuary in 1965. On Friday, July 25, 1980 Pastor Harris departed life to join the Lord. He was succeeded by his grandson Pastor Walter E. Bogan.

Having a close relationship with his grandfather, Pastor Bogan knew that his grandfather’s vision for the church included expanding its ministries. He wanted to fulfill that vision and began to look for locations that had the space for the expanded ministries. In 1983, 30 acres of land was purchased to build a house for the Lord and His ministries. On November 22, 1992 the construction was completed on Lippincott Ave. They reside at this location today and the expanded ministries strengthen souls every week. Walter Bogan’s son is now the presiding Pastor at Harris Memorial and works to continue and expand the success of their many ministries.

Mr. Speaker, please join me in congratulating Harris Memorial Church of God in Christ on their success and dedication to the Flint Community. I pray that the ministers, staff, and congregation of Harris Memorial will continue their work and spread the Gospel of Jesus Christ for many, many years to come.

REGARDING ALAN P. GROSS  
HON. CHRIS VAN HOLLEN  
OF MARYLAND  
IN THE HOUSE OF REPRESENTATIVES  
Thursday, December 1, 2011  
Mr. VAN HOLLEN. Mr. Speaker, I rise to mark the second year anniversary of the unjust and inhumane incarceration in a Cuban prison of my constituent Allan P. Gross.

A 62-year-old international development specialist and social worker with 25 years of experience helping people in the West Bank, Gaza, Iraq, Afghanistan, Haiti and throughout Africa, Alan Gross has devoted his career to helping others with a single goal in mind: to improve the quality of life of the disadvantaged.

And, it is as a result of these humanitarian efforts that he has spent the last 2 years locked up in a Cuban prison.

Alan was arrested in Cuba while working on behalf of USAID to help the country’s Jewish community establish an Intranet and improve its access to the Internet. The Jewish community in Cuba is small and dispersed, making it difficult to communicate amongst themselves and with the wider Jewish community around the world. Neither his presence nor his actions in Cuba were meant to pose a threat or danger to the Cuban government.

For the first 14 months of his captivity, Alan was held without charge. Then, in February 2011, he was charged with “acts to undermine the integrity and independence” of the State. After a two day trial, he was convicted and sentenced to 15 years in prison. His appeal on humanitarian grounds to the Cuban Supreme Court was denied on August 5, 2011.

Alan’s health has deteriorated tremendously during his incarceration. He has lost approximately 100 pounds and he is suffering from a number of serious health issues, some of which his family fears may become permanent. Additionally, in August 2010, his 26-year-old daughter was diagnosed with breast cancer and, this year, his 89-year-old mother was also diagnosed with cancer.

Given the humanitarian nature of his activities in Cuba, and given his health and the health of his family, sentencing Alan Gross to 15 years in prison was inhumane.

The Cuban government is serious about improving relations with the United States, it must recognize the harm its continued incarceration of Alan Gross is doing to that relationship.
The Cuban government must act now and release Alan Gross immediately and unconditionally—for the sake of the relationship between the United States and Cuban people and for the sake of the health of Alan Gross and his family.

HONORING SUPERIOR CHEVROLET

HON. HENRY C. “HANK” JOHNSON, JR. OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. JOHNSON of Georgia. Mr. Speaker, I submit the following Proclamation:

Whereas, we need businesses to set up shop in our community to provide the goods and services that are needed in order for our citizens to survive and thrive on a day to day basis; and

Whereas, in 1969, Mr. Lamar Ferrell started Lamar Ferrell Chevrolet here in Decatur, Georgia to service the citizens of DeKalb County, Georgia and nearby communities; and

Whereas, when Mr. Ferrell passed away, the new owner Mr. Buddy Hyatt purchased the business and it has been family owned ever since under the name of Superior Chevrolet; and

Whereas, Superior Chevrolet continues to be a resource for citizens in DeKalb County and beyond with excellent service, providing employment opportunities and providing a product that “keeps America moving” contributing to the local and national economy; and

Whereas, the U.S. Representative of the Fourth District of Georgia is officially honoring, recognizing and congratulating Superior Chevrolet on their forty-second (42nd) anniversary as a business anchor in our District;

Now, therefore, I, Henry C. “Hank” Johnson, Jr. do hereby proclaim October 21, 2011 as Superior Chevrolet Day in the 4th Congressional District of Georgia

Proclaimed, this 21st day of October, 2011.

THIRD ANNIVERSARY OF IMPRISONMENT OF ALAN GROSS

HON. THEODORE E. DEUTCH OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. DEUTCH. Mr. Speaker, this Saturday marks the third anniversary since American U.S. AID worker Alan Gross was arrested and unjustly imprisoned in Cuba. It is the third year in a row that the U.S. Gross family will prepare to spend another holiday season without their beloved husband, father, and son.

Alan Gross, a resident of Maryland and a long time international development worker, traveled to Cuba in 2009 to help the island’s small Jewish community establish better internet access. Upon his arrival, Mr. Gross declared all of his electronic items with Cuban customs officials. Yet on December 3, 2009, he was arrested and subsequently detained for 14 months without any charges filed against him. Earlier this year, he was charged with “the illegal export of a communications device” for the Internet freedom for Cuba. Mr. Gross, a non-Spanish speaking man in his 60’s who has worked on development projects in over 50 countries, certainly was not trained or equipped to engage in subterfuge.

Alan Gross has been sentenced to 15 years in jail. This preposterous sentence has caused tremendous emotional pain and financial hardship for his family, and devastated the Jewish community. Alan Gross is currently undergoing treatment for cancer, and his 89 year old mother is in poor health and fears she will never see her son again. Alan’s wife, Judy, has been caring for her ill daughter and mother-in-law while working full time to support her family. Alan himself is suffering from severe health problems due to a lack of medical treatment during his incarceration.

In October, Governor Bill Richardson traveled to Cuba with the intent to discuss Alan Gross’ release. During this visit, which had been approved by the Cuban Government, Governor Bill Richardson was denied even a single meeting with Alan to assess his health. Subsequently, the Cuban government refused to discuss Alan’s case with Governor Richardson.

The Castro regime has chosen to align itself with the most repressive and violent regimes in the world, counting among its friends the Venezuelan and Iranian regimes. These regimes have disregarded judicial processes in order to unjustly hold American citizens to use them as leverage instruments by the Castro regime to allow an American citizen to suffer at the hands of these tyrants. The Castro regime must immediately allow Alan to receive proper medical treatment and take the necessary steps to bring him home to his family as soon as possible.

My colleagues and I will continue to speak out on behalf of Alan, his family, and the Jewish community, and continue to use every tool at our disposal to secure Alan’s immediate release.

SUPPORTING THE GOALS AND IDEALS OF WORLD AIDS DAY

HON. LAURA RICHARDSON OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Ms. RICHARDSON. Mr. Speaker, I rise today in support of the goals and ideals of World AIDS Day. A day dedicated to bringing awareness to those who have died from the disease and the strides that have been made in the fight against it.

This year marks 30 years after the first discovery of AIDS cases in the United States. The Center of Disease Control (CDC) estimates that 33.3 million people have HIV worldwide, with 3 million persons worldwide living with HIV in the United States. Every 9½ minutes, someone in the U.S. is infected with HIV. One in five living with HIV is unaware of their infection. By race, African Americans face the most severe HIV burden. The impact of the HIV/AIDS epidemic spans the nation with HIV diagnoses having been reported in all 50 states, the District of Columbia, and the U.S. territories, possessions, and associated nations.

The theme for World AIDS Day 2011 is “Getting to Zero.” After 30 years of the global fight against HIV/AIDS, this year the focus is on achieving 3 targets: Zero new HIV infections; Zero discrimination; Zero AIDS-related deaths.

The goal of “Zero AIDS Related Deaths” signifies an increased access to available treatments for all those infected. Currently, only one third of the 15 million people living with HIV worldwide who are in need of lifelong treatment are receiving it. Universal access to antiretroviral treatment for those living with HIV will not only decrease the number of AIDS related deaths, but will increase the quality of life among those infected and decrease transmission.

