United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155 WASHINGTON, TUESDAY, FEBRUARY 24, 2009 No. 32

Senate

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

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

Let us pray.

Almighty God, our Heavenly Father, we lift our hearts to You, invoking Your blessings upon this day. Lord, You have made us one in our need of You, one in our yearning for strength beyond the self, and one in our quest for Your peace. Cleanse our hearts and open our minds that Your truth may enter our lives. Today, give our lawmakers the strength to do Your will. Help them to serve one another so that they may reflect Your spirit and goodness. Make them so aware of Your presence that they will learn Your wisdom.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN 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. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 24, 2009.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, today following leader remarks, the Senate will resume consideration of the motion to proceed to S. 160, the DC Voting Rights legislation, with the time divided until 11 a.m. between the two leaders or their designees. The designation we have is, of course, Senator LIEBERMAN, the chairman of the committee. At 11 a.m. the Senate will proceed to a cloture vote on the motion to proceed to the bill.

The Senate will recess from 12:30 to 2:15 to allow for the weekly caucus luncheons. We will likely not have a vote on the nomination of SOLIS, a cloture vote. It is my understanding that Republicans have almost cleared it. They have one more Senator to hear from to set this up. So there will be a vote at 4:30 from the time after the caucus. We are waiting for a phone call. Staff is waiting for a phone call. So what we would do if, in fact, that is granted, we would work until 4:30 p.m. today on the Solis nomination. People can come and talk on that however they feel. At 4:30 we would have a vote on her confirmation.

Now, that vote will be completed shortly before 5 o'clock. Chairman LIEBERMAN will be the person who will be managing this bill. If people want to amend this, they have that right to do that. I have spoken at some length to the Republican leader. We have to get off this legislation as soon as we can, because a week from this Friday, March 6, the funding for the Government runs out. So we have to pass the bill that will be coming from the House today, or at the latest tomorrow. We have to get that passed.

We have scheduled a ''no-vote day'' next Friday. We would like to keep that. If, however, we see that this appropriations bill is running into trouble, we are going to have to cancel that because we have to continue working on the legislation until we complete it. But there should be no problem in that regard.

I understand people want to offer amendments. That is fine. Let them offer amendments. But this bill has been around for a long time. It is now on the Web—people can look at it—as of last night. It has been around for a long time. We have had Republican input, both in the House and in the Senate. It has been scrubbed very closely. So I hope everyone would look at the legislation, determine what amendments they want to offer and recognize the deadline we have next Friday.

THE ECONOMY

Members of Congress and all Americans look forward to hearing from President Obama tonight in his first address in the House Chamber. After we passed as a Congress, and he signed, the economic recovery plan into law, the President can confidently tell the American people that we have begun filling with dirt the deep economic ditch he inherited. That is especially so with the announcement he made in Mesa, AZ last Wednesday about the housing crisis.

Throughout his campaign, and now the first weeks of his Presidency, President Obama has told it to us very straight. He has not sugar-coated anything. He has not sugar-coated the challenges we face or tried to paint a rosy picture of a rapid recovery.

He will surely call upon us to lend a hand, to put politics aside and continue working together, not as two parties but as one Congress for one country. In

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

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the early days of the 111th Congress, we have done that.

With the good-will and earnest hard work of Democrats and Republicans alike, we passed a historic wilderness bill, a lands bill that has been called the most significant environmental legislation in a quarter of a century.

We passed the Lilly Ledbetter Fair Pay Act to help employees fight cases of wage discrimination and ensure the principle of equal pay for equal work.

We passed the lands bill on a bipartisan basis. We passed the Lilly Ledbetter Fair Pay Act on a bipartisan basis. We passed a new Children's Health Insurance Program to provide health coverage to millions of low-income families, children of those families. We did that on a bipartisan basis. We passed President Obama's economic recovery plan on a bipartisan basis, a plan to begin creating jobs, investing in our workforce, and providing tax relief to working families.

As I have traveled around the country these last 10 days or so, people said: Well, that was not bipartisan. It was. We had Governors from Florida to California, Republican Governors and Governors in between, being cheerleaders for this legislation. The day before the legislation passed in Florida, conservative Republican Governor Crist introduced President Obama, telling the people of Florida that this legislation was a must-pass for that State.

People said: Well, what happened in the Senate? We got one more Republican vote than we needed. We had Republican input. It was a bipartisan bill. We may not have had a lot of Republican Senators voting for this legislation, but there was Republican input. Senator VOINOVICH from Ohio was involved in this legislation to the last hour that we worked on this. He asked for certain things in this legislation and, frankly, he got them. It was a bipartisan group of Senators, led by, on our side, Senators NELSON and LIEBERMAN, on the Republican side by Senators SNOWE, COLLINS, and SPECTER. So it was bipartisan.

I appreciate the work we have been able to accomplish in this Senate up to this time. We are moving America forward. We are in the early rounds of this fight we have. Without further steps, our economic crisis will grow worse, not better. But there are going to be further steps.

I heard on the radio this morning a tremendous interview about a person who was selling cars. He said, there is no question about it, that the stimulus is going to help him sell cars. I believe that is the case, that all through our economy, we are going to see improvement.

That is why all of us—I repeat, Democrats and Republicans, Members of Congress—all Americans need to pick up that shovel and keep filling our economic ditch with dirt, so we can climb out of it. We and the Obama administration, we as Congress, and our White House, will help millions of American families keep their homes, stem the tide of falling home values for the tens of millions of families who have done nothing wrong yet continue to see their home equity disappear.

We will implement banking reform to begin to unfreeze wheels of credit once again so that families can buy cars, send their children to college, and businesses can manage inventory and hire new workers, all while implementing new oversight, protecting the American people from any future banking crisis.

We will pass a budget, and we will do it soon, that reflects the priorities of America's working families and safeguards every dollar of taxpayer funds. Throughout this recession, American people have been bombarded with bad news, but they remain patient for the tough choices and hard days still to come, and feel good about the progress that has been made.

The people of my State, Nevada, a State hit harder than most any other, understand this turnaround will not happen tomorrow or the next day, but they expect that Congress will put progress over politics in every decision we make.

Yesterday, President Obama said it all when he said: It is the obligation of the majority party to be inclusive. And he is right about that. But he also said: It is the obligation of the minority party to be constructive. Inclusive and constructive, if we keep those words in mind, these critical next weeks of legislating will provide us with an opportunity to again fill this economic ditch that has been dug these last many years and begin building the mountains once again to get us out of there.

RECOGNITION OF THE REPUBLICAN LEADER

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

WELCOME BACK

Mr. MCCONNELL. I wanted to briefly welcome everyone back from the Lincoln recess. People had a constructive period of time to interact with their constituents or to do other important business.

Listening carefully to what the majority leader had to say in terms of the way forward, I will be happy to continue to work with him to move us in the direction he wishes to take us in terms of the scheduling of the Senate over the next week or 10 days.

Madam President, we are now cleared to do the consent agreement.

Mr. REID. I appreciate that very much.

ORDER OF PROCEDURE

Mr. MCCONNELL. Madam President, I ask unanimous consent that the cloture motion with respect to the Solis nomination be withdrawn.

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

Mr. MCCONNELL. I now ask unanimous consent that upon the conclusion of the cloture vote with respect to the motion to proceed to S. 160, the Senate proceed to executive session as previously provided under a previous order and the Senate then debate the nomination of HILDA SOLIS to be the Secretary of Labor until 4:30 today, with the time equally divided and controlled between the leaders or their designees, and that Senator MURRAY be in control of the majority time; further, that at 4:30 p.m. today, the Senate proceed to vote on the confirmation of the nomination; that upon confirmation, the motion to reconsider be laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

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

RESERVATION OF LEADER TIME

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

DISTRICT OF COLUMBIA HOUSE VOTING RIGHTS ACT OF 2009—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 160, which the clerk will report by title.

The legislative clerk read as follows:

A motion to proceed to the bill (S. 160) to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 11 a.m. will be equally divided and controlled between the two leaders or their designees.

The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I would first ask unanimous consent, since the leaders have consumed—quite eloquently, I might add—15 minutes, that the hour run from this minute until 11:15 so that both sides have the full hour and that the cloture vote on S. 160 occur at 11:15 a.m.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The majority leader is recognized.

Mr. REID. Madam President, I overlooked a very important part of today. It is my understanding it is the birthday of the manager of this legislation. So all of us in the Senate wish the great Senator from the State of Connecticut happy birthday.

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

Mr. LIEBERMAN. Well, the Senator from the State of Connecticut has

reached an age where he has mixed feelings when people acknowledge his birthday. But I thank the Senator.

