Voters should watch next week's vote with this question in mind: If my senator will not do the job of legislating, shouldn't I elect someone who will?

Ms. COLLINS. Mr. President, I rise today to speak in favor of Senate Joint Resolution 36, which would reject the National Labor Relations Board's, NLRB, rule on representation procedures, the so-called ''ambush election'' rule. I am pleased to be an original cosponsor of this important legislation, introduced by Senator ENZI with 44 cosponsors.

On December 22, 2011, the NLRB finalized new regulations, which will become effective on April 30, 2012, significantly limiting the time for holding union representation elections. This change would result in employees making the critical decision about whether or not to form a union in as little as 10 days.

Back in 1959, then-Senator John F. Kennedy explained that ''the 30-day waiting period [before a union election] is an additional safeguard against rushing employees into an election where they are unfamiliar with the issues . . . there should be at least a 30-day interval between the request for an election and the holding of the election'' to provide ''at least 30 days in which both parties can present their viewpoints.'' I agree with our former President and Senator. An expedited timeframe would limit the opportunity of employers to express their views, and leave employees with insufficient information to make an informed decision.

According to the NLRB, in 2011 union representation elections were held on average within 38 days. That is already below the NLRB's stated target of 42 days. Therefore, this begs the question of why yet another regulation is even necessary.

Businesses, our nation's job creators and the engine of any lasting economic growth, have been saying for some time that the lack of jobs is largely due to a climate of uncertainty, most notably the uncertainty and cost created by new federal regulations.

This ambush election rule will particularly negatively affect small businesses. Small business owners often lack the resources and legal expertise to navigate and understand complex labor processes within such a short time frame. In our current economy, it is critical that we do everything possible to advance policies that promote U.S. economic growth and jobs.

The Joint Resolution of Disapproval will not change current law. It simply will protect employers and employees by allowing them to conduct representation elections in the same manner that has been done for decades.

The NLRB's goal should be to ensure fair elections and a level playing field for all.

Mr. ENZI. Unless there is further debate, I yield back the balance of our time for today.

Mr. HARKIN. Mr. President, this side yields back the balance of our time for today as well.

The PRESIDING OFFICER. All time has been yielded back.

VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2011—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 1925.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BLUMENTHAL. 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. BLUMENTHAL. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

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

TRAGEDY AT L'AMBIANCE PLAZA

Mr. BLUMENTHAL. Mr. President, on this day, almost exactly at this hour, 25 years ago in Bridgeport, CT, the L'Ambiance Plaza became a scene of devastation and destruction and death. Almost every year in these 25 years we have commemorated that destruction and tragedy with a ceremony. We did the same this morning in Bridgeport. We went first to the site and then to city hall and then to lay a wreath at the memorial for the 28 workers who were killed on this day 25 years ago. L'Ambiance is ground zero for worker safety.

I rise today to talk about all who have been injured or lost their lives because of unsafe work conditions.

L'Ambiance Plaza was a tragedy, but it was not the result of human error, it was the result of an employer cutting corners to put profits above safety. It was an avoidable and preventable catastrophe.

One of the tasks we have as public officials is to ensure basic safety for our citizens, particularly for workers who leave their homes in the morning hoping for nothing more than to come home at night to their families, put food on the table and a roof over the heads of their children. Those 28 workers who perished on this day 25 years ago wanted nothing more than those simple opportunities that should be guaranteed in the United States of America, the greatest Nation in the history of the world.

In protecting workplace safety, we have an agency called the Occupational Safety and Health Administration, known as OSHA. It is charged by this Congress and every Congress since its creation with setting standards and providing for enforcement of those standards so as to ensure basic safety for workers when they leave home every day and go to their jobs.

In Bridgeport, at L'Ambiance, a technique of construction known as lift slab was in use. It was under review by OSHA. It had been under review for 5 years before the L'Ambiance collapse. In 1994, years after L'Ambiance, it was prohibited unless certain conditions were met. If that standard had been in effect on this day 25 years ago, 28 lives would have been saved.

This morning I was in Bridgeport for that ceremony with many of the families who must live with the tragedies of their loved ones having perished needlessly and tragically on this date. There were speeches. There was a bell-ringing ceremony. There were tributes not only to the workers and their families but also to their brothers and sisters who searched with a ferocity and determination in the hours and days for their remains after it became clear they could not be rescued. But none of today's ceremonies or any of the other ceremonies in the past 25 years can bring back those workers who perished because lift-slab construction was used on that site. And when the upper story fell first, all of the bottom stories collapsed as well, meaning that those who worked under that top story could not be saved.

Eventually, when OSHA adopted the standard to be applied to lift-slab construction, it said no one could work under that top story when it was put in place. OSHA, in short, recognized the hazards of lift-slab construction well before L'Ambiance collapsed, and its inaction over the process of adopting those regulations—the 8.7 years it took to adopt the standard—contributed significantly to the collapse that occurred 25 years ago to this day.

I wish I could say OSHA has learned from this horrific incident at L'Ambiance. I wish I could say the standard setting that is so necessary to be achieved promptly and effectively now is done routinely. Unfortunately, the contrary seems to be true.

I wish to thank Senator HARKIN, the chairman of the Senate Committee on Health, Education, Labor, and Pensions, for a hearing last week that illuminated so dramatically how much work there is still to be done.