World AIDS Day is an opportunity for all of us to learn the facts about HIV. By increasing the understanding of how HIV is transmitted, how it can be prevented, and the reality of living with HIV today—we can use this knowledge to take care of our own health and the health of others.

Since its discovery, countless researchers, healthcare providers, politicians, and educators have contributed to the global initiative to contain and eventually eliminate the presence of AIDS in all corners of the world. Recent scientific advances have resulted in revolutionary breakthroughs, allowing for the potential to reverse the epidemic in coming years. I ask my colleagues to join me in this goal, to remember those who have died of the disease and to celebrate accomplishments achieved, specifically the increased access to treatment and prevention services.

It is imperative that we continue our efforts and work together to increase funding for HIV prevention and education, so that our children will be equipped with sufficient and appropriate knowledge of this growing threat within our communities until HIV/AIDS becomes a memory.

RECOGNIZING DR. ROGER GORDON SMITH’S CAREER SERVICE TO OUR NATION’S VETERANS

HON. STEVE COHEN OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. COHEN. Mr. Speaker, today I rise to honor an unsung hero of the Veterans Administration, Dr. Roger Gordon Smith, M.D. Dr. Smith was born on April 6, 1951, and just recently concluded his long career serving our nation’s veterans on August 26th of this year. Dr. Smith attended Battle Creek Central High School in Michigan, where he graduated in 1969. He earned his Bachelor’s Degree in Chemistry with top honors from Howard University in 1973. He also earned his doctoral degree in medicine with scholastic honors from Howard University in 1977. Following that, he interned at Howard University Hospital until 1978, whereupon he obtained his license to practice medicine in the District of Columbia the following year.

With such an auspicious beginning to his career in medicine, one might have expected Dr. Smith to pursue a lucrative private practice instead, once he had paid off his medical school debts, Dr. Smith chose to apply his considerable talents toward a long career with the Veterans Administration Medical Center in Memphis, Tennessee. There, he attended to the often difficult and complex needs of disabled and retired veterans, most of whom were just returning from Vietnam.

Upon beginning work with the VA, Dr. Smith quickly faced skepticism and bigotry from
some of his patients because of his race. Rather than letting this become a source of discouragement, Dr. Smith instead quietly and calmly carried out his vital work each day with warmth and good humor. He was known to have convinced more than a few patients to let go of their racial animus because of his professional demeanor and attentiveness to his patients’ needs and concerns. Dr. Smith believes that it is a great privilege to be entrusted with the well being of our nation’s veterans, and that commitment to service is reflected in the way he cared for our nation’s wounded.

Among his colleagues, Dr. Smith’s bedside manner was considered “a thing of beauty.” He was always open, accessible, and never made anyone feel like they were imposing a burden on his time. His calm manner under stress exerted a calming influence on those around him. As a resident teacher, Dr. Smith was sought-after by physicians-in-training for his professional enthusiasm and expertise. His patients regarded him as their primary care physician of choice, and considered his office in the VA “the gold standard” in healthcare. He took even the most mundane tasks seriously whenever it concerned a veteran’s well-being, listening carefully to every patient’s story, dutifully tracking each patient’s clinical needs, no matter how small.

Mr. Speaker, I ask my colleagues to join me in thanking Dr. Roger Gordon Smith for his dedication to his country, his service to our nation’s wounded and the inspiration he has provided to his students and his colleagues. Dr. Smith’s great achievement is three decades of daily service to our veterans, acting as the open hand of a grateful nation to our nation’s wounded warriors. Dr. Smith is what every physician should strive to be.

HONORING BISHOP QUINCY LAVELLE CARSWELL
HON. HENRY C. “HANK” JOHNSON, JR.
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. JOHNSON of Georgia. Mr. Speaker, I submit the following Proclamation.

Whereas, Bishop Quincy Lavelle Carswell, is celebrating fifty (50) years in preaching the gospel this year and has provided stellar leadership to his church on an international level; and

Whereas, Bishop Quincy Lavelle Carswell, under the guidance and calling of God began preaching the word of God as a child and has transferred these years as pastor of the historic Tabernacle Baptist Church in Atlanta, Georgia from 1975–1992, founding Covenant Ministries of Metropolitan Atlanta in 1993; and

Whereas, from Miami, Florida to Atlanta, Georgia, he has transformed, trail blazed and taught the gospel on a national and international level when the lives of many have been touched; and

Whereas, this remarkable and tenacious man of God has been and continues to be a blessing to us as a spiritual leader, an educator and a community leader who not only talks the talk, but walks the walk; and

Whereas, Bishop Carswell is a spiritual warrior, a man of compassion, a fearless leader and a servant to all, but most of all a visionary who has shared not only with his Church, but with our District and the world his passion to spread the gospel of Jesus Christ; and

Whereas, the U.S. Representative of the Fourth District of Georgia has set aside this day to honor and recognize Bishop Quincy Lavelle Carswell, as he celebrates his 50th Pastoral Anniversary.

Now therefore, I, Henry C. “Hank” Johnson, Jr. do hereby proclaim October 23, 2011 as Bishop Quincy Lavelle Carswell Day in the 4th Congressional District of Georgia.

Proclaimed, this 23rd day of October, 2011.

COLORADO SCHOOL OF MINES WOMEN’S SOFTBALL TEAM
HON. ED PERLMUTTER
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. PERLMUTTER. Mr. Speaker, I rise today to recognize the Colorado School of Mines Women’s Softball Team, who last spring won a berth at the NCAA Women’s Softball Tournament for the second time in school history. The Orediggers finished the year with a conference record of 28–11, and an overall record of 36–24, sharing the Rocky Mountain Athletic Conference Championship with Metropolitan State College of Denver. The School of Mines also hosted the Rocky Mountain Athletic Conference softball championship last spring. The three day event was a success for the School of Mines and all the schools that participated. Two of the School’s Mines players were named to the All Tournament Team, Kelly Unkrich, and Macy Jones. The women of the Orediggers softball team should be extremely proud of their 2011 season, and their efforts on the diamond and in the classroom. These women exemplify the idea of the collegiate student-athlete. The Colorado School of Mines specializes in hard sciences, and I commend these young women in their dedication to fields that have traditionally been male dominated. They are an inspiration to girls everywhere who want to study science and engineering.

I also want to congratulate pitcher Kelly Unkrich who was named the Rocky Mountain Athletic Conference Women’s Athlete of the Month for April 2011.

I extend my deepest congratulations to the women of the Colorado School of Mines Women’s Softball Team. The lessons they are learning as student-athletes will make these women the science and technology leaders of tomorrow. I am proud to have this world class school in my District. I wish the team best of luck in the 2012 season. I hope it is even more successful than 2011, again congratulations, and Go Orediggers!

TRIBUTE TO MR. TOM HOSEA, EXECUTIVE DIRECTOR, HICA
HON. DANNY K. DAVIS
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. DAVIS of Illinois. Mr. Speaker, I have known Mr. Tom Hosea since the late 1960s and early 1970s. When I first met Tom, he was an executive with the American Hospital Association; many of us who met and ran together at that time were health activists. I say ran together because we attended so many meetings until it seemed as a natural thing to do. Although there were many emerging groups, Tom was actively involved with the Chicago chapter of the American Hospital Association; many of us who met and ran worked for the American Hospital Association at that time.

Tom got the community action bug and the next thing I knew he was working with Dr. Levy, a Black Hebrew Israelite down East of Ashland on Roosevelt Road in an area called the Valley where the Westside organization operated with Chester Robinson, Thursty Dar- den, Rev. Archie Hargraves, Rev. John Crawford, and others in its leadership. Later on, Tom got involved in the Austin community and worked with Mary Volpe as Assistant Di- rector of the Northeast Austin Community Or- ganization and after Sam Flowers died, Tom became the Executive Director of HICA which he has struggled to keep alive.