Mr. REID. As President Reagan said, the alternative, though——

Mr. LIEBERMAN. The alternative is not good. And I praise the Lord for every day. So I say thank you to Senator REID for his kind words.

Madam President, I rise today, and I am proud to do so along with my friend and colleague, Senator HATCH of Utah, to urge all Senators to vote yes on the motion to proceed to this important legislation, the District of Columbia House Voting Rights Act of 2009. This measure will give the citizens of our Nation's Capital full voting rights in the House of Representatives while effectively adding a fourth congressional seat for the State of Utah.

In 2007, this bill passed overwhelmingly in the House by a vote of 241 to 177 but fell 3 votes short of gaining cloture in the Senate. That failure to proceed here in the Senate, 2 years ago now, left the citizens of the District with the wholly unsought after distinction of being the only residents of a democratically ruled national capital in the world who have no say in how their nation is governed. It is really astounding. It is time to right this injustice, just as this Congress has historically righted so many other voting injustices that stretch back to the very founding of our Nation.

I again thank my friend, Senator ORRIN HATCH, for his principled and steadfast support of this bill. I believe his commitment to join in this historic change puts him up there with other great Republican Senators in recent history, such as Everett Dirksen, who worked with Lyndon Johnson to pass the Voting Rights Act of 1964.

I also thank my colleagues, Senators CARPER, DODD, DURBIN, FEINGOLD, KENNEDY, KERRY, LANDRIEU, LAUTENBERG, LEAHY, LEVIN, MCCASKILL, MIKULSKI, SANDERS, and VOINOVICH, for joining as cosponsors. And, of course, I thank our leader, Senator REID, for bringing this bill to the floor so swiftly in this 111th session. In the Senate, as we all know, one of the greatest gifts you can get is floor time, and the priority Senator REID has placed on this measure speaks volumes of his commitments to fairness, justice, and, in this case, I think civil rights.

Great thanks are due to District Delegate ELEANOR HOLMES NORTON, who has been a tireless champion of full representation for the citizens of the District. In her 10 terms in Congress, ELEANOR HOLMES NORTON has valiantly represented the citizens of the District despite the fact—and I say valiantly and effectively represented the citizens of the District—despite the fact that she has no vote on the House floor.

Madam President, before I go on with the substance of the argument, I would like to ask that you let me know when I have consumed 14 minutes of my time so I can wind it up.

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

Mr. LIEBERMAN. I thank the Chair.

I wish to begin by taking my colleagues way back to November 22, 1800. Why that day? Because that was the day that could be considered the official dedication of Washington, DC, as our Nation's Capital: November 22, 1800. On that day, President John Adams, who had only recently moved into the still-unfinished Executive Mansion—it was not known as the White House back then—gave his State of the Union Address to the opening of the second session of the Sixth Congress, which was also moving into its offices in the unfinished Capitol Building.

It is a sweet historical coincidence that today we begin discussion of this bill and tonight President Obama addresses the 111th session of Congress.

President Adams opened his statement with a prayer that this new city ''be the residence of virtue and happiness [and] be forever held in veneration!'' That prayer has only, let's say, imperfectly been realized, but we aspire to it nonetheless.

Adams then called on Congress to be wise stewards of this new city of then roughly 8,000 people.

He said:

> You will consider it as the capital of a great nation advancing with unexampled rapidity in arts, in commerce, in wealth, and in population, and possessing within itself those energies and resources which, if not thrown away or lamentably misdirected, will secure to it a long course of prosperity and self-government.

Beautiful words.

The District did, of course, grow into a robust and thriving capital. Today, with nearly 600,000 residents, the District has a population roughly equal to or, in fact, greater than the States of Alaska, North Dakota, Vermont, and Wyoming. But, sadly, its residents have not been allowed to be full participants in our democracy, have not been allowed to have voting representation in the Congress of the United States.

I want to speak for a moment about some of the fundamental injustices that result from that fact. The people of the District, of course, have been a direct target of a terrorist attack, but they have no vote on how the Federal Government provides for their homeland security.

Men and women of the District have fought bravely in all our wars—well, at least going back to the War of 1812—many, many giving their lives in defense of our country and its freedom. Yet they have no vote on the serious questions of war and peace, of funding conflicts, of supporting veterans when they return home.

The courts have found that Congress has the authority to tax the citizens and businesses of the District. And do they pay taxes? In 2007, residents and businesses of the District paid over $20 billion in Federal taxes, which is more than 19 States, and at the second highest per capita rate of Federal taxation in the Nation. This should be embarrassing; that is, the fact that they still do not have voting representation here should be embarrassing to a nation whose Founders rallied around the Revolutionary slogan: Taxation without representation is tyranny. The District is the only jurisdiction in the country that must seek congressional approval, through the appropriations process, before spending locally generated tax dollars. Yet DC has no vote in the appropriations process.

Finally, if any American living in the 50 States—outside of the District of Columbia, I mean to say—were to move abroad, they would continue to be entitled to full voting representation in Congress—voting by absentee in their last State of residence—regardless of how long they remain out of the country. The only way they can lose that full voting representation here in Congress is if they were either to renounce their citizenship or return to the United States and live in Washington, DC. Now, that just does not make sense.

I am pleased to say that as I hear the arguments of the opponents of this bill, they seem to recognize and concur on the fundamental justice of our cause. Their primary argument against the bill is the question of constitutionality. Opponents cite article I, section 2, of the Constitution, which states that the House ''shall be composed of members chosen . . . by the people of the several states.'' But I would urge my colleagues to read on because in article I, section 8, the Framers gave Congress authority to ''exercise exclusive legislation in all cases whatsoever'' regarding the District. This so-called District clause grants Congress particularly sweeping powers with regard to legislation for the District of Columbia. In fact, our courts have upheld Congress's right to treat the District as a ''State'' for purposes of Federal taxation, Federal court jurisdiction, the right to a jury trial, and interstate commerce, among others.

A broad range of constitutional experts, including very respected conservative constitutional experts such as Judge Ken Starr and former Assistant Attorney General Viet Dinh tell us that Congress's power to provide voting rights to the District lies within this District clause. If Congress has this power, there is no excuse for not deploying it to end the injustice facing the District's many residents with respect to voting representation in Congress.

Madam President, let me give a little more history. There are some question marks lurking in the history of voting rights in the Federal District. In the first 11 years after Maryland and Virginia ceded land for the Capital in 1788 and 1789, respectively, residents of that ceded territory continued to vote in either Maryland or Virginia. They retained this right to vote through congressional legislation. But when the

District was formally established in 1800, Congress was silent on the voting rights for citizens of our Capital City. Frankly, we do not know exactly why this came about. The rights were never explicitly withdrawn. They just never addressed them.

What we all know is that our Nation has always moved to expand and protect the right to vote so that evermore voices could be heard and represented. It is time to do that again. The fact is, in 1800, when the Federal Government first took up residence in the District, as we all know, sadly, not all Americans could vote. Slaves, who made up nearly a sixth of our Nation's population, had no vote and outrageously were counted as a mere three-fifths of a person. Women could not vote, and neither could many men. Most States required you to be a landowner to vote, so many tradesmen, laborers, shop clerks, farmhands, and others who were vital to the Nation's growing economy were denied the franchise.

The Senators of 1800 were chosen by State legislatures, not by popular vote. President Adams, in fact, was about to be defeated in 1800 by his Vice President, Thomas Jefferson, in an election where most of the members of the electoral college were also chosen by State legislatures, not popular vote.

Well, we have, over the decades and centuries since 1800, righted those wrongs. As I heard someone once say: American democracy is on a journey without a final destination. We keep struggling and, thankfully, achieving, generation after generation, the rights that are proclaimed in our Declaration of Independence. So we move beyond those barriers to voting through legislation, constitutional amendments, and court decisions. And our democracy is, of course, stronger for it.

State legislatures began expanding voter rolls beyond just landowners and also provided for the direct election of Presidential electors. Let me just read from——

The ACTING PRESIDENT pro tempore. The Senator has consumed 14 minutes.

Mr. LIEBERMAN. I thank the Chair.

The Supreme Court, in Wesberry v. Sanders, in 1964, ruled that House districts had to be approximately equal in population. That was the so-called ''one man, one vote.'' Again, in each of these cases, our Nation has always had the goal of expanding and protecting the right to vote. And that is what we seek to do today.

I am going to yield now to Senator HATCH, with whom I am proud to cosponsor this legislation. Senator HATCH in this case is not just the distinguished and effective and honorable and intelligent Senator from Utah, he has written one of the great law journal articles which asserts and I think clearly establishes the constitutionality of what we are trying to do today.

So I thank the Chair and I yield the floor to my friend from Utah.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. HATCH. Madam President, I compliment my dear friend and distinguished colleague from Connecticut for the leadership he has provided on this issue and for the intelligence he has brought to this issue as well.