The GAO has done a study showing that average length of time to complete these standards is more than 7 years. That figure takes into account the standards set since 1981 to the year 2000. The final number of regulations published by OSHA has declined every decade since the 1980s. While 24 final standards were published in the 1980s, only 10 final standards were published between 2000 and 2010.

Workers are still at risk because regulations are delayed for years. One example is that the dangerous health effects resulting from the inhalation of silica dust, found in common sand, have been widely known for many years. Silica dust has been classified as a carcinogen to humans by the U.S. National Toxicology Program. It is a known cause of lung cancer and silicosis, an often fatal disease. Yet, despite the scientific evidence and the

hazards associated with silica dust, its use on worksites across the country is ineffectively regulated by inadequate OSHA standards, and those standards have been on the books since 1972.

Preventing the dangers of silica is simple and easy. Employers simply must ensure that when cutting materials, the blade must be wet to ensure the silica dust is not airborne—simple and easy solutions that can be achieved by standards OSHA has a responsibility to set.

According to OSHA agency officials, they began work on updating the effective silica standards back in 1997, more than 14 years ago. The most recent proposal for a new silica standard was submitted to OMB in February 2011. OMB has been processing that draft for over a year. In the meantime, workers are put in danger, workers contract disease, and workers are put at risk of fatal disease. These lengthy delays are simply unacceptable. As the L'Ambiance tragedy demonstrates, standards delayed is safety denied. Workers and their families suffer real-life consequences when the Federal Government fails to implement effective standards to protect people in their workplaces. OSHA itself estimates that up to 60 worker deaths per year could be prevented by strengthening the silica regulation and other regulations from 1972. Yet the new rule continues to be delayed by procedural and political roadblocks.

There is still work to be done, and I hope we will make progress, under Senator HARKIN's leadership, on an OSHA rule making standards more effective and more easily adopted.

There are a number of simple and easy steps that can be adopted. Expediting approval of safety standards is one of them. Despite a general consensus within industries on permissible exposure limits—that is, PELs—to dangerous chemicals, OSHA rules for hundreds of those chemicals haven't been updated for nearly four decades. OSHA should direct and Congress should direct OSHA to update obsolete PELs to reflect consensus among industries, experts, and reputable national and international organizations.

Easier court approval also must be enabled. The current standards for judicial review are a major factor in effecting the timeline of OSHA's standard-setting process. The existing ''substantial evidence'' standard requiring that OSHA research all industrial processes associated with the issue being regulated is disproportionately burdensome when compared to the requirements placed upon other Federal agencies, and the standards should be reevaluated.

Finally, deadlines for timelines for standard setting should be adopted, directed by the Congress, to minimize the time it takes OSHA to issue occupational safety and health standards. Experts and agency officials agree that statutory timelines for issuing standards should be imposed by Congress and enforced by the courts.

I look forward to working with my colleagues on these measures and others, and I hope the memory of those 28 workers who were killed 25 years ago on this day will inspire and move us to take action as quickly and effectively as possible. But each year others are added to that list in other sites in Connecticut—49 last year alone—and around the country, hundreds in the States of my colleagues in this body. Let their memories also inspire us to redouble our efforts to protect people in the workplaces around Connecticut and the country.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. UDALL of New Mexico. I ask unanimous consent to speak for 10 minutes as in morning business.

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

POSTAL REFORM

Mr. UDALL of New Mexico. Mr. President, I rise today in support of my amendment to strike section 208 from the postal reform bill. Section 208 would authorize the U.S. Postal Service to move to 5-day delivery service within 2 years.

The U.S. Postal Service faces significant financial problems. Changes must be made for the Postal Service to adjust to a digital world. The budgetary concerns are very real—we all know this—but an imminent reduction in service to 5 days a week is not the answer. No. 1, a shift to 5-day service could result in the loss of up to 80,000 jobs nationally. Is this the time to be proposing 80,000 layoffs? No. 2, 5-day service would undercut a market advantage the U.S. Postal Service currently has over its competitors. No. 3, especially in rural America, many of our businesses and most vulnerable citizens depend on 6-day postal delivery. Newspapers, advertisers, pharmacy delivery services, and senior citizens all could be hurt by the loss of Saturday service.

Last week I met with the community of Mule Creek in New Mexico. Mule Creek is small and rural. Folks there told me that they have no cell phone service, no high-speed Internet. They depend on their post office. It is the lifeline, the center of their community—and not just 5 days a week. For many working people, Saturday is the only day they can sign for packages, including for delivery of prescription drugs.

I know some of my colleagues believe moving to 5-day service is necessary because of the Postal Service's financial problems, but we need to give the changes we are making in the bill a chance to take effect. Two years simply isn't enough time before we make such a drastic and far-reaching change. We should not rush prematurely to 5-day service.

I urge support for my amendment to protect jobs, to strengthen the competitiveness of the Postal Service, and to protect the millions of Americans who depend on that service.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORKER. 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. CORKER. Mr. President, how much time do I have? I understand it might be 10, 15 minutes.

The PRESIDING OFFICER. The time is not controlled.

Mr. CORKER. Mr. President, I rise today to speak about amendment No. 2083, which I am offering to the bill that is before us.