When I first knew Tom his name was Hozier; he also got involved with the entertain- ment business spinning records and putting on events; next thing I knew, I along with every- one else that I knew was calling him Hosea. Tom has passed away, but he led a very ac- tive life and had a very meaningful and color- ful career.

To his wife and family, we express our con- dolences and know that the value of his work will go on and on.

WORLD AIDS DAY
HON. JANICE D. SCHAKOWSKY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Ms. SCHAKOWSKY. Mr. Speaker, as we pause to reflect on World AIDS Day, I want to thank many activists who work tirelessly—every day—to focus increased attention on HIV/AIDS education, treatment and prevention. I want to recognize the great work of David Munar and the AIDS Founda- tion of Chicago, and Mark Ishaug and AIDS United, who—along with countless organiza- tions across the country and world—are work- ing to end HIV/AIDS and to ensure that people with HIV/AIDS live longer and better lives.

HIV/AIDS is one of the world’s most press- ing global health challenges. It is a danger to global security and to the future of people around the world. Nearly 35 million people are living with HIV/AIDS around the world, including over one million Americans. Our community, our nation and the entire world are threat- ened by this terrible pandemic. As the HIV virus has spread, the face of its victims has changed. Women now account for 52 percent of the adults living with HIV/AIDS around the world. In regions like sub-Saharan Africa, gender inequalities have left women particularly vulnerable to infection. The battle to stop the spread of HIV/AIDS among women directly hinges on our ability to empower them with the information and the tools needed to protect themselves, their families and their communities. That is one of the reasons
that I have been such a strong supporter of microbicides research. The HIV/AIDS epidemic has not spared the world’s children. Last year there were 3.4 million children across the globe living with HIV, and the disease has left more than 16.6 million AIDS orphans, most of whom live in sub-Saharan Africa, in its wake.

Despite the many advances of the last thirty years, as the pandemic has grown, so have the challenges. Despite the significant expansion of treatment programs, only 47% of the 14.2 million people who were eligible for treatment were receiving it by the end of last year. Despite the 21% drop in deaths from AIDS since 2005, last year 1.8 million people died of AIDS. HIV remains a leading cause of death worldwide and the number one cause of death in Africa.

The United States has a responsibility to lead the fight against HIV/AIDS by containing the spread of the virus, helping to provide treatment, and investing in a cure. It is critical that we continue to meet this responsibility, especially after last week’s announcement by the Global Fund to Fight AIDS, Tuberculosis and Malaria that they cannot fund any new grants for at least two years because of the global financial crisis.

To ensure that the millions of people battling HIV/AIDS do not become collateral damage of the economic downturn, and to uphold our responsibility as a global leader in the fight against HIV/AIDS, I will do whatever I can to ensure that we maintain commitment to domestic and global AIDS programs. That includes funding for PEPFAR and the Global Fund to Fight AIDS, TB, and Malaria, as well as vital funding for domestic programs like the Ryan White CARE Act, and the Housing Opportunities for People with AIDS Program, and especially, the AIDS Drug Assistance Program, given that some states are changing the income eligibility criteria for that program, while others are seeing waiting lists.

While we have come far in the fight, we so have a long way to go, and we cannot afford to become complacent.

HONORING LIZZIE ALEXANDER

HON. HENRY C. “HANK” JOHNSON, JR.
OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. JOHNSON of Georgia. Mr. Speaker, I submit the following Proclamation.

Whereas, reaching the age of 75 years is a remarkable milestone; and
Whereas, Ms. Lizzie Alexander was born on October 25, 1936 and is celebrating that milestone; and
Whereas, Ms. Alexander has been blessed with a long, happy life, devoted to God and credits it all to the Will of God; and
Whereas, Ms. Alexander is celebrating her 75th Birthday with her family members, church members and friends here in DeKalb County, Georgia on October 22, 2011; and
Whereas, the Lord has been her Shepherd throughout her life and she prays daily and is leading by example a blessed life; and
Whereas, we are honored that she is celebrating the milestone of her 75th birthday in the 4th District of Georgia; and
Whereas, the U.S. Representative of the Fourth District of Georgia has set aside this day to honor and recognize Ms. Lizzie Alexander for an exemplary life which is an inspiration to all,

Now therefore, I, HENRY C. “HANK” JOHNSON, Jr. do hereby proclaim October 22nd & October 25th, 2011 as Ms. Lizzie Alexander Days in the 4th Congressional District of Georgia.

Proclaimed, this 22nd day of October, 2011.

PERSONAL EXPLANATION

HON. TODD ROKITA
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Thursday, December 1, 2011

Mr. ROKITA. Mr. Speaker, on rollcall 860, I was unavoidably detained. Had I been present, I would have voted “yes.”
HIGHLIGHTS

See Résumé of Congressional Activity.

Senate passed National Defense Authorization bills.

Senate

Chamber Action
Routine Proceedings, pages S8079–S8159

Measures Introduced: Seven bills and two resolutions were introduced, as follows: S. 1933–1939, S. Res. 342, and S. Con. Res. 33. Pages S8148–49

Measures Reported:

- S. Res. 227, calling for the protection of the Mekong River Basin and increased United States support for delaying the construction of mainstream dams along the Mekong River, with an amendment in the nature of a substitute and with an amended preamble.
- S. Res. 316, expressing the sense of the Senate regarding Tunisia’s peaceful Jasmine Revolution, and with an amended preamble.
- S. 671, to authorize the United States Marshals Service to issue administrative subpoenas in investigations relating to unregistered sex offenders, with an amendment in the nature of a substitute.
- S. 1792, to clarify the authority of the United States Marshal Service to assist other Federal, State, and local law enforcement agencies in the investigation of cases involving sex offenders and missing children. Page S8148

Measures Passed:

Department of Defense Authorization Act: By 93 yeas to 7 nays (Vote No. 218), Senate passed S. 1867, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, after taking action on the following amendments proposed thereto: Pages S8094–8138

- Begich Modified Amendment No. 1114, to amend title 10, United States Code, to authorize space-available travel on military aircraft for members of the reserve components, a member or former member of a reserve component who is eligible for retired pay but for age, widows and widowers of retired members, and dependents. Pages S8094, S8116–17
- Ayotte (for McCain) Amendment No. 1220, to require Comptroller General of the United States reports on the Department of Defense implementation of justification and approval requirements for certain sole-source contracts. Pages S8095, S8116
- Levin (for Reed) Modified Amendment No. 1146, to provide for the participation of military technicians (dual status) in the study on the termination of military technician as a distinct personnel management category. Pages S8095, S8116–17
- Levin Modified Amendment No. 1293, to authorize the transfer of certain high-speed ferries to the Navy. Pages S8095, S8116–17
- Levin (for Boxer) Amendment No. 1206, to implement common sense controls on the taxpayer-funded salaries of defense contractors. Pages S8095, S8116–17
- Chambliss Modified Amendment No. 1304, to require a report on the alignment, organizational reporting, and performance rating of Air Force system program managers, sustainment program managers, and product support managers at Air Logistics Centers or Air Logistics Complexes. Pages S8095, S8116–17
- Levin (for Pryor) Amendment No. 1151, to authorize a death gratuity and related benefits for Reserves who die during an authorized stay at their residence during or between successive days of inactive duty training. Pages S8095, S8116
- Levin (for Nelson (FL)) Amendment No. 1236, to require a report on the effects of changing flag officer positions within the Air Force Materiel Command. Pages S8095, S8116
- Ayotte (for Blunt/Gillibrand) Modified Amendment No. 1133, to provide for employment and re-employment rights for certain individuals ordered to full-time National Guard duty. Pages S8095, S8116–17
Ayotte (for Murkowski) Modified Amendment No. 1287, to provide limitations on the retirement of C–23 aircraft. 

Pages S8095, S8116–17

McCain (for Brown (MA)) Modified Amendment No. 1090, to provide that the basic allowance for housing in effect for a member of the National Guard is not reduced when the member transitions between active duty and full-time National Guard duty without a break in active service. 

Pages S8094–95, S8115, S8116–17

By 99 yeas to 1 nay (Vote No. 215), Feinstein Amendment No. 1456, of a perfecting nature. 