Madam President, I rise to support S. 160, the District of Columbia House Voting Rights Act of 2009, which I am cosponsoring with my friend from Connecticut, Senator LIEBERMAN. This bill would give the District of Columbia one seat and Utah another seat in the House of Representatives. I will address three questions about this bill: whether Congress may pass this bill or this legislation, whether Congress should pass it, and whether the Senate bill is how Congress ought to do it. I believe the answer to all three questions is yes.

The first question is whether the Constitution allows Congress to pass this legislation. Congress may certainly increase the size of the House from 435 to 437 Members and give a new seat to Utah which qualifies for one under the formula used in the last 2000 census. The 2010 census will determine whether Utah keeps this seat. The Congress certainly has the legislative authority to grant it to us. The constitutional question is whether Congress may give the other new House seat created by this bill to the District of Columbia which is, of course, not a State. The District did not even exist when the Constitution was drafted to provide that the House be composed of Members chosen by the people of the several States. The constitutional question is whether the word ''States'' prevents Congress from providing a House seat for the District.

We should debate more often and more openly whether the Constitution allows us to do what we do. I studied the constitutional issues raised by the bill before us and published my analysis and conclusions, as the distinguished Senator from Connecticut has noted, in the Harvard Journal on Legislation for everyone's consideration.

I commend it to my colleagues.

Madam President, I wrote in that article and acknowledge here today that there are legitimate arguments on both sides. There are liberal and conservative legal experts on both sides. As we debate this bill, however, I hope those who oppose it on constitutional grounds will do more than just repeat the single word ''States.'' Noting that the District is not a State is a factual observation; it is not a constitutional argument. It is a premise, not a conclusion.

Several considerations led me to conclude that this legislation's constitutional foundation is solid. First, representation and suffrage are the heart of our American system of self-government. This principle is so fundamental that there must be affirmative evidence that America's Founders intended to deny it to Americans living in the District. That evidence simply does not exist.

Secondly, America's Founders demonstrated the opposite intention by their own legislative actions. In 1790, as the distinguished Senator from Connecticut has observed, Congress provided by legislation that Americans living in the land ceded for the District could continue voting in congressional elections. Nobody even suggested that this legislation was unconstitutional, even though the land on which those Americans lived was no more part of a State in 1790 than the District is today. If Congress could do it then, Congress can do it now.

Third, the Constitution explicitly gives Congress legislative authority over the District ''in all cases whatsoever.'' This authority has been called sweeping, plenary, and extraordinary by the courts and surpasses the authority a State legislature has over its own State.

Fourth, courts have held for more than two centuries either that constitutional provisions framed in terms of States can be applied to the District or that Congress can legislatively accomplish for the District what the Constitution accomplishes for States. Congress, for example, has authority to regulate commerce among the several States. The Supreme Court held in 1899 that this applies to the District of Columbia.

The original Constitution provided that direct taxes shall be apportioned among the several States. The Supreme Court held in 1805 that Congress's legislative authority over the District allows taxation of the District. The Constitution provides that Federal courts may review lawsuits between citizens of different States. The Supreme Court held in 1805 that Congress can legislatively extend this to the District even though the Constitution does not.

In 2000, the Supreme Court affirmed a lower court decision holding that while the Constitution does not provide congressional representation for the District, that goal can be pursued in other venues including, the Court said, ''the political process.''

Those who argue the word ''States'' in the Constitution cannot include the District must believe that all of these court decisions were wrong. They must believe that District commerce cannot be regulated, that District residents cannot be taxed, cannot sue in Federal court, and have no right to a speedy trial. They are entitled to believe that, but they should say so and defend their position.

Fifth, maintaining the District as a jurisdiction separate from State control in no way requires disenfranchising its residents. America's Founders wanted the Capital to be free from State control, and I support keeping it that way. I oppose statehood for the District of Columbia, and I think most people in this body do, but giving the District a House seat so that

its residents can participate in the process of making the laws they must obey in no way changes either the District's political status or Congress's legislative authority over the District.

These are some of the considerations leading me to conclude that the Constitution allows Congress legislatively to provide a House seat for the District of Columbia.

The next question is should Congress do so or whether Congress should do so. I believe it should. Representation and suffrage are essential to our American system of self-government. The Supreme Court has said no right is more precious in a free country than having a voice in the election of those who govern us. Congress provides by legislation for the millions of Americans living overseas to exercise that right by voting in congressional elections. They obviously do not live in a State. They do not even live in America.

Do those who believe the word ''States'' in the Constitution precludes representation for Americans living in the District, do they believe that it also precludes representation for Americans living outside the country altogether? Of course not.

I wish to emphasize the legislation before us would restore congressional representation that Americans living in the District once enjoyed. After taking up residence in 1800, Congress failed to continue by Federal law the voting rights these Americans had previously enjoyed, by Congress's permission, under State law. One member of the District City Council, Augustus Woodward, wrote in 1801 that District residents are still part of the people of the United States and that ''it is violating an original principle of Republicanism to deny that all who are governed by laws ought to participate in the formulation of them.''

I continue to believe what I stated more than 30 years ago on the Senate floor that Americans living in the District should enjoy all the privileges of citizens, including voting rights.

If Congress may and should provide a House seat for the District, the remaining question is how to do it. I believe the bill before us, rather than the House version, is the best vehicle for accomplishing that goal. First, it disclaims Senate representation for the District both explicitly and implicitly. It explicitly does so in language that the Senator from Maine, Ms. COLLINS, first introduced during the committee markup in the 110th Congress.

The bill States:

> The District of Columbia shall not be considered a State for purposes of representation in the U.S. Senate.

But the bill also implicitly disclaims Senate representation by treating the District as a congressional district rather than as a State even for purposes of House representation. This avoids even a rhetorical parallel to States that have only one House Member.

I wish to firmly repeat my continuing opposition to District representation in the Senate. I opposed the constitutional amendment in 1978 that would have given the District both House and Senate representation. The two Houses of Congress are designed differently: the House to represent population and the Senate to represent the States. The House is considered the people's body, the Senate the State's body. The 17th amendment changed how Senators are elected but did not change the Senate itself or its place in the design of Congress.

In addition, as I argued in 1978, adding a nonstate jurisdiction to the Senate would disrupt the equal suffrage the Constitution guarantees to the States in this body. Secondly, the Senate bill provides for expedited judicial review. The House bill does not. As I do, my colleagues take the Constitution seriously, and this provision will help ensure that, if necessary, the courts can decide the legal issues.

Third, the Senate bill allows Utah to elect its additional House Member after drawing new congressional district lines. The House bill would improperly force Utah to elect an additional Member at Large. This would create two strange situations. It would mean one House Member from Utah would have three times as many constituents as the other, and it would mean Utahans would each have two House Members, twice as many as Americans living in any other State. Utah has already demonstrated that it is willing and able to draw fair and reasonable lines to elect a fourth House Member, and Congress has no business forcing Utah to do it any other way.

Let me close by saying there are many differences between Utah and the District, to be sure, but their residents deserve to be properly represented in our National Legislature. I do not believe that representation and suffrage, the heart of self-government, should be provided based on how Americans will exercise this most precious right or which party they will likely support. I believe Congress may and should provide for that representation and ought to do so by passing the bill before us today, and I hope we will.

I yield the floor.

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

Mr. KYL. Madam President, obviously, the principal argument that must be made against this bill is its blatant unconstitutionality. Article I of the Constitution clearly and expressly provides that representation in the House of Representatives shall be apportioned among the several States. The meaning of this language is not ambiguous. Only States may be represented in the House of Representatives—not territories, not districts, or other Federal possessions. It is hard to craft a colorable argument that this bill is constitutional, especially in view of court decisions confirming what I just said.

But let me set aside for a moment the constitutional argument and talk about the idea behind the bill, which is that it is wrong for residents of the District not to have some representation in the House of Representatives. The argument is that everyone is entitled to representation in Congress and that the District currently lacks such a representative—in other words, that the District runs afoul of the principle of ''no taxation without representation'' as the jurisdiction's current license plates complain. Of course, there is a representative, but that representative is a nonvoting representative.

The argument, however, is wrong. The District does not lack representation in the Congress or need a voting representative to, for example, provide funding for the District of Columbia. It actually already has representatives in Congress: 100 Senators and 435 House Members, all of whom, under the Constitution itself, have the jurisdiction and, indeed, the obligation to provide for the general welfare of the residents of the District of Columbia. All of these Members work in the District. Most of them live close to, if not in, the District. Their presence here and the oversight that Congress provides and the funding Congress provides effectively ensures that the District is adequately cared for by the Congress.