I think all of us know the U.S. Postal Service is absolutely not sustainable in its current form. Mail volume has greatly declined over the past decade and will continue to do so over the next decade. The U.S. Postal Service has known this for a long time. They knew that mail volume was declining and that the market for their products was changing. But the economic crisis made things far worse than they could imagine.

Now the Postal Service is on the edge of financial ruin. But we didn't get here only because of the economic crisis; it is because the U.S. Postal Service's business model is fundamentally broken. The USPS lost $5.1 billion in this last fiscal year and $3.3 billion in the first quarter of the current year. I know some have tried to blame the requirement that the USPS prefund their retirement health benefits for the USPS's financial losses. But the fact is that these recent losses are not due to the prefunding requirement because Congress has allowed the USPS to delay this last year's payment. The U.S. Postal Service has also nearly reached its statutory borrowing limit.

Faced with this situation, it is abundantly clear that the USPS must make radical changes in its existing infrastructure and business model. Again, USPS should have, could have, and indeed has wanted to begin making these changes to its outdated, excessive infrastructure, but Congress—all of us here or at least some of us here have blocked these attempts. We should give the USPS the flexibility to meet these challenges and make business decisions on how to deal with the paradigm shift in their primary market rather than further limiting their ability to adapt.

My amendment to S. 1789 gives the U.S. Postal Service greater flexibility in three primary areas: facilities and service, pricing, and labor.

On facilities and service, it allows the U.S. Postal Service to continue closing post offices using the existing procedures for post office closures—they already exist—instead of creating further barriers to closure, which this bill does. These procedures are well thought out and give ample opportunities for public comment and appeal.

It also allows the Postal Service to proceed with its proposed change in delivery service standards—something it has proposed—which is a key component of its 5-year plan of profitability.

This amendment also allows the Postal Service to immediately implement 5-day delivery, if it chooses—a move the U.S. Postal Service believes may save nearly $2 billion a year. The underlying bill, on the other hand, requires a 2-year delay and further study of this issue, which the Postal Service already knows needs to happen. Mr. President, we don't need a study to tell us what we already know. The Postal Service needs flexibility in its delivery schedule.

A number of interested parties, including the Postal Service and the President of the United States—the President—support moving to a 5-day delivery. Furthermore, my amendment allows the Postal Service to close processing and distribution centers, something the Postal Service has identified as needed action for nearly a decade.

On pricing, my amendment removes the arbitrary CPI-based cap put in place by the 2006 Postal Accountability and Enhancement Act. Put simply, this gives the Postal Service more flexibility to adjust their prices as markets change.

Current law and S. 1789 actually mandate the Postal Service provide some services at a loss. It is unbelievable the calls we have been receiving in our office that basically point to the tremendous corporate welfare that is in existence—people calling me not wanting these changes because it affects their business. A congressional mandate that the U.S. Postal Service provide certain services without covering their costs makes very little sense.

Please note, this would not allow the Postal Service to arbitrarily raise rates at will. They would still be subject to Postal Regulatory Commission—the PRC—regulation.

Finally, on labor, my amendment gives the Postal Service greater flexibility to reduce its workforce as needed and negotiate contracts that make sense for its financial situation. Since labor costs make up approximately 80 percent of the Postal Service's cost structure, it is clear that any good-faith postal reform proposal must include labor reform.

First, it prohibits the inclusion of a no-layoff clause—and let me underline this—in future collective bargaining agreements. It does not alter CBAs currently in place that contain these clauses. This is only for future clauses. As mail volume continues to decline, the Postal Service must have the flexibility to change the size and makeup of its workforce as needed.

Second, this amendment eliminates a provision in existing law that requires fringe benefits for Postal Service employees be at least as good as those that existed in 1971. These benefits represent a huge portion of fixed labor costs which currently place a major burden on Postal Service operations. Eliminating this provision will give the Postal Service more options in contract negotiation rather than hamstringing them.

My amendment is a balanced approach that strives to give the U.S. Postal Service maximum flexibility in multiple areas as they work toward financial stability. Here is the best part. According to CBO—which just contacted us today—this bill saves $21 billion for the Postal Service over the next decade. Let me say that one more time. CBO has just contacted us. The Postal Service is now in tremendous financial straits, and we have a bill before us that hamstrings them and keeps them from doing the things we all know if this were a real business we would allow to happen. My amendment gives them the flexibility to do the things the Postal Service needs to do and that most every American understands they need to do and the amendment saves $21 billion over the next 10 years.

It is my understanding, by the way, there is no attempt to offset the cost of this bill over the next 10 years.

In conclusion, it is clear the Postal Service must make drastic changes, and I applaud those portions of S. 1789 that allow the USPS greater flexibility. But there are far too many provisions in the underlying bill that would put more restrictions on the U.S. Postal Service, not fewer, and limit the organization's ability to adapt to changing times and so I urge support of my amendment.

I thank the Chair for his time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, it pains me greatly to disagree with my friend and colleague from Tennessee, with whom I have a great friendship and great respect, but what he is essentially offering comes pretty close to a complete substitute for the provisions in our bill, and I wish to go through the provisions to make sure our colleagues understand fully what the choices are that are presented by Senator CORKER's amendment.

First, let me say I do strongly oppose his amendment because of the impact I believe it would have on postal customers, whether they are in rural America, whether they are a big mailer, a small mailer, a residence or a business, and what the impact ultimately will be on postal revenue. Let us first discuss the issue of 6-day delivery.