Pages S8123–24, S8125

By a unanimous vote of 100 yeas (Vote No. 216), Levin (for Menendez/Kirk) Amendment No. 1414, to require the imposition of sanctions with respect to the financial sector of Iran, including the Central Bank of Iran. 

Pages S8095, S8105–07, S8125–26

Levin (for Nelson (FL)) Amendment No. 1209, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans’ dependency and indemnity compensation. 

Pages S8095, S8126

Levyh Modified Amendment No. 1087, to improve the provisions relating to the treatment of certain sensitive national security information under the Freedom of Information Act. 

Pages S8127–28

Udall (NM)/Schumer Modified Amendment No. 1202, to clarify the application of the provisions of the Buy American Act to the procurement of photovoltaic devices by the Department of Defense. 

Pages S8095, S8128

Rejected:

By 45 yeas to 55 nays (Vote No. 213), Feinstein Amendment No. 1125, to clarify the applicability of requirements for military custody with respect to detainees. 

Pages S8094, S8095–S8105, S8107–08

By 45 yeas to 55 nays (Vote No. 214), Feinstein Amendment No. 1126, to limit the authority of the Armed Forces to detain citizens of the United States under section 1031. 

Pages S8094, S8110–11, S8122–23, S8124–25

By 41 yeas to 59 nays (Vote No. 217), Sessions Amendment No. 1274, to clarify the disposition under the law of war of persons detained by the Armed Forces of the United States pursuant to the Authorization for Use of Military Force. 

Pages S8095, S8113–15, S8126–27

Withdrawn:

Inhofe Amendment No. 1093, to require the detention at United States Naval Station, Guantanamo Bay, Cuba, of high-value enemy combatants who will be detained long-term. 

Pages S8094, S8107

Collins Amendment No. 1105, to make permanent the requirement for certifications relating to the transfer of detainees at United States Naval Station, Guantanamo Bay, Cuba, to foreign countries and other foreign entities. 

Pages S8094, S8117

Collins Amendment No. 1158, to clarify the permanence of the prohibition on transfers of recidivist detainees at United States Naval Station, Guantanamo Bay, Cuba, to foreign countries and entities. 

Pages S8094, S8117

Ayotte (for Rubio) Amendment No. 1290, to strike the national security waiver authority in section 1032, relating to requirements for military custody. 

Pages S8095, S8122

Merkley Amendment No. 1256, to require a plan for the expedited transition of responsibility for military and security operations in Afghanistan to the Government of Afghanistan. 

Pages S8095, S8122

Levin (for Leahy) Amendment No. 1080, to clarify the applicability of requirements for military custody with respect to detainees. 

Pages S8095, S8126

During consideration of this measure today, Senate also took the following action:

Chair sustained a point of order under Rule XXII, that the following amendments were not germane, and the amendments thus fell:

Levin (for Nelson (FL)) Amendment No. 1255, to require an epidemiological study on the health of military personnel exposed to burn pit emissions at Joint Base Balad. 

Page S8095

Ayotte (for Murkowski) Amendment No. 1286, to require a Department of Defense Inspector General report on theft of computer tapes containing protected information on covered beneficiaries under the TRICARE program. 

Page S8095

Levin (for Reed) Amendment No. 1254, to enhance consumer credit protections for members of the Armed Forces and their dependents. 

Page S8095

Levin (for Brown (OH)) Amendment No. 1259, to link domestic manufacturers to defense supply chain opportunities. 

Page S8095

Levin (for Brown (OH)) Amendment No. 1261, to extend treatment of base closure areas as HUBZones for purposes of the Small Business Act. 

Page S8095

Levin (for Brown (OH)) Amendment No. 1263, to authorize the conveyance of the John Kunkel Army Reserve Center, Warren, Ohio. 

Page S8095

Levin (for Wyden) Amendment No. 1296, to require reports on the use of indemnification agreements in Department of Defense contracts. 

Page S8095

Levin (for Pryor) Amendment No. 1152, to recognize the service in the reserve components of the Armed Forces of certain persons by honoring them with status as veterans under law. 

Page S8095
Sessions Amendment No. 1182, to prohibit the permanent stationing of more than two Army Brigade Combat Teams within the geographic boundaries of the United States European Command.

Page S8095

Sessions Amendment No. 1184, to limit any reduction in the number of surface combatants of the Navy below 313 vessels.

Levin (for Reed) Amendment No. 1147, to prohibit the repayment of enlistment or related bonuses by certain individuals who become employed as military technicians (dual status) while already a member of a reserve component.

Levin (for Reed) Amendment No. 1148, to provide rights of grievance, arbitration, appeal, and review beyond the adjutant general for military technicians.

Levin (for Reed) Amendment No. 1204, to authorize a pilot program on enhancements of Department of Defense efforts on mental health in the National Guard and Reserves through community partnerships.

Ayotte (for Graham) Amendment No. 1179, to specify the number of judge advocates of the Air Force in the regular grade of brigadier general.

Ayotte (for Heller/Kirk) Amendment No. 1137, to provide for the recognition of Jerusalem as the capital of Israel and the relocation to Jerusalem of the United States Embassy in Israel.

Ayotte (for Heller) Amendment No. 1138, to provide for the exhumation and transfer of remains of deceased members of the Armed Forces buried in Tripoli, Libya.

Ayotte (for McCain) Amendment No. 1247, to restrict the authority of the Secretary of Defense to develop public infrastructure on Guam until certain conditions related to Guam realignment have been met.

Ayotte (for McCain/Ayotte) Amendment No. 1249, to limit the use of cost-type contracts by the Department of Defense for major defense acquisition programs.

Ayotte (for McCain) Amendment No. 1248, to expand the authority for the overhaul and repair of vessels to the United States, Guam, and the Commonwealth of the Northern Mariana Islands.

Ayotte (for McCain) Amendment No. 1118, to modify the availability of surcharges collected by commissary stores.

Levin (for Bingaman) Amendment No. 1117, to provide for national security benefits for White Sands Missile Range and Fort Bliss.

Page S8095

Levin (for Gillibrand/Portman) Amendment No. 1187, to expedite the hiring authority for the defense information technology/cyber workforce.

Page S8095

Levin (for Gillibrand/Blunt) Amendment No. 1211, to authorize the Secretary of Defense to provide assistance to State National Guards to provide counseling and reintegration services for members of reserve components of the Armed Forces ordered to active duty in support of a contingency operation, members returning from such active duty, veterans of the Armed Forces, and their families.

Merkley Amendment No. 1239, to expand the Marine Gunnery Sergeant John David Fry scholarship to include spouses of members of the Armed Forces who die in the line of duty.

Merkley Amendment No. 1258, to require the timely identification of qualified census tracts for purposes of the HUBZone program.

Leahy/Grassley Amendment No. 1186, to provide the Department of Justice necessary tools to fight fraud by reforming the working capital fund.

Wyden/Merkley Amendment No. 1160, to provide for the closure of Umatilla Army Chemical Depot, Oregon.

Wyden Amendment No. 1253, to provide for the retention of members of the reserve components on active duty for a period of 45 days following an extended deployment in contingency operations or homeland defense missions to support their reintegration into civilian life.

McCain (for Ayotte) Amendment No. 1068, to authorize lawful interrogation methods in addition to those authorized by the Army Field Manual for the collection of foreign intelligence information through interrogations.

McCain (for Brown (MA)/Boozman) Amendment No. 1119, to protect the child custody rights of members of the Armed Forces deployed in support of a contingency operation.

McCain (for Brown (MA)) Amendment No. 1089, to require certain disclosures from post-secondary institutions that participate in tuition assistance programs of the Department of Defense.

Udall (NM) Amendment No. 1153, to include ultralight vehicles in the definition of aircraft for purposes of the aviation smuggling provisions of the Tariff Act of 1930.