If anyone here today doubts that Congress has been anything less than generous toward the District, I would ask them to consider the latest data from the Tax Foundation on the amount of tax dollars each State and the District pay to the Federal Government and the amount each receives in Federal spending in return.

Let's start with those States for whom the redistribution of America's wealth via the Federal Government is not such a good deal. Going down the rankings to No. 47 of per capita dollars received to dollars taxed, we have the State of New Hampshire. Its residents paid an average of $8,162 of taxes to the Federal Government but received a per capita average of only $6,386 in Federal spending. This earned New Hampshire a return of only 71 cents for each dollar paid in Federal taxes.

Next on the list is the State of Connecticut. Its residents paid an average of $11,522 in Federal taxes but saw only $8,795 per capita in Federal spending in return, which means every dollar in Federal taxes saw a return of only 69 cents in Federal spending.

At No. 49 on the scale of returns is the State of Nevada. Its residents saw only a 65-cent return on every dollar paid in Federal taxes. On average, every Nevadan paid $8,417 in Federal taxes, but the State received only $5,889 per capita in Federal spending.

Finally, rock bottom on the list of beneficiaries of Federal largess is the State of New Jersey. Its residents paid a total of $86 billion in taxes to the Federal Government. That comes to $9,902 paid to the United States by every man, woman, and child in the State. Yet the State saw only $6,740 in Federal spending—a return of only 61

cents of Federal return for every dollar New Jersey residents send to Washington.

Neither New Jersey nor any of these other States pay the most in total taxes to the Federal Government. That honor goes to California, whose citizens paid a total of $289 billion in taxes to the Federal Government. That comes out to $8,028 for every man, woman, and child in California. But in return, the State only received $6,709 per capita in Federal spending—a return of only 78 cents for each dollar in Federal taxes paid.

There is also the other end of the scale—the States that received more in Federal spending than they pay in Federal taxes. Which are they? Let's start with West Virginia, which ranked fifth. Its residents paid an average of $4,861 in taxes and received $8,872 per capita in Federal spending—a return of $1.76 for every dollar in taxes.

No. 2 on the list is Mississippi, which saw a return of $2.03 for every $1 paid in Federal taxes.

At the very top is New Mexico, whose residents paid an average of $5,153 in Federal taxes but saw a per capita return of $10,733 in Federal spending or $2.03 for every dollar paid in Federal taxes. Mississippi and New Mexico, with two Senators each, and with four and three Congressmen respectively, made out better than all other States in terms of per capita Federal spending that Congress delivered to these States, as compared to the amounts they pay in taxes. No State got a better deal than Mississippi and New Mexico, which saw a per capita return of over $2 for every dollar paid. So they did very well by any measurement.

There is one jurisdiction that does better than even these States and that is—as you might guess—the District of Columbia. It far exceeded the $2 return seen by even the No. 1 and 2 States on the list of Federal beneficiaries. For the last year for which data is available, District residents paid an average of $11,582 in Federal taxes. But in return, the District of Columbia received over $65,109 in per capita Federal spending. This represents a return that is more than twice as high as that received by the No. 1 and 2 States, a return of 55 cents for every $1 that its residents paid in Federal taxes. The District did over six times better than even first-ranked New Mexico, at $65,109. This represents a 555-percent return on the District's investment in Federal taxes—generous by any standard, even accounting for the fact that much of the money is for the Federal area for buildings and other projects within the District.

The numbers I have been citing have not abated in recent times. Most recently, on February 14, in the Federal stimulus bill, the District's nonvoting Delegate, Holmes-Norton, issued a press release bragging about the District's recent take. She gave a press briefing in which, according to news accounts:

> . . . gave a detailed account of the $620 million of benefits for the District of Columbia in the American Recovery and Reinvestment Plan of 2009 at a press conference this morning. The funds in the stimulus package are expected to generate 12,000 jobs and an even larger number of jobs at the Department of Homeland Security headquarters in Ward 8, which will receive $650 million, even more than expected, to build the first of five buildings at the DHS compound, a project expected to generate 38,000 jobs in the area. The Congresswoman's work to make sure that in every category DC was treated as a State paid off handsomely for the District, which did better in funds received than seven States. Funds to repair federal structures will be spent disproportionately in DC because so many Federal buildings are located here.

One would expect DC would receive more Federal money because of the Federal enclave that exists in the District. But the point of the representative is to note that all of that benefits the residents of the District as well, unlike that money that goes to the States. So straight from the nonvoting District's representative, you have the fact that the Congress has clearly been very generous toward the District. It is in no way underrepresented and certainly doesn't deserve to have an additional Member of Congress, whose goal it would be to expand the District's share of Federal spending.

Even if giving the District a dedicated representative in the House were sound policy, let me return to the argument about the constitutionality. This, the proponents appreciate, is the soft underbelly of this legislation. There are arguments they adduce to support its constitutionality. I submit they are weak and will not succeed in court. I appreciate the fact that the sponsors of the bill support the necessity of an expedited hearing to get the legislation heard and a decision made by the courts as to its constitutionality. That is the least we would owe the representatives of the District, as well as the other citizens of the country.

Congress has long recognized we can only grant District residents the ability to participate in Federal elections through constitutional amendment. Prior to 1961, for example, District residents were not permitted to vote in Presidential elections. Article II, section 1 of the Constitution provides that the electors from each State should be comprised of the number equal to the State's combined congressional delegation. In the face of this express constitutional language, Congress recognized that a change to the law would require a change to the Constitution itself. That is why, when we granted DC residents the right to participate in Presidential elections, we went about it the right way—by passing the 23rd amendment to the Constitution.

Just as article II of the Constitution, which deals with the Presidency, limited the right to appoint Presidential electors to the State, article I, which deals with Congress, clearly and repeatedly limits representation in the House and Senate to the State. Article I says the House ''shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.'' Obviously, that doesn't apply to the District of Columbia. It requires that each representative, ''when elected, be an inhabitant of that state in which he was chosen.'' It mandates that ''each state . . . have at least one Representative,'' and it provides that ''when vacancies happen in the Representation for any state, the executive authority thereof shall issue writs of election to fill such vacancies.'' Again, it could not have application to the DC.

The import of these provisions was recognized by the legal scholar, Jonathan Turley, in a law review article published last year. In it he concludes:

> It would be ridiculous to suggest that the delegates to the Constitutional Convention or ratification conventions would have worked out such specific and exacting rules for the composition of Congress, only to give the majority of Congress the right to create a new form of voting members from federal enclaves like the District. It would have constituted the realization of the worst fears for many delegates, particularly Anti-Federalists, to have an open-ended ability of the majority to manipulate the rolls of Congress and to use areas under the exclusive control of the Federal Government as the source for new voting members.

Indeed, congressional Democrats, in 1978—and Republicans as well—recognized that giving the District of Columbia a dedicated House Member would require amending the Constitution. That year, Congress passed an amendment giving District residents a voting seat in the House. When the House Judiciary Committee, under the leadership of Chairman Peter Rodino, reported out the amendment, the accompanying report recognized that ''if the citizens of the District are to have voting representation in the Congress, a constitutional amendment is essential; statutory action alone will not suffice.''

I am certainly not alone in concluding that this bill, though well-intentioned, violates the plain language of the Constitution. The very court that will hear challenges to this bill under its expedited judicial review provision has already ruled that District residents do not have a constitutional right to congressional representation. In Adams v. Clinton, decided in 2000, a three-judge panel of the Federal District Court for the District of Columbia had concluded that the Constitution plainly limited congressional representation to the States. Here is what the court said:

> The overlapping and interconnected use of the term ''state'' in the relevant provisions of article I, the historical evidence of contemporary understandings, and the opinions of our judicial forebears, all reinforce how deeply Congressional representation is tied to the structure of statehood. . . . There is simply no evidence that the Framers intended that not only citizens of the States,

but unspecified others as well, would share in the congressional franchise.

The District residents who brought suit in Adams v. Clinton appealed their case all the way to the U.S. Supreme Court, and the Supreme Court allowed the trial court's ruling to stand.

The Senate should not be passing legislation that we believe is unconstitutional. We should not pass the buck to the Federal courts because we feel good about a particular case to be made and want to express our feelings about it, in the firm judgment that the court will save us from ourselves and declare our action unconstitutional. When we neglect our duty to the Constitution, we fail to uphold the oath that we take as Senators to support and defend our great founding documents.

My friends in the Senate who support this legislation rely essentially on two arguments, neither of which, I submit, outweighs the clear mandate in article II. First, they claim that another provision in the Constitution, the so-called District clause, allows Congress to essentially grant any sort of legislation relating to the District of Columbia, including even legislation to give DC residents a voting House Member. This clause doesn't do that. What it does is permit Congress to pass laws to provide for the general welfare of District residents. The bill, however, does not propose to provide for the welfare of District residents; it seeks to alter the fundamental composition of the House of Representatives.