There are a lot of different views on this issue. Senator CORKER has presented one, as has Senator MCCAIN, of moving immediately to 5-day delivery. On the other hand, there are Members who have filed amendments who want to prevent the Postal Service from ever moving to 5-day delivery. Here is what is in our bill.

Our bill recognizes the Postal Service should, if possible, avoid deep cuts in its service. Certainly, eliminating 1 day a week of delivery is a deep cut in the service it is providing. It recognizes, however, that if the Postal Service cannot wring out the excessive cost that is in its current system, it may have no choice but to eliminate Saturday delivery in order to become solvent.

What we do is allow a 2-year period during which time the Postal Service would implement the many cost-saving provisions in our bill, including a workforce reduction of 18 percent—which is about 100,000 employees—through compassionate means, such as buyouts and retirement incentives, and then have the GAO and the PRC—the Postal Regulatory Commission—certify that despite undertaking all these cost-saving moves, it is not possible for the Postal Service to return to solvency without this deep service cut. But to move immediately to eliminating Saturday delivery would come at a real cost and it may not be necessary. It may not be necessary at all.

I would also point out the experts in this area are the members of the Postal Regulatory Commission. The experts are not at CBO. The experts are the regulators of the Postal Service—the PRC. When the PRC examined the issue of eliminating Saturday delivery, here is what it found. First of all, it found the potential savings were far less than the Postal Service estimated. In fact, they were half as much as the Postal Service estimated.

Second, they found that eliminating Saturday delivery put rural America, in particular, at a disadvantage because rural America often does not have access to broadband, to Internet services, and to alternative delivery systems. So the PRC, which looked at this issue very carefully and issued a report, found the savings were less by half and the consequences were far more severe for rural America.

Saturday delivery also gives the Postal Service itself a competitive advantage over nonpostal alternatives. If we are here trying to save the Postal Service, why would we jeopardize an asset the Postal Service has that its competitors do not? That is why we came up with this carefully crafted compromise on this issue.

I believe cutting Saturday delivery should be the last resort, not the first

option, because it will inevitably drive away customers. That is one reason the American Newspaper Association is so opposed to doing away with Saturday delivery. It is one reason many of the mail order pharmaceutical companies are so opposed, because many seniors depend on receiving their vital medications through the mail.

Again, we have said if there are no other alternatives, this measure could proceed. But I can't imagine any large business operating this way—cutting service first. My colleagues often talk about how important it is to let the Postal Service act like a ''real business.'' But this is the last thing a real business would do. Real businesses know their most valuable asset is their customer base. Businesses do literally everything else before slashing service and raising prices or anything else that might alienate or drive away their remaining customers, and they do not do this out of the goodness of their hearts but because they understand what drives their bottom line.

The fact is, if more customers leave the Postal Service, the revenue will plummet. Again, reducing service—eliminating Saturday delivery—should be the last resort, not the first option. That is exactly what our bill does.

The Senator's amendment would also repeal the CPI link to postal rates. I am at a loss as to why the Senator would propose that. Eliminating that protection, that orderly system, would be devastating for many mailers. Again, mailers need predictable, steady, stable rates.

Think of a catalog company that prints its catalogs so many months in advance. It now can count on what the postal rates are going to be. Under the amendment of the Senator from Tennessee that stability, that predictability would be gone.

The reason in 2006 that we rewrote the rate-setting system was that it had been an extremely litigious, time-consuming system. Both the mailers and the Postal Service hated the system that we had prior to 2006. Both agreed at the time that it was important to have stability and predictability in rates and to have a system that didn't involve this very expensive, litigious rate-setting system. So we went to the CPI link system so we could have stable, predictable, and transparent pricing increases.

This amendment repeals the section of the current law on rate setting that mailers have repeatedly testified is the heart of the 2006 reforms and something they need if they are to continue to use the Postal Service. That is why the mailers, the largest customers of the Postal Service, are such strong supporters of the predictable system that we put in place in 2006.

Let me turn to another issue. There is so much I could say on all of these, but I can see a lot of Members have come to the floor.

The Senator's amendment would also eliminate the standards we put into the bill to protect overnight delivery within certain delivery areas. We have recently learned that the Postal Service's own preliminary analysis, submitted confidentially in secret to its regulators at the PRC, reveals that its service reduction plan to slow mail delivery and shut down postal plants will lead to more than a 9-percent decrease in first-class mail and a 7.7-percent reduction in all classes of mail.

In this preliminary estimate the Postal Service said the first-year losses alone would be $5.2 billion; that the Postal Service would lose if we proceed with this plan. Now that those numbers have become public, the Postal Service is backpeddling and criticizing its own estimates. But those are the estimates that are in its own survey that was filed with the PRC.

They don't surprise me because they are consistent with what I am hearing from major postal customers, and once those customers turn to other communications options and leave the mail system they will not be coming back, revenue will plummet, and the Postal Service will be sucked further into a death spiral.

There are many other comments I could make about the amendment offered by the Senator from Tennessee. I think his amendment essentially constitutes a substitute to the bill that is before us in that it makes so many fundamental changes. I believe it would be devastating for the Postal Service; that it would cause large and small mailers to leave the Postal Service, setting off the death spiral from which the Postal Service might never recover.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, just 20 seconds, not to rebut anything that has been said.