Udall (NM) Amendment No. 1154, to direct the Secretary of Veterans Affairs to establish an open burn pit registry to ensure that members of the Armed Forces who may have been exposed to toxic chemicals and fumes caused by open burn pits while deployed to Afghanistan or Iraq receive information regarding such exposure.
McCain (for Corker) Amendment No. 1171, to prohibit funding for any unit of a security force of Pakistan if there is credible evidence that the unit maintains connections with an organization known to conduct terrorist activities against the United States or United States allies.

McCain (for Corker) Amendment No. 1173, to express the sense of the Senate on the North Atlantic Treaty Organization.

Inhofe Amendment No. 1099, to express the sense of Congress that the Secretary of Defense should implement the recommendations of the Comptroller General of the United States regarding prevention, abatement, and data collection to address hearing injuries and hearing loss among members of the Armed Forces.

Inhofe Amendment No. 1100, to extend to products and services from Latvia existing temporary authority to procure certain products and services from countries along a major route of supply to Afghanistan.

Casey Amendment No. 1139, to require contractors to notify small business concerns that have been included in offers relating to contracts let by Federal agencies.

McCain (for Cornyn) Amendment No. 1200, to provide Taiwan with critically needed United States-built multirole fighter aircraft to strengthen its self-defense capability against the increasing military threat from China.

Shaheen Amendment No. 1120, to exclude cases in which pregnancy is the result of an act of rape or incest from the prohibition on funding of abortions by the Department of Defense.

Collins Amendment No. 1155, to authorize educational assistance under the Armed Forces Health Professions Scholarship program for pursuit of advanced degrees in physical therapy and occupational therapy.

Inhofe Amendment No. 1097, to eliminate gaps and redundancies between the over 200 programs within the Department of Defense that address psychological health and traumatic brain injury.

Franken Amendment No. 1197, to require contractors to make timely payments to subcontractors that are small business concerns.

Chair sustained a point of order that the following amendment is drafted improperly, and the amendment thus fell:

Merkley Amendment No. 1174, to express the sense of Congress regarding the expedited transition of responsibility for military and security operations in Afghanistan to the Government of Afghanistan.

Chair sustained a point of order that the following amendment is drafted improperly, and the amendment thus fell:

Ayotte (for Rubio) Amendment No. 1291, to strike the national security waiver authority in section 1033, relating to requirements for certifications relating to transfer of detainees at United States Naval Station, Guantanamo Bay, Cuba, to foreign countries and entities.

National Defense Authorization Act: Committee on Armed Services was discharged from further consideration of H.R. 1540, to authorize appropriations for fiscal year 2012 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and the bill was then passed, after striking all after the enacting clause and inserting in lieu thereof the text of S. 1867, as amended.

Senate insisted on its amendment, requested a conference with the House on the disagreeing votes of the two Houses, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Levin, Lieberman, Reed, Akaka, Nelson (NE), Webb, McCaskill, Udall (CO), Hagan, Begich, Manchin, Shaheen, Gillibrand, Blumenthal, McCain, Inhofe, Sessions, Chambliss, Wicker, Brown (MA), Portman, Ayotte, Collins, Graham, Cornyn, and Vitter.

National Guard and Reservist Debt Relief Extension Act: Senate passed H.R. 2192, to exempt for an additional 4-year period, from the application of the means-test presumption of abuse under chapter 7, qualifying members of reserve components of the Armed Forces and members of the National Guard who, after September 11, 2001, are called to active duty or to perform a homeland defense activity for not less than 90 days.

Measures Considered:

Payroll Tax Relief: Senate continued consideration of the motion to proceed to consideration of S. 1917, to create jobs by providing payroll tax relief for middle class families and businesses.

During consideration of this measure today, Senate also took the following action:

By 51 yeas to 49 nays (Vote No. 219), Senate rejected the motion to proceed to consideration of the bill. (A unanimous-consent agreement was reached providing that the motion to proceed, having failed to achieve 60 affirmative votes, the motion to proceed was not agreed to.)

A unanimous-consent agreement was reached providing that the motion to invoke cloture on the motion to proceed to consideration of the bill, be withdrawn.
Payroll Tax Relief: Senate began consideration of the motion to proceed to consideration of the motion to proceed to S. 1931, to provide civilian payroll tax relief, to reduce the Federal budget deficit, and for other purposes.

By 20 yeas to 78 nays (Vote No. 220), Senate rejected the motion to proceed to consideration of the bill. (A unanimous-consent agreement was reached providing that the motion to proceed, having failed to achieve 60 affirmative votes, the motion to proceed was not agreed to.)

Halligan Nomination—Cloture: Senate began consideration of the nomination of Caitlin Joan Halligan, of New York, to be United States Circuit Judge for the District of Columbia Circuit.

A motion was entered to close further debate on the nomination, and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, and pursuant to the unanimous-consent agreement of Thursday, December 1, 2011, a vote on cloture will occur on Tuesday, December 6, 2011.

A unanimous-consent agreement was reached providing that on Tuesday, December 6, 2011, at 11 a.m., Senate resume consideration of the nomination; that there be one hour for debate equally divided in the usual form prior to the cloture vote.

Judicial Nominations—Agreement: A unanimous-consent agreement was reached providing that at 4:30 p.m., on Monday, December 5, 2011, Senate begin consideration of the nominations of Edgardo Ramos, of Connecticut, to be United States District Judge for the Southern District of New York, Andrew L. Carter, Jr., of New York, to be United States District Judge for the Southern District of New York, James Rodney Gilstrap, of Texas, to be United States District Judge for the Eastern District of Texas, and Dana L. Christensen, of Montana, to be United States District Judge for the District of Montana, under the order of Friday, November 18, 2011.

Nominations Received: Senate received the following nominations:

Marilyn B. Tavenner, of Virginia, to be Administrator of the Centers for Medicare and Medicaid Services.

A routine list in the Army.

Nomination Withdrawn: Senate received notification of withdrawal of the following nomination:

Donald M. Berwick, of Massachusetts, to be Administrator of the Centers for Medicare and Medicaid Services, which was sent to the Senate on January 26, 2011.
of 1933 to require the Securities and Exchange Commission to exempt a certain class of securities from such Act, and H.R. 2930, to amend the securities laws to provide for registration exemptions for certain crowdfunded securities, after receiving testimony from Senators Hutchison, Pryor, and Brown (MA); Meredith B. Cross, Director, Division of Corporation Finance, United States Securities and Exchange Commission; Jack E. Herstein, Assistant Director, Nebraska Department of Banking and Finance, Bureau of Statistics, Washington, D.C., on behalf of the North American Securities Administrators Association, Inc.; John C. Coffee, Jr., Columbia University Law School, Scott Cutler, NYSE Euronext, and Edward S. Knight, NASDAQ OMX Group, all of New York, New York; and Christopher T. Gheysens, Wawa, Inc., Wawa, Pennsylvania.

IRAN

Committee on Foreign Relations: Committee concluded a hearing to examine United States strategic objectives towards Iran, after receiving testimony from Wendy Sherman, Under Secretary of State for Political Affairs; and David S. Cohen, Under Secretary of the Treasury for Terrorism and Financial Intelligence.

MEDICATING AMERICA’S FOSTER CHILDREN

Committee on Homeland Security and Governmental Affairs: Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security concluded a hearing to examine the financial and societal costs of medicating America’s foster children, focusing on if the Department of Health and Human Services’ guidance could help states improve oversight of psychotropic prescriptions, after receiving testimony from Gregory D. Kutz, Director, Forensic Audits and Investigative Service, Government Accountability Office; Bryan Samuels, Commissioner, Administration on Children, Youth and Families, Administration for Children and Families, Department of Health and Human Services; Matt Salo, National Association of Medicaid Directors (NAMD), Alexandria, Virginia; Jon McClellan, University of Washington, Seattle; and Ke’onte Cook, McKinney, Texas.