This clause not only does not allow the Congress to change the law without a constitutional amendment; it is, in effect, a logical extension of the fact that the District requires some separate entity to make the laws and provide for its needs, and that, of course, as identified in the Constitution, is the Congress. So, far from supporting the case, it actually confirms the argument that the District, not being a State, is not entitled to representation as a State.

Second, proponents of the bill correctly point out that there are certain instances in the Constitution where references to citizens of the States has been interpreted to include residents of the District of Columbia. Many of these cases, though, involve individual rights, and it is obvious that DC residents do not lose their rights as citizens of the United States by choosing to live in the District. For example, they retain the right to trial by jury, and they may bring civil suits in Federal court against citizens of other States and so on. The bill is not a bill about individual rights, such as free speech, the right to own firearms or to due process of law. It is a bill about the makeup of House of Representatives. It is about the delicate balance our constitutional Framers struck in affording representation to the States in the House and the Senate, and it is about the fundamental structure of our Government.

Finally, there is actually nothing standing in the way of full representation in the Congress for residents of the District. In fact, there have been previous offers, and there will be another offer in the context of the debate on this bill to allow the residents of the District of Columbia to vote as a congressional district of the State of Maryland. The retrocession amendment would also allow representation in the Senate as well. This is essentially what residents of Virginia had when the land was retroceded to the State of Virginia that had originally been carved out as part of the 10-mile square of the District of Columbia. Up to now, the residents of the District have not seen fit to take advantage of this offer to have full representation in the Congress as residents of the State of Maryland. But they will have that opportunity again when an amendment is proposed in the context of this legislation.

The bottom line is this: The District of Columbia residents do not suffer from a lack of representation in terms of the general welfare of the District. The Congress has been enormously generous and has ceded jurisdiction to the city of the District of Columbia and provided funding and other legislation to govern the District as called for under article I.

Secondly, the Constitution of the United States could not be clearer about the fact that representation is limited to the States of the Union.

The District of Columbia being a Federal enclave, not being a State, therefore, is not entitled to congressional representation, so the Federal District Court of the District of Columbia has held. The Supreme Court has declined to review that ruling, allowing it to stand. It is my firm belief when this legislation, if it is passed, is challenged, it will, in fact, be declared unconstitutional. Because of that, it seems to me those of us in the Congress who respect the Constitution and this argument should oppose the legislation on the grounds that we should never pass legislation that we believe to be unconstitutional in the hopes that the Congress will be overruled by the Court and the Court will save us from the action we take.

I reserve the remainder of the time on my side and see if anybody else on the other side wishes to speak.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. KENNEDY. Madam President, our vote today affects one of the core issues of our democracy—the right to vote. It is a fundamental American principle that every citizen should have the right to vote and to participate in our democracy. Yet the nearly 600,000 residents of the District of Columbia have no voting representative in Congress. Americans give up their right to vote for Members of Congress when they move to the Nation's Capital. It is long past time for us to finally correct this basic wrong, and I commend Senators LIEBERMAN and HATCH for their strong leadership on this legislation.

The basic injustice is clear. Already this year, District of Columbia residents have paid over $500 million in Federal taxes. Annually, they have the second highest per capita tax burden in the Nation. But they are denied the basic right of congressional representation taken for granted by other taxpaying Americans.

DC residents have fought and died to protect our Nation in every war in which America has participated since our Nation was founded. Since World War I, over 192,000 residents of the District of Columbia have served in our Armed Forces, and more than 1,600 DC residents have given their lives in service to our Nation. Since the start of the current wars in Iraq and Afghanistan, nearly 3,000 DC residents have been deployed in those countries and dozens of DC residents have been wounded or killed. There is no reason to deny representation in Congress to these patriotic veterans.

I have long been a strong supporter of DC representation in Congress. In 1978, the District's nonvoting Delegate in the House, Walter Fauntroy, our Senate majority leader, ROBERT BYRD, and I worked with many others to pass a constitutional amendment to extend full voting rights to Americans living in the Nation's Capital. Congress passed that constitutional amendment, but too few States ratified it, and it never took effect.

Although I strongly supported that constitutional amendment, I do not believe that a constitutional amendment is the only valid option. In 1978, we were following the precedent of the 23rd amendment, which was approved by Congress in June 1960 and was ratified by the States in March 1961 and which gave citizens of the District of Columbia the right to vote in Presidential elections. At the time, there was little opposition in the House to the amendment giving the District congressional representation, and the Republican leaders in the Senate actively supported it. It passed the House by a vote of 289 to 127. The Senate passed it by a vote of 67 to 32, narrowly above the two-thirds majority required for a constitutional amendment. Needless to say, we were deeply disappointed by the failure of the States to ratify the amendment, and that failure planted the seeds for the serious consideration now of the statutory option for achieving the goal.

As the House and Senate hearings on the current bill make abundantly clear, the Constitution's District clause provides a valid means for acting by statute to grant citizens of the District of Columbia the right to vote in the House of Representatives. In testimony on the bill, numerous constitutional scholars have explained that article I, section 8 of the Constitution grants Congress the authority ''to exercise exclusive Legislation, in all Cases whatsoever, over'' the District of

Columbia. The Supreme Court has ruled that Congress's exclusive authority over the District of Columbia is broad and ''national in the highest sense.'' *O'Donoghue* v. *United States*, 289 U.S. 516, 539–40, 1933.

Madam President, at this very moment as the Senate debates whether DC citizens deserve a vote in Congress, many brave Americans born in the District of Columbia are fighting for democracy in Iraq. If we are for democracy in Iraq and Afghanistan, we cannot oppose democracy in the District of Columbia. If we believe in the principles of ''one person, one vote'' and government by the consent of the governed on which our Nation was founded, we must support this bill.

I urge my colleagues to vote for cloture on the motion to proceed to this long overdue legislation and to support final passage of the bill so that we can finally correct this historic wrong.●

Mr. BAUCUS. Madam President, I rise today to discuss the District of Columbia House Voting Rights Act.

This legislation, if passed, is an unprecedented action. For the first time in history, Congress will grant the District of Columbia a voting seat in the U.S. House of Representatives. For decades, citizens of the District of Columbia have fought for their right to vote in Congress.

But this legislation sets precedence in another way. The bill we discuss today does not provide merely one additional seat in the House of Representatives. It adds two. The second seat is given to Utah.

For the first time in history, Congress will specifically set out in legislation an additional seat in Congress for an existing State.

This measure is included in this bill not because of the belief that the people of Utah are in the same position as those living in the District of Columbia. Instead, this additional seat is included in the legislation in an effort to balance the supposed political makeup of the two new districts—one Republican and one Democratic.

I do not support the reasons behind this second additional seat, and thus, I cannot vote in support of this bill.

The State of Utah failed to obtain an additional seat in the last apportionment by a narrow margin. Many in the State felt the reapportionment was unfair. In fact, the State of Utah took its argument all the way to the U.S. Supreme Court but lost that battle in court.

But Utah is not unique. The people of the State of Montana can relate. Mr. President, I would like to share with you today Montana's story.

In the 1910 reapportionment, with a population of 243,000, Montana gained an additional seat in the House of Representatives, for a total of 2 seats. But 80 years later following the 1990 census, 8 States gained a total of 19 additional seats in the House of Representatives, and 13 States lost an equal number.

Montana was one of those States. With a population of over 800,000, Montana lost 1 seat, reducing its voice in the House in half. Losing this seat established the State of Montana as the largest single congressional district in the United States.

In 1990, the average size of the 435 congressional districts was 572,466 people. From 1910 to 1990, Montana's population increased by 563,000 people roughly the size of a modern congressional district.

Yet in 1990, Montana lost a congressional seat. In fact, if Montana had retained its two districts, each would have been closer to the ideal, average district size than the single congressional district.

The State of Montana—just like Utah—sued the U.S. Department of Commerce, asserting the reapportionment was unconstitutional. A three-judge district court panel ruled in favor of the State of Montana. The district court held that the principle of equal representation for equal number of people as applied to State districting by the U.S. Supreme Court in 1964, should also be applied to the apportionment of seats among the States.

The U.S. Government appealed the decision. On March 2, 1992, the U.S. Supreme Court held oral arguments on the case. I attended the oral arguments, sitting behind then-attorney general for Montana Marc Racicot, as he argued on behalf of the State of Montana.

Unfortunately, the Supreme Court reversed the district court decision, upholding the reapportionment and Montana's lost seat.

The people of Montana accepted that fate and patiently waited for the next reapportionment, hoping to obtain the second seat Montana lost 10 years earlier. Early estimates were promising. The 1995 projection for 2000 census estimated that Montana would regain its second seat.