I think the Senator from Maine and I have a very different view about the ways to solve the post office issues. But I just want to thank her for her tone. I want to thank the Senator from Connecticut, too, for the way they continue to work together to try to produce legislation in this body. So I thank them both for being the way they are. They are two of the Senators I admire most here. I thank them.

I have a very different point of view on this issue, but I thank them for the way they continually work together to try to solve problems. I look forward to continuing to work with them on this issue.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I just want to say briefly, thanks to my friend from Tennessee not just for his kind words, which mean a lot to me, but for coming to the floor to discuss his amendment.

There are different points of view about this issue. I think, as I said very simplistically at the beginning of the debate, some think our bipartisan committee bill does too little. Some think it does too much. I think we have hit the right common-ground spot. And I repeat what I said earlier in the day: There is some due process in this. We don't allow for what might be called shock therapy for the Postal Service because we don't think it will work, and we think it would have the net effect of diminishing the revenues of the Postal Service by cutting business.

But here is the report we received today from the U.S. Postal Service itself, just to indicate to my friend from Tennessee and others who may be following the debate.

This substitute bill of ours, S. 1789, is not just fluff. The Postal Service itself estimates that over the coming 3 years; that is, by 2016 fiscal year, our bill, if enacted, will enable the Postal Service to save $19 billion annually. They were hoping for $20 billion, but $19 billion is pretty close. I think we have done it without the dislocation to the millions of people in our society who depend on the mail and depend on mailing industries for their jobs, as well as the hundreds of thousands of people who work for the Postal Service, 18 percent of whom we hope will receive incentives that will be adequate for them to think about retirement.

But this is a bill that creates a transition that will keep the Postal Service alive—and we think even healthier—without the kind of sudden jolts the amendment offered by my friend from Tennessee would impose.

So I would respectfully oppose the Corker amendment, and I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

HONORING OUR ARMED FORCES

Mr. AKAKA. Mr. President, before I discuss my pending amendment to the Postal Service reform bill, I would like to take a moment to honor four brave soldiers based out of Schofield Barracks from Hawaii who died in a helicopter crash in Afghanistan on Thursday. They made the ultimate sacrifice in service to our country, and we will never forget them.

My thoughts and prayers, and I know the thoughts and prayers of many others in Hawaii and others across the United States, are with their families tonight. We honor and thank them and are so sorry for their loss.

Mr. President, I rise to discuss my amendment No. 2034 regarding Federal workers' compensation, which is cosponsored by nine Senators, including Senators INOUYE, HARKIN, MURRAY, FRANKEN, LEAHY, SHAHEEN, KERRY, LAUTENBERG, and BROWN of Ohio.

I have serious concerns with the provisions of the postal reform bill that would make changes to the Federal workers' compensation program, known as FECA, not just within the Postal Service but across the entire government.

These provisions would cut benefits to elderly disabled employees and eliminate a supplement for dependents. Many who are already injured would

have their benefits cut retroactively. This is particularly unfair because most employees affected by these far-reaching cuts are not even Postal Service employees. Many are Defense and State Department employees injured supporting missions overseas, Federal law enforcement officers, and firefighters injured saving lives or prison guards attacked by inmates.

Sponsors of this bill argue that changes to workers compensation must be included in this legislation to place the Postal Service on a sound financial footing. However, the fact is that the changes would have very little effect on the Postal Service's deficit. According to the Congressional Budget Office, these changes would actually cost the Postal Service an additional $21 million in the first 3 years.

Any changes to benefits for those injured in service to their country should be done in a careful, comprehensive manner. There are complex issues that deserve more analysis before we simply cut benefits people have planned for and depend on.

At a hearing I held last July witnesses raised serious concerns with reducing FECA benefits, especially at the retirement age. They testified that disabled employees may not be able to save enough in time for a reduction in income because they missed out on wage growth, Social Security, and the Thrift Savings Plan. Because of this disadvantage, the Federal Government, like most States, provides benefits that last as long as the injury, even if that is past the normal retirement age.

At the request of a bipartisan group of members from the House Committee on Education and Workforce, the Government Accountability Office is currently reviewing both pre- and post-retirement-age FECA benefits to determine fair benefit amounts. Acting on this proposal now without waiting for GAO's analysis is irresponsible. As a result, we may set benefit levels too low, seriously harming disabled employees, or too high, taking funding away from other priorities.

We must be extremely cautious not to make arbitrary cuts to benefits that could have serious detrimental effects on elderly disabled employees.

Last November, the House passed a Republican-led bipartisan FECA reform bill, H.R. 2465, by voice vote. The bipartisan sponsors of this bill chose not to make any changes to benefits without more information on appropriate benefit levels. I believe their actions were correct, and the Senate should enact similar legislation by passing my amendment.

My amendment would strike the government-wide FECA provisions in this bill and replace them with the House-passed FECA reform bill, which makes a number of commonsense reforms that will improve program efficiency and integrity without reducing benefits.

Among other things, my amendment contains program integrity measures recommended by the inspector general at the Department of Labor, the Accountability Office, and the administration that will save taxpayers money.

My amendment would also update benefit levels for funeral costs and disfigurement that have not been increased since 1949, and it would protect civilian employees serving in dangerous areas, such as Iraq and Afghanistan, by giving them more time to file a claim and making sure injuries from terrorism are covered even if the employee is off duty.