INSIDER TRADING AND CONGRESSIONAL ACCOUNTABILITY

Committee on Homeland Security and Governmental Affairs: Committee concluded a hearing to examine insider trading and congressional accountability, including S. 1871, to prohibit commodities and securities trading based on nonpublic information relating to Congress, to require additional reporting by Members and employees of Congress of securities transactions, and S. 1903, to prohibit commodities and securities trading based on nonpublic information relating to Congress, to require additional reporting by Members and employees of Congress of securities transactions, after receiving testimony from Senators Gillibrand and Brown (MA); Melanie Sloan, Citizens for Responsibility and Ethics in Washington, Donald C. Langevoort, Georgetown University Law Center, and Robert L. Walker, Wiley Rein LLP, all of Washington, D.C.; Donna M. Nagy, Indiana University Maurer School of Law, Bloomington; and John C. Coffee, Jr., Columbia University Law School, New York, New York.

DEFICIT REDUCTION AND JOB CREATION

Committee on Indian Affairs: Committee concluded an oversight hearing to examine deficit reduction and job creation, focusing on regulatory reform in Indian country, including S. 1684, to amend the Indian Tribal Energy Development and Self-Determination Act of 2005, after receiving testimony from Doug O’Brien, Deputy Under Secretary of the Interior for Rural Development; Geoffrey C. Blackwell, Chief, Office of Native Affairs and Policy, Federal Communications Commission; Jefferson Keel, and Jacqueline Johnson-Pata, both of the National Congress of American Indians, Washington, D.C.; Ben Shelly, Navajo Nation, Window Rock, Arizona; Cedric Cromwell, Mashpee Wampanoag Tribe, Mashpee, Massachusetts; and Pearl E. Casias, Southern Ute Indian Tribe, Ignacio, Colorado.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 1792, to clarify the authority of the United States Marshals Service to assist other Federal, State, and local law enforcement agencies in the investigation of cases involving sex offenders and missing children;

S. 671, to authorize the United States Marshals Service to issue administrative subpoenas in investigations relating to unregistered sex offenders, with an amendment in the nature of a substitute; and

The nominations of Jacqueline H. Nguyen, of California, to be United States Circuit Judge for the Ninth Circuit, Gregg Jeffrey Costa, to be United States District Judge for the Southern District of Texas, and David Campos Guaderrama, to be United States District Judge for the Western District of Texas.
House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 15 public bills, H.R. 3533–3547; and 4 resolutions, H. Con. Res. 91; and H. Res. 480–482 were introduced. Pages H8074–76

Additional Cosponsors: Page H8076

Reports Filed: Reports were filed today as follows:

H.R. 2845, to amend title 49, United States Code, to provide for enhanced safety and environmental protection in pipeline transportation, to provide for enhanced reliability in the transportation of the Nation’s energy products by pipeline, and for other purposes, with an amendment (H. Rept. 112–297 Pt. 1);

S. 535, to authorize the Secretary of the Interior to lease certain lands within Fort Pulaski National Monument, and for other purposes (H. Rept. 112–298);

H.R. 1158, to authorize the conveyance of mineral rights by the Secretary of the Interior in the State of Montana, and for other purposes, with an amendment (Rept. 112–299);

H.R. 2172, to facilitate the development of wind energy resources on Federal lands, with an amendment (H. Rept. 112–300 Pt. 1);

H.R. 2842, to authorize all Bureau of Reclamation conduit facilities for hydropower development under Federal Reclamation law, and for other purposes, with an amendment (H. Rept. 112–301);

H.R. 2803, to direct the Secretary of the Interior, acting through the Bureau of Ocean Energy Management, Regulation and Enforcement, to conduct a technological capability assessment, survey, and economic feasibility study regarding recovery of minerals, other than oil and natural gas, from the shallow and deep seabed of the United States, with amendments (H. Rept. 112–302);

H.R. 2578, to amend the Wild and Scenic Rivers Act related to a segment of the Lower Merced River in California, and for other purposes (H. Rept. 112–303);

H.R. 2360, to amend the Outer Continental Shelf Lands Act to extend the Constitution, laws, and jurisdiction of the United States to installations and devices attached to the seabed of the Outer Continental Shelf for the production and support of production of energy from sources other than oil and gas, and for other purposes (H. Rept. 112–304);

H.R. 2351, to direct the Secretary of the Interior to continue stocking fish in certain lakes in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area (H. Rept. 112–305);

H.R. 1556, to amend the Omnibus Indian Advancement Act to allow certain land to be used to generate income to provide funding for academic programs, and for other purposes (H. Rept. 112–306);

H.R. 1461, to authorize the Mescalero Apache Tribe to lease adjudicated water rights (H. Rept. 112–307);

H.R. 991, to amend the Marine Mammal Protection Act of 1972 to allow importation of polar bear trophies taken in sport hunts in Canada before the date the polar bear was determined to be a threatened species under the Endangered Species Act of 1973, with an amendment (H. Rept. 112–308);

H.R. 850, to facilitate a proposed project in the Lower St. Croix Wild and Scenic River, and for other purposes, with an amendment (H. Rept. 112–309);

H.R. 306, to direct the Secretary of the Interior to enter into an agreement to provide for management of the free-roaming wild horses in and around the Currituck National Wildlife Refuge, with an amendment (H. Rept. 112–310); and

H. Res. 479, providing for consideration of the bill (H.R. 10) to amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law, and for other purposes (H. Rept. 112–311).

Speaker: Read a letter from the Speaker wherein he appointed Representative West to act as Speaker pro tempore for today.

Recess: The House recessed at 11:28 a.m. and reconvened at 12 noon.

Chaplain: The prayer was offered by the guest chaplain, Reverend Dr. Cathy Jones, Parkwood Institutional CME Church, Charlotte, North Carolina.

Terminating taxpayer financing of presidential election campaigns and party conventions and terminating the Election Assistance Commission: The House passed H.R. 3463, to reduce Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions and by terminating the Election Assistance Commission, by a recorded vote of 235 ayes to 190 noes, Roll No. 873. Pages H8016–32, H8032–34

Rejected the Bishop (GA) motion to recommit the bill to the Committee on House Administration with instructions to report the same back to the
House forthwith with an amendment, by a yea-and-nay vote of 190 yeas to 236 nays, Roll No. 872.

H. Res. 477, the rule that is providing for consideration of H.R. 3463, H.R. 527, and H.R. 3010, was agreed to yesterday, November 30th.

Recess: The House recessed at 1:56 p.m. and reconvened at 2:05 p.m.

Regulatory Flexibility Improvements Act of 2011: The House passed H.R. 527, to amend chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act), to ensure complete analysis of potential impacts on small entities of rules, by a recorded vote of 263 ayes to 159 noes, Roll No. 880.

Rejected the Loretta Sanchez motion to recommit the bill to the Committee on the Judiciary with instructions to report the same back to the House forthwith with an amendment, by a recorded vote of 188 ayes to 233 noes, Roll No. 879.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of the Rules Committee Print dated November 18, 2011 shall be considered as an original bill for the purpose of amendment under the five-minute rule, in lieu of the amendments in the nature of a substitute recommended by the Committees on the Judiciary and Small Business now printed in the bill.

Agreed to:

Critz amendment (No. 1 printed in part A of H. Rept. 112–296) that requires the estimated cumulative impact on small businesses of any other rule stemming from the implementation of the Free Trade Agreements.

Rejected:

Jackson Lee amendment (No. 2 printed in part A of H. Rept. 112–296) that sought to exempt all rules promulgated by the Department of Homeland Security (by a recorded vote of 173 ayes to 244 noes, Roll No. 874);

Cohen amendment (No. 3 printed in part A of H. Rept. 112–296) that sought to exempt from the bill any rule that relates to food safety, workplace safety, consumer products safety, air or water quality (by a recorded vote of 171 ayes to 248 noes, Roll No. 875);

Peters amendment (No. 4 printed in part A of H. Rept. 112–296) that sought to exempt from the bill all rules that OMB determines would result in net job creation (by a recorded vote of 179 ayes to 243 noes, Roll No. 876);

Jackson Lee amendment (No. 5 printed in part A of H. Rept. 112–296) that sought to require a GAO report to determine the cost of carrying out the Act and the effect it will have on federal agency rule making. In addition, the report would need to contain information on the impact of repealing the ability of an agency to waive provisions in the Regulatory Flexibility Act when responding to an emergency (by a recorded vote of 172 ayes to 250 noes, Roll No. 877); and

Johnson (GA) amendment (No. 6 printed in part A of H. Rept. 112–296) that sought to create an exception for any rule making to carry out the Food Safety Modernization Act (by a recorded vote of 170 ayes to 250 noes, Roll No. 878).