However, Montana came up short in the 2000 census. Though Montana's population grew by 12.9 percent, nearly matching the national rate, Montana's congressional representation remained the same. In fact, the State came up only 8,000 people short of the number needed, just nine-tenths of 1 percent of the State's population. Only Utah missed gaining another seat with a narrower margin.

Marc Racicot, then-Governor of Montana in 2000, said the unfairness of having such a large district was obvious. The ability of one person to represent over 900,000 is substantially strained, he said.

Today, the State of Montana remains the single most populated congressional district in the United States, at a population over 947,000—far larger than the average population per district of 625,000.

But mere population doesn't tell the whole story.

The State of Montana is the fourth largest State in the country. With over 145,000 square miles, Montana is bigger than the District of Columbia, Maryland, Virginia, and North Carolina combined. It is larger than all of New England.

Though Montana may not be the biggest congressional district based on land mass—Alaska has us beat—Montana's population is spread out more evenly across the State's vast area. Billings, Montana's largest ''city,'' only just recently surpassed 100,000 people.

In Montana, we don't distinguish between rural and nonrural. Rural is a matter of degree, as it compares to an increasingly more urban and suburban Nation.

This bill should be about the District of Columbia and the merits of awarding the taxpayers of the District their right to vote in Congress. Indeed, the bill itself is called the District of Columbia House Voting Rights Act. But to strike a political deal to maintain the status quo in the Halls of Congress is something I cannot support.

The PRESIDING OFFICER (Mr. UDALL of Colorado.) The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I say to my friend from Arizona, Mr. KYL, that Senator DURBIN, the senior Senator from Illinois, is on his way to speak for 5 minutes. Senator KYL has raised some important constitutional questions. I spoke to them briefly in my opening statement. Senator HATCH spoke at more length. It will undoubtedly consume a great deal of discussion, assuming we invoke cloture when we vote in approximately 15 minutes. I will wait to respond until then and remind my colleagues, of course, that on the constitutional question, I think it is at least arguable—I believe it is more than arguable. I believe the proposal before the Senate today is clearly constitutional and has been acknowledged as such by a wide array of experts—left, center, right—but that will be determined by the Chamber.

I remind my colleagues what we are voting on today is whether we are going to take up this bill. The basic reality is that a grave injustice has been done to the residents of this District. Mr. President, 600,000 Americans do not have voting representation in Congress just because they happen to live in our Nation's Capital, the only democracy in the world where that is so. It is an embarrassment. I think my friends who oppose this bill agree; we just disagree on the constitutionality of this proposal.

I ask everyone, please vote for cloture. Let's at least give the residents of the District their day in the Senate and hopefully we will go on to enact this legislation. But this bill certainly at least deserves to be debated.

I reserve the remainder of the time on our side.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I understand the time on the Democratic side has expired, but when Senator DURBIN arrives, I will yield him Republican time

to make his statement, if he would like to do that.

Mr. LIEBERMAN. I thank my friend for his generosity.

Mr. KYL. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, it is my understanding there is a vote scheduled for 11:15 a.m.

The PRESIDING OFFICER. The Senator is correct.

Mr. DURBIN. I don't know if any time has been allotted between now and 11:15.

Mr. LIEBERMAN. Mr. President, I say to the Senator from Illinois, we actually used all our time. Senator KYL graciously offered the Senator from Illinois the final 5 minutes of their time.

The PRESIDING OFFICER. The Senator from Connecticut does have 1 minute remaining.

Mr. LIEBERMAN. One minute of mine and four of his.

Mr. DURBIN. I thank my gracious colleagues.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, the Senate is debating whether to have a vote this week on a very important bill called the District of Columbia House Voting Rights Act of 2009. This bill would finally give voting rights to the people of the District of Columbia after 200 years. I am a cosponsor and supporter of this measure; I have been since the earlier days of my service in the House.

I find it unimaginable in modern America that 600,000 Americans have no voice and no vote in the U.S. Congress. It is a fact. It reflects decisions made long ago about whether the District of Columbia and its residents would be represented in Congress. There is a good reason they should be.

The right to vote is one of the most fundamental in the United States. Over a century ago, the Supreme Court called the right to vote ''a fundamental political right'' and a right that is ''preservative of all rights.''

It is unconscionable that we would ask the men and women in the District of Columbia to fight and risk their lives so the people of Iraq and Afghanistan have the right to vote, but we do not extend that same right to the citizens of the District of Columbia.

Seven DC residents have died on the battlefields of Iraq and Afghanistan: SPC Darryl Dent, LCpl Greg MacDonald, MAJ Kevin Shea, LTC Paul Kimbrough, CPT Darrell Lewis, SGT Randy Lewis Johnson, Jr., and SPC Keisha Marie Morgan. They were unable to fully participate in democracy in the town from which they came.

Opponents of the DC voting rights bill say they have constitutional concerns. They point to language in the Constitution that says the House of Representatives will be composed of Members chosen by ''the people of the several States.'' They argue that the District of Columbia is a district, not a State.

I do not think that is a strong argument. Our Federal judiciary has long treated the District of Columbia as a State for many purposes. For example, DC residents pay Federal income tax, serve on Federal juries, and register for Selective Service. Why should the right to vote be different?

Do opponents of DC voting rights believe that residents of America's Capital City should bear the full responsibilities of citizenship but not deserve the full rights of citizenship?

It is not just Democrats who believe the DC voting bill is constitutional. Many prominent Republicans agree. I am pleased that a half dozen of my Senate Republican colleagues have voted in the past for this bill. Listen to the words of conservative constitutional scholar Kenneth Starr. It is not often I have quoted him. He is not someone with whom I frequently see eye to eye. He coauthored a Washington Post op-ed and said:

> There is nothing in our Constitution's history or its fundamental principles suggesting that the Framers intended to deny the precious right to vote to those who live in the capital of the great democracy they founded.

I conclude by saying that I have served in the Senate now for a little over 12 years and the House 14 years before. I have seen the Congress treat the District of Columbia many times in a way that I found unacceptable, sometimes embarrassing. There are many Members of Congress whose obvious lifelong ambition is to serve as the mayor of a city—they cannot wait to be the Mayor of the District of Columbia—by the laws we pass on the floor of the House and Senate. We have denied to these people a voice in that process. We have made basic and fundamental decisions for the residents of this city which many of us never would have imposed on the city we represent. But they have been used as a laboratory for political debate and political experiment.

It is time that the people of this great Capital City have a voice in the Halls of Congress, at least in the House of Representatives. This bill is an important step forward in extending the opportunity for participation in our democracy and the opportunity for freedom. In this 21st century, we can do no less. I hope the new day, the change we are seeing in America, will be seen in the District of Columbia soon when they are given the right to have a voice in the Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, if I may, before the vote goes off, I simply wish to note that in addition to the names I indicated in my opening statement who are cosponsors of S. 160, Senator SPECTER of Pennsylvania and Senator SCHUMER of New York have also joined.

And on behalf of my colleagues, I would note the presence in the Chamber and welcome the Honorable Mayor of the District of Columbia, Adrian Fenty, and the honorable and eloquent and aggrieved Delegate from the District, ELEANOR HOLMES NORTON.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 160, the District of Columbia House Voting Rights Act of 2009.
>
> Harry Reid, Joseph I. Lieberman, Richard Durbin, Charles E. Schumer, Christopher J. Dodd, Benjamin L. Cardin, Edward E. Kaufman, Mark Udall, Daniel K. Inouye, Michael F. Bennet, Mary L. Landrieu, Mark L. Pryor, Sheldon Whitehouse, Roland W. Burris, Patty Murray, Bernard Sanders, Thomas R. Carper.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 160, the District of Columbia House Voting Rights Act of 2009, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote ''yea.''

Mr. KYL. The following Senator is necessarily absent: the Senator from South Carolina (Mr. DEMINT).

Further, if present and voting, the Senator from South Carolina (Mr. DEMINT) would have voted ''nay.''