Everyone understands the Postal Service is in the midst of a serious financial crisis that must be addressed. Chairman LIEBERMAN and Ranking Member COLLINS have done a great job in bringing this on. However, breaking our promises to injured Federal employees to save the Postal Service just a tiny fraction of its deficit I believe is wrong. I urge my colleagues to support my amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I have the greatest respect for the Senator from Hawaii. I know he cares deeply about this issue. But it is simply time for us to reform the Federal workers' compensation program for postal workers and for other Federal workers. For this reason, I oppose his amendment because it does not begin to solve the problems that have been repeatedly documented in the program by the inspectors general at the Postal Service, at the Department of Labor, by GAO, and by the Obama administration, which has called for many of the reforms we have incorporated into this bill. Senator AKAKA's amendment takes on only very minor reforms which are already included in the bill. It does not even attempt to constrain the rapidly growing costs of the program, and it truly does nothing to effectively combat the fraud in the program.

Let me start with some background to show the growing, the escalating cost of the Federal workers' compensation system. From 1997 to 2009, the program's costs grew by an astonishing $1 billion, as this chart shows. That was a 52-percent increase in program expenditures. It is one of the reasons why President Obama's administration has submitted changes to this program over and over. Our bill, according to the CBO, would reduce the program's outlays for workers' comp by $1.2 billion over the next 10 years.

I note the Obama administration supports across-the-board reforms, just as we have put in our bill. It makes no sense to have one system for postal workers and one system for Federal employees when they all participate in the same program now. The Postal Service, however, makes up more than 40 percent of all workers' comp cases for the Government, and the number of postal employees on the long-term rolls has increased by 62 percent since 2009. Paying more than $1 billion a year in workers' comp payments, the Postal Service is the largest program participant, providing over one-third of the program's budget. These changes are supported by the leaders at the Postal Service. The amendment would block desperately needed reforms to a program that has not been updated in over 35 years.

Let me talk a little bit about the structure of benefits in the program and why there is a problem. Under the current program, a worker who has dependents and is out on workers' comp receives a payment at the rate of 75 percent of his preinjury salary, and these benefits are tax free. Currently, more than 70 percent of beneficiaries are receiving compensation at that level.

In addition to that, it is important to understand that 75-percent tax-free benefit rate is higher than that paid by any comparable State workers' compensation system and, given our current Tax Code, 75 percent of salary tax free is equivalent, for most people, to a full salary after taxes.

We do want to make sure we have a workers' comp program that takes care of our injured workers that is compassionate, that helps them recover and return to work. But the current program of the Federal Government does not accomplish those roles.

First of all, it does not encourage injured workers to get the help they need to recover and to return to work, as these statistics will demonstrate. Right now, the program, across the board, Federal and postal workers, has 10,000 beneficiaries age 70 or older, 2,000 of whom are postal employees. They are receiving higher payments on workers' comp than they would under the standard retirement program. That is almost one-quarter of all beneficiaries in the program who are over age 70. Of the beneficiaries, 430 of them are over age 90, and 6 of the workers' comp beneficiaries are age 100 or older. These employees are not going back to work. If they were still working, it would be a miracle. They would be retired. It is not fair to postal and Federal employees who work their entire lives, retire at age 60 or 65, and receive a retirement benefit that is 26 percent lower than the median benefit received by workers' compensation recipients. That is unfair. That means people who remain on workers' comp make more money than if they had continued working and much more than they would make in the retirement systems for Federal and postal workers.

I wish to make sure that as we reform the system, we are fair. One of the major reforms is to move people at age 65 from workers' comp to the normal retirement system, but we have exempted from these reforms those who are least able to prepare for it, those who are totally disabled and unable to return to work, and those who are age 65 and over. I think that is a very fair approach.

Another protection we have included for those current claimants who would

be affected by the reforms in the bill is a 3-year waiting period. If a claimant is not already grandfathered and therefore is not disabled and unable to return to work, then that individual would experience no reduction in benefits for 3 years, regardless of that individual's age. Again, the reforms we have included in our bill closely track the reforms proposed by President Obama's administration.

Finally, let me just say this program has proven to be highly vulnerable to fraud. GAO reported as recently as November that the vulnerabilities in the program increase the risk of claimants receiving benefits they are not entitled to. There are many reasons for that. I will go into that further at another time. But the Department of Labor inspector general reported that the removal of a single fraudulent claim saves, on average, between $300,000 and $500,000. What is more, these vulnerabilities are not new and they are not rare. When the IG looked at 10,000 claimant files one decade ago, there were irregularities in almost 75 percent of them, and it resulted in benefits being reduced or ended for more than 50 claimants.

This is a troubled program. It needs to be reformed. It needs to be made more fair. It needs to be more fair to individual workers. There needs to be more of a focus on return to work, and it needs to be more fair to workers who spend their entire careers working for the Postal Service or the Federal Government and then retire and receive a far lower benefit than an elderly individual who remains on workers' comp.

I urge the defeat of the amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I would like to address a number of statements my good friend Senator COLLINS has made about the FECA provisions in this bill.

First, it has been argued these changes are necessary to save the Postal Service money. However, since most employees affected by these cuts are not postal employees, the savings expected from these changes would have very little effect on the Postal Service's deficit. In fact, according to CBO, these changes would actually cost the Postal Service an additional $21 million in the first 3 years.