H. Res. 477, the rule that is providing for consideration of H.R. 3463, H.R. 527, and H.R. 3010, was agreed to yesterday, November 30th.

Suspension—Proceedings Resumed: The House agreed to suspend the rules and agree to the following measure which was debated on November 30th:

Designating room HVC 215 of the Capitol Visitor Center as the “Gabriel Zimmerman Meeting Room”: H. Res. 364, to designate room HVC 215 of the Capitol Visitor Center as the “Gabriel Zimmerman Meeting Room”, by a 2⁄3 yea-and-nay vote of 419 yeas with none voting “nay”, Roll No. 881.

Senate Message: Message received from the Senate by the Clerk and subsequently presented to the House today appears on page H8011–12.

Quorum Calls—Votes: Two yea-and-nay votes and eight recorded votes developed during the proceedings of today and appear on pages H8033–34, H8034, H8050–51, H8051, H8052, H8052–53, H8053, H8055, H8055–56, H8056–57. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 8:37 p.m.

Committee Meetings

USDA INSPECTOR GENERAL AUDITS

Committee on Agriculture: Subcommittee on Department Operations, Oversight, and Credit held a hearing to review updates on USDA Inspector General Audits, including SNAP fraud detection efforts and IT compliance. Testimony was heard from Phyllis K. Fong, Inspector General, Office of Inspector General, Department of Agriculture.

MISCELLANEOUS MEASURES

Committee on Energy and Commerce: Subcommittee on Communications and Technology held a markup of the “Jumpstarting Opportunity with Broadband Spectrum (JOBS) Act of 2011.” The bill was forwarded, as amended.
FHA SINGLE-FAMILY INSURANCE FUND  
Committee on Financial Services: Full Committee held a hearing entitled “Perspectives on the Health of the FHA Single-family Insurance Fund.” Testimony was heard from Mathew Scire, Director, Financial Markets and Community Investment, Government Accountability Office; and public witnesses.

FEDERAL HOUSING FINANCE AGENCY  
Committee on Financial Services: Subcommittee on Oversight and Investigations held a hearing entitled “Oversight of the Federal Housing Finance Agency.” Testimony was heard from Edward J. DeMarco, Acting Director, Federal Housing Finance Agency; and public witnesses.

DEMOCRACY HELD HOSTAGE IN NICARAGUA  
Committee on Foreign Affairs: Full Committee held a hearing entitled “Democracy Held Hostage in Nicaragua: Part I.” Testimony was heard from public witnesses.

MISCELLANEOUS MEASURES  
Committee on the Judiciary: Full Committee held a markup of the following: H.R. 2572, the “Clean Up Government Act of 2001”; and H.R. 1433, the “Private Property Rights Protection Act of 2011”. H.R. 2572 was ordered reported, as amended. The Committee began markup of H.R. 1433.

LEGISLATIVE MEASURES  

HHS AND THE CATHOLIC CHURCH  
Committee on Oversight and Government Reform: Full Committee held a hearing entitled “HHS and the Catholic Church: Examining the Politicization of Grants.” Testimony was heard from George Sheldon, Acting Assistant Secretary, Administration for Children and Families, Department of Health and Human Services; and Eskinder Negash, Director, Office of Refugee Resettlement, Administration for Children and Families, Department of Health and Human Services.

REGULATIONS FROM THE EXECUTIVE IN NEED OF SCRUTINY ACT OF 2011  
Committee on Rules: Full Committee held a hearing on H.R. 10, the “Regulations from the Executive in Need of Scrutiny Act of 2011.” The Committee granted, by a vote of 6 to 4, a structured rule providing one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Rules now printed in the bill, as modified by the amendment in part A of the Rules Committee report, shall be considered as adopted. The rule waives the bill, as amended, shall be considered as original text for the purpose of further amendment and shall be considered as read. The rule waives all points of order against provisions in the bill, as amended. The rule makes in order only those further amendments printed in part B of the Rules Committee report. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. The rule waives all points of order against the amendments printed in part B of the Rules Committee report. The rule provides one motion to recommit with or without instructions.

The rule provides that during any recess or adjournment of not more than three days, if in the opinion of the Speaker the public interest so warrants, then the Speaker or his designee, after consultation with the Minority Leader, may reconvene the House at a time other than that previously appointed, within the limits of clause 4, section 5, article I of the Constitution, and notify Members accordingly. Finally, the rule provides that clause 3 of rule XXIX shall apply to the availability requirements for a conference report and the accompanying joint statement under clause 8(a)(1) of rule XXII.


MISCELLANEOUS MEASURES  
Committee on Science, Space, and Technology: Full Committee held a markup of H.R. 3479, the Natural
Hazards Risk Reduction Act of 2011. The bill was ordered reported, as amended.

**CYBER SECURITY: PROTECTING YOUR SMALL BUSINESS**

Committee on Small Business: Subcommittee on Healthcare and Technology held a hearing entitled “Cyber Security: Protecting Your Small Business.” Testimony was heard from Rep. Thornberry; and public witnesses.

**COAST GUARD OPERATIONS IN THE ARCTIC**

Committee on Transportation and Infrastructure: Subcommittee on Coast Guard and Maritime Transportation held a hearing entitled “Protecting U.S. Sovereignty: Coast Guard Operations in the Arctic.” Testimony was heard from Admiral Robert J. Papp, Commandant, United States Coast Guard; and Mead Treadwell, Lieutenant Governor, Alaska.

**MISCELLANEOUS MEASURES**

House Permanent Select Committee on Intelligence: Full Committee held a markup of the “Cyber Intelligence Sharing and Protection Act of 2011.” The bill was ordered reported, as amended.

**Joint Meetings**

No joint committee meetings were held.

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**COMMITTEE MEETINGS FOR FRIDAY, DECEMBER 2, 2011**

(Committee meetings are open unless otherwise indicated)

**Senate**

No meetings/hearings scheduled.

**House**

Committee on Agriculture, Full Committee, business meeting to consider the issuance of a subpoena to compel the attendance of a witness at the subsequent hearing to examine the MF Global Bankruptcy, 9:30 a.m., 1300 Longworth.


Committee on Natural Resources, Subcommittee on Water and Power, hearing on the following: H.R. 976, to terminate certain hydropower reservations, and for other purposes; and H.R. 3263, the “Lake Thunderbird Efficient Use Act of 2011.” 10 a.m., 1324 Longworth.

Subcommittee on National Parks, Forests and Public Lands, hearing on the following: H.R. 1038, to authorize the conveyance of two small parcels of land within the boundaries of the Coconino National Forest containing private improvements that were developed based upon the reliance of the landowners in an erroneous survey conducted in May 1960; H.R. 1237, to provide for a land exchange with the Trinity Public Utilities District of Trinity County, California, involving the transfer of land to the Bureau of Land Management and the Six Rivers National Forest in exchange for National Forest System land in the Shasta-Trinity National Forest, and for other purposes; H.R. 2157, to facilitate a land exchange involving certain National Forest System lands in the Inyo National Forest, and for other purposes; H.R. 2490, to amend the National Trails System Act to provide for a study of the Cascadia Marine Trail; H.R. 2504, the “Coltsville National Historical Park Act”; H.R. 2745 to amend the Mesquite Lands Act of 1986 to facilitate implementation of a multispecies habitat conservation plan for the Virgin River in Clark County, Nevada; H.R. 2947, to provide for the release of the reversionary interest held by the United States in certain land conveyed by the United States in 1950 for the establishment of an airport in Cook County, Minnesota; H.R. 3222, to designate certain National Park System land in Olympic National Park as wilderness or potential wilderness, and for other purposes; H.R. 3452, the “Wasatch Range Recreation Access Enhancement Act”; and S. 684, to provide for the conveyance of certain parcels of land to the town of Alta, Utah. 10 a.m., 1300 Longworth.