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

The yeas and nays resulted—yeas 62, nays 34, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—62

Akaka	Cantwell	Dorgan
Bayh	Cardin	Durbin
Begich	Carper	Feingold
Bennet	Casey	Feinstein
Bingaman	Cochran	Gillibrand
Boxer	Collins	Hagan
Brown	Conrad	Hatch
Burris	Dodd	Inouye

Johnson	Menendez	Shaheen
Kaufman	Merkley	Snowe
Kerry	Mikulski	Specter
Klobuchar	Murkowski	Stabenow
Kohl	Murray	Tester
Landrieu	Nelson (FL)	Udall (CO)
Lautenberg	Nelson (NE)	Udall (NM)
Leahy	Pryor	Voinovich
Levin	Reed	Warner
Lieberman	Reid	Webb
Lincoln	Rockefeller	Whitehouse
Lugar	Sanders	Wyden
McCaskill	Schumer	

NAYS—34

Alexander	Cornyn	Martinez
Barrasso	Crapo	McCain
Baucus	Ensign	McConnell
Bennett	Enzi	Risch
Bond	Graham	Roberts
Brownback	Grassley	Sessions
Bunning	Gregg	Shelby
Burr	Hutchison	Thune
Byrd	Inhofe	Vitter
Chambliss	Isakson	Wicker
Coburn	Johanns	
Corker	Kyl	

NOT VOTING—3

DeMint	Harkin	Kennedy

The PRESIDING OFFICER. On this vote, the yeas are 62, the nays are 34. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The clerk will report the bill.

The assistant legislative clerk read as follows:

A bill (S. 160) to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

The Senate proceeded to consider the bill (S. 160) to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

S. 160

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''District of Columbia House Voting Rights Act of 2009''.

SEC. 2. TREATMENT OF DISTRICT OF COLUMBIA AS CONGRESSIONAL DISTRICT.

(a) CONGRESSIONAL DISTRICT AND NO SENATE REPRESENTATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the District of Columbia shall be considered a congressional district for purposes of representation in the House of Representatives.

(2) NO REPRESENTATION PROVIDED IN SENATE.—The District of Columbia shall not be considered a State for purposes of representation in the United States Senate.

(b) CONFORMING AMENDMENTS RELATING TO APPORTIONMENT OF MEMBERS OF HOUSE OF REPRESENTATIVES.—

(1) INCLUSION OF SINGLE DISTRICT OF COLUMBIA MEMBER IN REAPPORTIONMENT OF MEMBERS AMONG STATES.—Section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), is amended by adding at the end the following new subsection:

''(d) This section shall apply with respect to the District of Columbia in the same manner as this section applies to a State, except that the District of Columbia may not receive more than one Member under any reapportionment of Members.''.

(2) CLARIFICATION OF DETERMINATION OF NUMBER OF PRESIDENTIAL ELECTORS ON BASIS OF 23RD AMENDMENT.—Section 3 of title 3, United States Code, is amended by striking ''come into office;'' and inserting ''come into office (subject to the twenty-third article of amendment to the Constitution of the United States in the case of the District of Columbia);''.

SEC. 3. INCREASE IN MEMBERSHIP OF HOUSE OF REPRESENTATIVES.

(a) PERMANENT INCREASE IN NUMBER OF MEMBERS.—Effective with respect to the 112th Congress, or the first Congress sworn in after the implementation of this Act, and each succeeding Congress, the House of Representatives shall be composed of 437 Members, including the Member representing the District of Columbia pursuant to section 2(a).

(b) REAPPORTIONMENT OF MEMBERS RESULTING FROM INCREASE.—

(1) IN GENERAL.—Section 22(a) of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a(a)), is amended by striking ''the then existing number of Representatives'' and inserting ''the number of Representatives established with respect to the 112th Congress, or the first Congress sworn in after implementation of the District of Columbia House Voting Rights Act of 2009''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to the regular decennial census conducted for 2010 and each subsequent regular decennial census.

(c) TRANSMITTAL OF REVISED APPORTIONMENT INFORMATION BY PRESIDENT.—

(1) STATEMENT OF APPORTIONMENT BY PRESIDENT.—Not later than 30 days after the date of the enactment of this Act, the President shall transmit to Congress a revised version of the most recent statement of apportionment submitted under section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), to take into account this Act and the amendments made by this Act. The statement shall reflect that the District of Columbia is entitled to one Representative and shall identify the other State entitled to one representative under this section. Pursuant to section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), as amended by this Act, and the regular decennial census conducted for 2000, the State entitled to the one additional representative is Utah.

(2) REPORT BY CLERK.—Not later than 15 calendar days after receiving the revised version of the statement of apportionment under paragraph (1), the Clerk of the House of Representatives shall submit a report to the Speaker of the House of Representatives indicating that the District of Columbia is entitled to one Representative and identifying the State which is entitled to one additional Representative pursuant to this section. Pursuant to section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), as amended by this Act, and the regular decennial census conducted for 2000, the State entitled to the one additional representative is Utah.

(3) ADDITIONAL STATEMENTS AND REPORTS.—

(A) IN GENERAL.—Subject to subparagraph (B) and following the revised statement of apportionment and subsequent report under paragraphs (1) and (2), the Statement of Apportionment by the President and subsequent reports by the Clerk of the House of Representatives shall continue to be issued at the intervals and pursuant to the methodology specified under section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), as amended by this Act.

(B) FAILURE TO COMPLETE.—In the event that the revised statement of apportionment and subsequent report under paragraphs (1) and (2) can not be completed prior to the issuance of the regular statement of apportionment and subsequent report under section 22 of the Act entitled ''An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress'', approved June 28, 1929 (2 U.S.C. 2a), as amended by this Act, the President and Clerk may disregard paragraphs (1) and (2).

SEC. 4. UTAH REDISTRICTING PLAN.

The general election for the additional Representative to which the State of Utah is entitled for the 112th Congress, pursuant to section 3(c), shall be elected pursuant to a redistricting plan enacted by the State, such as the plan the State of Utah signed into law on December 5, 2006, which—

(1) revises the boundaries of congressional districts in the State to take into account the additional Representative to which the State is entitled under section 3; and

(2) remains in effect until the taking effect of the first reapportionment occurring after the regular decennial census conducted for 2010.

SEC. 5. EFFECTIVE DATE.

The additional Representative other than the Representative from the District of Columbia, pursuant to section 3(c), and the Representative from the District of Columbia shall be sworn in and seated as Members of the House of Representatives on the same date as other Members of the 112th Congress or the first Congress sworn in after implementation of this Act.

SEC. 6. CONFORMING AMENDMENTS.

(a) REPEAL OF OFFICE OF DISTRICT OF COLUMBIA DELEGATE.—

(1) REPEAL OF OFFICE.—

(A) IN GENERAL.—Sections 202 and 204 of the District of Columbia Delegate Act (Public Law 91–405; sections 1–401 and 1–402, D.C. Official Code) are repealed, and the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted.

(B) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

(2) CONFORMING AMENDMENTS TO DISTRICT OF COLUMBIA ELECTIONS CODE OF 1955.—The District of Columbia Elections Code of 1955 is amended as follows:

(A) In section 1 (sec. 1–1001.01, D.C. Official Code), by striking ''the Delegate to the House of Representatives,'' and inserting ''the Representative in Congress,''.

(B) In section 2 (sec. 1–1001.02, D.C. Official Code)—

(i) by striking paragraph (6); and

(ii) in paragraph (13), by striking ''the Delegate to Congress for the District of Columbia,'' and inserting ''the Representative in Congress,''.

(C) In section 8 (sec. 1–1001.08, D.C. Official Code)—

(i) in the heading, by striking ''Delegate'' and inserting ''Representative''; and

(ii) by striking ''Delegate,'' each place it appears in subsections (h)(1)(A), (i)(1), and (j)(1) and inserting ''Representative in Congress,''.

(D) In section 10 (sec. 1–1001.10, D.C. Official Code)—

(i) in subsection (a)(3)(A)—

(I) by striking ''or section 206(a) of the District of Columbia Delegate Act''; and

(II) by striking ''the office of Delegate to the House of Representatives'' and inserting ''the office of Representative in Congress'';

(ii) in subsection (d)(1), by striking ''Delegate,'' each place it appears; and

(iii) in subsection (d)(2)—

(I) by striking ''(A) In the event'' and all that follows through ''term of office,'' and inserting ''In the event that a vacancy occurs in the office of Representative in Congress before May 1 of the last year of the Representative's term of office,''; and

(II) by striking subparagraph (B).

(E) In section 11(a)(2) (sec. 1–1001.11(a)(2), D.C. Official Code), by striking ''Delegate to the House of Representatives,'' and inserting ''Representative in Congress,''.

(F) In section 15(b) (sec. 1–1001.15(b), D.C. Official Code), by striking ''Delegate,'' and inserting ''Representative in Congress,''.

(G) In section 17(a) (sec. 1–1001.17(a), D.C. Official Code), by striking ''the Delegate to Congress from the District of Columbia'' and inserting ''the Representative in Congress''.

(b) REPEAL OF OFFICE OF STATEHOOD REPRESENTATIVE.—

(1) IN GENERAL.—Section 4 of the District of Columbia Statehood Constitutional Convention Initiative of 1979 (sec. 1–123, D.C. Official Code) is amended as follows:

(A) By striking ''offices of Senator and Representative'' each place it appears in subsection (d) and inserting ''office of Senator''.