In addition, it has been said on the floor that the FECA recipients over retirement age get 26 percent more income than similar employees who work their entire career and retire under the normal retirement systems. This statistic comes from a recent GAO report that looked at only a small sample of nonpostal workers, eligible for CSCS retirement.

In fact, according to GAO, their recent report only examines 8 percent of the active Federal workforce and does not even look at the Postal Service workers. Cuts should not be made to FECA benefits until GAO completes a more comprehensive study, now underway, which examines the impact of benefit reductions on FERS participants. The Senate has not considered FECA legislation since 2006, and the only hearing was the one I held last year.

The Federal workers' comp program, similar to most State programs, allows injured workers to continue receiving compensation as long as the injury lasts, even if that is past normal retirement age. This is necessary because disabled workers on FECA do not earn Social Security credit and cannot participate in the Thrift Savings Plan, and they miss out on normal wage growth. We must make them whole for their injuries by making up for lost wages and their inability to save for retirement. It is simply not the case that workers of retirement age who still receive FECA benefits are somehow scamming the system.

The PRESIDING OFFICER. The Senator is notified the Senate is under a previous order to move to executive session at 5 p.m.

Does the Senator seek more time to conclude his remarks?

Mr. AKAKA. Mr. President, I will wrap up.

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

Mr. AKAKA. In fact, in 1974, Congress repealed an earlier statute to allow a reduction at age 70. Congress cited concerns about the hardship the reductions caused on senior citizens as well as concerns about age discrimination when repealing the past less severe version of this legislation. No matter a person's age, they have every right to that benefit.

I agree that we should be taking a closer look at ways to prevent fraud and abuse in this program, but reducing benefits for people at retirement age has nothing to do with reducing fraud. My amendment allows the Department of Labor to obtain wage data from the Social Security Administration—this will help prevent fraud.

It has been argued that these cuts bring the FECA program more in line with the state programs. However, most state programs have no benefit reductions for recipients at retirement age. In fact, 33 state programs do not reduce benefits at any age. At our subcommittee hearing last July, the minority requested witness stated that these states seem to have no interest in cutting benefits for senior citizens.

Finally, proponents of these cuts have emphasized repeatedly that these provisions are very similar to an Obama administration proposal. This was actually a Bush administration proposal that the Obama administration simply kept in place. More importantly, this bill cuts benefits more deeply than that proposal, and most concerning—unlike the administration proposal—this bill would apply reductions retroactively to many employees who already have been injured.

Moreover, the Department of Labor has admitted that the changes to benefit amounts in the their proposal were round numbers based on rough calculations—I believe that is hardly the basis to determine what elderly disabled people will have to live on for the rest of their lives.

We simply do not have the information we need to decide on fair benefit levels and should wait for the more extensive GAO study now underway. Breaking our promises to injured federal employees to save the Postal Service a tiny fraction of its deficit is not the solution. My amendment 2034 offers a reasonable alternative by replacing the FECA provisions in this bill with the bipartisan FECA reform bill that passed the House by voice vote last year. The House chose not to make benefit cuts without the additional information they sought from GAO, and we should follow their lead.

This amendment would make commonsense reforms that will improve program efficiency and integrity without reducing benefits and I urge my colleagues to support it.

I wish to say the chairman of our committee, JOE LIEBERMAN, and the ranking member have worked hard at this, and my whole effort is to deal with many of the workers of the Federal Government who are not in the Postal Service as well. I ask that my amendment be considered.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent for just three moments to speak on this amendment.

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

Mr. LIEBERMAN. Mr. President, I wish to thank Senator AKAKA for coming to the floor and speaking on behalf of his amendment. He is one of the most hard-working, constructive members of our committee, the committee from which the underlying bill has come. He is one of the finest people I have ever met. I have the greatest admiration and affection for him.

So unlike Senator COLLINS, it is with some reluctance that I must say I oppose this amendment. I will speak very briefly since Senator COLLINS has spoken well on it.

I think the current system goes beyond taking care of those who need workers' compensation, and it has come to a point where it is unfair not just to those who are paying for the system but to others who are working in the Postal Service today.

I thank Senator COLLINS. She has worked very hard and very thoughtfully. The proposal she made turned out to be so balanced and constructive that folks in the Obama administration who had been working on a similar proposal for all Federal employees asked that we extend the workers' compensation reforms in the Postal Service bill to all Federal employees. Dare I call this a Collins-Obama proposal? I don't know. I just raised that prospect.

In any case, I support the underlying bill in this regard and very respectfully

and affectionately oppose the Akaka amendment.

I yield the floor, and I thank the Chair.

EXECUTIVE SESSION

NOMINATION OF BRIAN C. WIMES TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN AND WESTERN DISTRICTS OF MISSOURI

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination which the clerk will report.

The legislative clerk read the nomination of Brian C. Wimes, of Missouri, to be United States District Judge for the Eastern and Western Districts of Missouri.

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes of debate, equally divided and controlled in the usual form.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I see the distinguished Senator from Missouri on the floor, Mr. BLUNT. I know he has a Republican leadership meeting he needs to get to. I yield such time as he needs on the Republican reserved time, with the understanding that when he finishes, it will go back to me.

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

The Senator from Missouri.

Mr. BLUNT. Mr. President, I thank my good friend for yielding and for taking consideration of my schedule.