Committee on Veterans’ Affairs, Full Committee, hearing on Understanding and Preventing Veteran Suicide, 10 a.m., 334 Cannon.

Committee on Ways and Means, Subcommittee on Social Security, hearing series entitled “Securing the Future of the Social Security Disability Insurance (SSDI) Program.” The focus of this hearing is the history of the disability insurance program, the income security it provides and its financing challenges. 10:30 a.m., B–318 Rayburn.

**Joint Meetings**

Commission on Security and Cooperation in Europe: to hold hearings to examine combating anti-Semitism in the Organization for Security and Cooperation in Europe region, focusing on taking stock of the situation today, including initiatives designed to target violent and other manifestations on anti-Semitism in the fifty-six North American and European countries that comprise the Organization for Security and Cooperation in Europe (OSCE), 10 a.m., 2203, Rayburn Building.
Résumé of Congressional Activity

FIRST SESSION OF THE ONE HUNDRED TWELFTH CONGRESS

The first table gives a comprehensive résumé of all legislative business transacted by the Senate and House. The second table accounts for all nominations submitted to the Senate by the President for Senate confirmation.

DATA ON LEGISLATIVE ACTIVITY

<table>
<thead>
<tr>
<th>January 5 through November 30, 2011</th>
<th>Senate</th>
<th>House</th>
<th>Total</th>
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</thead>
<tbody>
<tr>
<td>Days in session .......................</td>
<td>155</td>
<td>156</td>
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<tr>
<td>Time in session .......................</td>
<td>1,014 hrs., 41′</td>
<td>903 hrs., 15′</td>
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<td>Congressional Record:</td>
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<td>Pages of proceedings ..................</td>
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<td>Extensions of Remarks ...............</td>
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<td>Public bills enacted into law .......</td>
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<td>Private bills enacted into law .......</td>
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<tr>
<td>Bills in conference ...................</td>
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<td>Measures passed, total ..............</td>
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<td>Senate bills .........................</td>
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<td>House bills ............................</td>
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<td>157</td>
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<tr>
<td>Senate joint resolutions ............</td>
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<td>3</td>
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<tr>
<td>House joint resolutions ..............</td>
<td>3</td>
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<tr>
<td>Senate concurrent resolutions .......</td>
<td>17</td>
<td>6</td>
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<td>House concurrent resolutions .........</td>
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<td>20</td>
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<tr>
<td>Simple resolutions ...................</td>
<td>229</td>
<td>120</td>
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<tr>
<td>Measures reported, total ............</td>
<td>*170</td>
<td>*266</td>
<td>456</td>
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<td>Senate bills .........................</td>
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<td>House concurrent resolutions .........</td>
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<td>Simple resolutions ...................</td>
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<td>Special reports ......................</td>
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<td>Conference reports ...................</td>
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<tr>
<td>Measures pending on calendar .......</td>
<td>164</td>
<td>73</td>
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<tr>
<td>Measures introduced, total ..........</td>
<td>2,536</td>
<td>4,191</td>
<td>6,527</td>
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<td>Bills ....................................</td>
<td>1,932</td>
<td>3,532</td>
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<tr>
<td>Joint resolutions ....................</td>
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<tr>
<td>Concurrent resolutions ..............</td>
<td>32</td>
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<tr>
<td>Simple resolutions ...................</td>
<td>340</td>
<td>478</td>
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<td>Quorum calls ..........................</td>
<td>5</td>
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<tr>
<td>Yea-and-nay votes ...................</td>
<td>212</td>
<td>245</td>
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<tr>
<td>Recorded votes .......................</td>
<td></td>
<td>622**</td>
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<td>Bills vetoed ..........................</td>
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<tr>
<td>Vetoes overridden ....................</td>
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<table>
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<tr>
<th>DISPOSITION OF EXECUTIVE NOMINATIONS</th>
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<tr>
<td>January 5 through November 30, 2011</td>
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<tr>
<td>Civilian nominations, totaling 482, disposed of as follows:</td>
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<tr>
<td>Confirmed ..................................</td>
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<tr>
<td>Unconfirmed ................................</td>
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<tr>
<td>Withdrawn ..................................</td>
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<tr>
<td>Other Civilian nominations, totaling 3,451, disposed of as follows:</td>
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<tr>
<td>Confirmed ..................................</td>
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<tr>
<td>Unconfirmed ................................</td>
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<tr>
<td>Withdrawn ..................................</td>
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<tr>
<td>Air Force nominations, totaling 5,956, disposed of as follows:</td>
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<td>Confirmed ..................................</td>
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<td>Unconfirmed ................................</td>
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<tr>
<td>Army nominations, totaling 5,789, disposed of as follows:</td>
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<tr>
<td>Confirmed ..................................</td>
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<tr>
<td>Unconfirmed ................................</td>
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<tr>
<td>Navy nominations, totaling 3,405, disposed of as follows:</td>
</tr>
<tr>
<td>Confirmed ..................................</td>
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<tr>
<td>Unconfirmed ................................</td>
</tr>
<tr>
<td>Marine Corps nominations, totaling 1,249, disposed of as follows:</td>
</tr>
<tr>
<td>Confirmed ..................................</td>
</tr>
</tbody>
</table>

Summary

Total nominations carried over from the First Session ....................... | 0
Total nominations received this Session ..................................... | 20,332
Total confirmed ................................................................. | 18,369
Total unconfirmed .............................................................. | 1,944
Total withdrawn ................................................................. | 19
Total returned to the White House ............................................ | 0

* These figures include all measures reported, even if there was no accompanying report. A total of 97 written reports have been filed in the Senate, 296 reports have been filed in the House.

** Proceedings on Roll Call No. 484 were vacated by unanimous consent.
Next Meeting of the SENATE
2 p.m., Monday, December 5

Program for Monday: After the transaction of any morning business (not to extend beyond 4:30 p.m.), Senate will begin consideration of the nominations of Edgardo Ramos, of Connecticut, to be United States District Judge for the Southern District of New York, Andrew L. Carter, Jr., of New York, to be United States District Judge for the Southern District of New York, James Rodney Gilstrap, of Texas, to be United States District Judge for the Eastern District of Texas, and Dana L. Christensen, of Montana, to be United States District Judge for the District of Montana, with votes on confirmation of the nominations at 5:30 p.m.

Next Meeting of the HOUSE OF REPRESENTATIVES
9 a.m., Friday, December 2

Program for Friday: Consideration of H.R. 3010—Regulatory Accountability Act of 2011 (Subject to a Rule).

Extensions of Remarks, as inserted in this issue

Garrett, Scott, N.J., E2153
Gonzalez, Charles A., Tex., E2153
Himes, James A., Conn., E2160
Holt, Rush D., N.J., E2145
Jackson, Jesse L., Jr., Ill., E2150, E2152
Keating, William R., Mass., E2150
Kidd, Dale E., Mich., E2158
Kingston, Jack, Ga., E2149
Lipinski, Dan, Ill., E2152
Myrick, Sue Wilkins, N.C., E2152
Norton, Eleanor Holmes, D.C., E2147
Olver, John W., Mass., E2155
Owens, William L., N.Y., E2152
Perlmutter, Ed, Colo., E2160
Rangel, Charles B., N.Y., E2146, E2151, E2154, E2156, E2158
Richardson, Laura, Calif., E2159
Rigell, E. Scott, Va., E2149
Rokita, Todd, Ind., E2161
Ross, Mike, Ark., E2147
Schakowsky, Janice D., Ill., E2151, E2160
Towne, Edolphus, N.Y., E2145, E2146, E2147, E2148
Turner, Michael R., Ohio, E2149
Van Hollen, Chris, Md., E2154, E2158
Walden, Greg, Ore., E2150
Waxman, Henry A., Calif., E2156

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