I rise to support Judge Brian Wimes as the nominee for the Eastern and Western Districts of Missouri. He spent his entire career working in the public sector. He has been involved in many groups and organizations dedicated to serving disadvantaged individuals.

He was born in Kansas City, MO. He earned his bachelor's degree in political science from the University of Kansas. We don't hold that against him. He got his law degree from the Thurgood Marshall School of Law at Texas Southern University in 1994.

When he graduated, he became the attorney advisor for the litigation branch of the Federal Bureau of Prisons at the Department of Justice here in Washington. Judge Wimes represented the Bureau in civil actions by inmates throughout the country.

In 1995, he left the Bureau and became an assistant prosecuting attorney for the Jackson County prosecutor's office in Kansas City.

Beginning in 2001, Judge Wimes served as the Jackson County drug court commissioner for more than 5 years. The drug courts in our State, and in other places, have served a good and integral role in combating drug abuse. The drug court is a program that offers nonviolent first-time offenders a chance to participate in an outpatient-based treatment program rather than to face prosecution. More than 1,200 people have graduated from the Jackson County drug court. More than 96 percent of those people were conviction free 5 years after their graduation.

As a prosecutor, Judge Wimes received national honors, including being named Rookie Prosecutor of the Year during his first year in the Jackson County prosecutor's office.

In 2002, he was honored as a member of Ingram magazine's 40 under Forty. In 2009, the Call Newspaper recognized him as one of the 25 most influential African Americans in Kansas City.

He has been deeply involved in Big Brothers and Big Sisters and Hope House Domestic Violence Shelter. He is a member of St. Monica's Catholic Church.

In 2007, Judge Wimes was appointed by my son Governor Matt Blunt to serve on the 16th Judicial Circuit Court of Jackson County, MO. If Matt Blunt made any mistakes as Governor, this was not one of them. Judge Wimes has continued not only to serve on the court but to serve on boards in Kansas City for the Kansas City Youth Court, which is affiliated with the UMKC School of Law as well as the Criminal Justice Advisory Board of the Penn Valley Community College in Kansas City, the Mental Health Association of the Heartland.

I believe his experience makes him a highly qualified judicial nominee, and he will serve the American people well in this job. I am supportive of him.

Mr. President, I have a statement on another matter that I also mentioned to my friend from Vermont that I will make while I am here, and I ask that it appear separately in the RECORD.

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

(The remarks of Mr. BLUNT are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, regaining my time on this side, I appreciate the Senator from Missouri speaking about Brian Wimes. Today, the Senate will finally vote on the nomination of Brian Wimes to fill a judicial vacancy in the U.S. District Court for the Western and Eastern Districts of Missouri. This nomination has had the support of both his home state Senators, Senator MCCASKILL and Senator BLUNT. The Judiciary Committee voted to report the nomination favorably over four months ago. There is no justification for this unnecessary delay.

The Senate is still so far this year only considering judicial nominations that could and should have been confirmed last year. We will conclude the first four months of this year having only considered judicial nominees who should have been confirmed before recessing last December. We have yet to get to any of the nominees we should be considering this year because of Republican objections to proceeding more promptly.

With nearly one in 10 judgeships across the Nation vacant, the judicial vacancy rate remains nearly twice what it was at this point in the first term of President George W. Bush when we lowered vacancy rates more than twice as quickly. The Senate is 33 confirmations of circuit and district court judges behind the number at this point in President Bush's fourth year in office. We are also 66 confirmations from the total of 205 that we reached by the end of President Bush's fourth year.

As I noted earlier this month, the Federal judiciary has been forced to operate with the heavy burden of 80 or more judicial vacancies for nearly three years now. There are 22 judicial nominees on the Senate Executive Calendar ready for final consideration and a vote, not just this one. Action on those 22 nominees would go a long way toward easing the burden on the Federal courts and ensuring that all Americans have Federal judges available so that they can have the quality of justice that they deserve.

Some Senate Republicans seek to divert attention by suggesting that these longstanding vacancies are the President's fault for not sending us nominees. The fact is that there are 22 outstanding judicial nominees that can be confirmed right now, but who are being stalled. Let us act on them. Let us vote them up or down. When my grandchildren say they want more food before they finish what is on their plate, my answer is to urge them to finish the food already on their plate before asking for seconds or dessert. To those Republicans that contend it is the White House's fault that they are not agreeing to proceed to consider the judicial nominees we do have more quickly, I say let us complete Senate action on these 22 judicial nominees ready for final action. There are more working their way through Committee, and the Senate can act responsibly to help fill some of the most pressing vacancies plaguing some of our busiest courts if we proceed to these nominations now.

For instance, the Ninth Circuit is by far the busiest circuit in the country. The Senate has yet to vote on the long-delayed nomination of Judge Jacqueline Nguyen of California to fill one of the judicial emergency vacancies plaguing the Ninth Circuit. Hers was one of the nominations ready to be confirmed last year that will be delayed five months before her confirmation to fill that judicial emergency vacancy. Republicans have insisted that her vote be delayed until next month. There are two additional Ninth Circuit nominees to fill judicial emergency vacancies who are ready for final votes but for which Senate Republicans have not agreed to schedule votes. Paul Watford of California and Justice Andrew Hurwitz of Arizona were both voted favorably from the Senate Judiciary Committee earlier this year.