(B) In subsection (d)(2)—

(i) by striking ''a Representative or'';

(ii) by striking ''the Representative or''; and

(iii) by striking ''Representative shall be elected for a 2-year term and each''.

(C) In subsection (d)(3)(A), by striking ''and 1 United States Representative''.

(D) By striking ''Representative or'' each place it appears in subsections (e), (f), (g), and (h).

(E) By striking ''Representative's or'' each place it appears in subsections (g) and (h).

(2) CONFORMING AMENDMENTS.—

(A) STATEHOOD COMMISSION.—Section 6 of such Initiative (sec. 1–125, D.C. Official Code) is amended—

(i) in subsection (a)—

(I) by striking ''27 voting members'' and inserting ''26 voting members'';

(II) by adding ''and'' at the end of paragraph (5); and

(III) by striking paragraph (6) and redesignating paragraph (7) as paragraph (6); and

(ii) in subsection (a–1)(1), by striking subparagraph (H).

(B) AUTHORIZATION OF APPROPRIATIONS.—Section 8 of such Initiative (sec. 1–127, D.C. Official Code) is amended by striking ''and House''.

(C) APPLICATION OF HONORARIA LIMITATIONS.—Section 4 of D.C. Law 8–135 (sec. 1–131, D.C. Official Code) is amended by striking ''or Representative'' each place it appears.

(D) APPLICATION OF CAMPAIGN FINANCE LAWS.—Section 3 of the Statehood Convention Procedural Amendments Act of 1982 (sec. 1–135, D.C. Official Code) is amended by striking ''and United States Representative''.

(E) DISTRICT OF COLUMBIA ELECTIONS CODE OF 1955.—The District of Columbia Elections Code of 1955 is amended—

(i) in section 2(13) (sec. 1–1001.02(13), D.C. Official Code), by striking ''United States Senator and Representative,'' and inserting ''United States Senator,''; and

(ii) in section 10(d) (sec. 1–1001.10(d)(3), D.C. Official Code), by striking ''United States Representative or''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

(c) CONFORMING AMENDMENTS REGARDING APPOINTMENTS TO SERVICE ACADEMIES.—

(1) UNITED STATES MILITARY ACADEMY.—Section 4342 of title 10, United States Code, is amended—

(A) in subsection (a), by striking paragraph (5); and

(B) in subsection (f), by striking ''the District of Columbia,''.

(2) UNITED STATES NAVAL ACADEMY.—Such title is amended—

(A) in section 6954(a), by striking paragraph (5); and

(B) in section 6958(b), by striking ''the District of Columbia,''.

(3) UNITED STATES AIR FORCE ACADEMY.—Section 9342 of title 10, United States Code, is amended—

(A) in subsection (a), by striking paragraph (5); and

(B) in subsection (f), by striking ''the District of Columbia,''.

(4) EFFECTIVE DATE.—This subsection and the amendments made by this subsection shall take effect on the date on which a Representative from the District of Columbia takes office.

SEC. 7. NONSEVERABILITY OF PROVISIONS AND NONAPPLICABILITY.

(a) NONSEVERABILITY.—If any provision of section 2(a)(1), 2(b)(1), or 3 or any amendment made by those sections is declared or held invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Act or any amendment made by this Act shall be treated and deemed invalid and shall have no force or effect of law.

(b) NONAPPLICABILITY.—Nothing in the Act shall be construed to affect the first reapportionment occurring after the regular decennial census conducted for 2010 if this Act has not taken effect.

SEC. 8. JUDICIAL REVIEW.

If any action is brought to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the District Court of the United States for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the District Court of the United States for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

EXECUTIVE SESSION

NOMINATION OF HILDA L. SOLIS TO BE SECRETARY OF LABOR

The PRESIDING OFFICER. Under the previous order, the Senate will go into executive session and the clerk will report the nomination.

The assistant legislative clerk read the nomination of HILDA L. SOLIS, of California, to be Secretary of Labor.

The PRESIDING OFFICER. The time on this nomination will be equally divided until 4:30 p.m. today.

The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator will suspend. The Senate will be in order. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, the business before the Senate is now the nomination of President Obama's nominee as Secretary of Labor, U.S. Representative HILDA SOLIS.

My colleagues on the Senate HELP Committee worked together to move forward HILDA SOLIS's nomination. I have come to the floor today to urge the full Senate to join me in supporting her confirmation so we can fill this critically important Cabinet position as soon as possible.

Today, America's families are facing incredible challenges. They are struggling with record unemployment and a devastating economic crisis. They need and they deserve an advocate in the administration who is passionate about public service and committed to fighting for them. Representative SOLIS is that person. I want to share today a part of her HELP Committee testimony. If confirmed, HILDA SOLIS wrote that we have her solemn commitment to ''work hard every day to ensure that middle-class families do not lose hope.''

I thank Representative SOLIS for her willingness to answer President Obama's call to serve. She has been very responsive to the questions that were submitted to her by the HELP Committee. She has been a dedicated public servant, and she has an extensive public record of supporting working families. Moving forward on this nomination this afternoon will send a crucial message to working families that we understand their needs and that they are absolutely essential to our economic recovery efforts. We cannot afford to wait.

For anyone who is unfamiliar with her background, I would like to share with you a little bit about Representative SOLIS. She was born in California and grew up as one of seven children. Her mother was an immigrant from Nicaragua. Her father worked as a farmworker, a railroad worker, and a Teamsters shop steward in a battery recycling plant. He raised his family to understand that joining a union had helped them secure a place in America's middle class. Her parents stressed values such as education and hard work, public service and commitment to family.

Even though they could not afford to go to college themselves, her mother and father sacrificed to make sure their children would reach their full potential.

With the support of her family and the help of Pell grants and student loans, HILDA SOLIS became the first in her family to graduate from college. Her sisters followed in her footsteps. One earned a Ph.D. in public health and two others became engineers. Thanks to the values she grew up with, HILDA SOLIS always worked to give back to her community. She has served as the director of the California Student Opportunity and Access Program, and as a college trustee, because she wanted to ensure that other students

could have the same opportunity she did to get a college degree.

In 1992 she expanded her service to the public arena and was elected to the California State Assembly. In 1994, she became the first Latino State senator in California. As a State lawmaker, she wrote a record 17 laws to protect victims of domestic violence. She championed worker rights. She helped small businesses, and she worked to strengthen the economy.

HILDA SOLIS's achievements and service to students, to her State, and to the U.S. House of Representatives are proof that anything is possible in America, no matter what your background is. She is an example of why we have to ensure that every child and every family has a chance to succeed. Her experience is a quintessential example of the American dream. I should add I feel a very close connection to her because her background is not that different from my own. I too am one of seven children of loving, committed parents who taught us that with hard work anything is possible in America. My family faced very tough times when I was young. When my dad developed MS, we depended on food stamps for a while. My brothers, sisters, and I all were able to go on for college because of Pell grants and student loans.

Like HILDA SOLIS, I grew up believing that everyone can succeed if we give them a fighting chance. That is part of the reason why I know she will join me in fighting day and night for our working families in our struggling economy today.

Not only is HILDA SOLIS the right choice to serve as Labor Secretary, I want to emphasize how critical it is for us to move forward and fill this Cabinet position. For the last 8 years, working families have felt like an afterthought of the previous administration. I can tell you, as chair of the Employment and Workplace Safety Committee, it is long past time for a change. I am hopeful that the Department of Labor will soon have a leader who stands ready to help the Department fulfill its very core responsibilities to America's working men and women.

For years, I have said, if you do not invest in the growth and development of America's workforce, our families, our communities and our Nation will suffer in the long run. Now, today, with the unemployment at 7.6 percent, with 3 million jobs lost over the past year, and literally thousands of more pink slips going out every month, with hundreds of thousands of new unemployment insurance claims being filed every week, workers need an advocate in the new administration who will stand up for them. They need someone who believes, as I do, that investing in them is investing in our future. They need someone who believes that their Government should work for them during the good times and help them succeed during the hard times. They need someone who will be their voice in every economic recovery discussion.

As we all work very hard to help our economy recover and grow again, I believe three things are very clear: First, we need to create new jobs and help Americans who are out of work or underemployed find employment that ensures they are able to stay in the middle class.

Secondly, we need to help low-skilled and low-earning workers get the skills they need to find family wage jobs in healthy industries, so they can become part of the middle class.

And, third, we need to make smart investments that will create jobs, increase worker training, and make us more productive and competitive in the global economy. I am confident that as Labor Secretary, HILDA SOLIS will join me in working to reach those goals.

Our working families deserve a workforce system that is innovative, that is modern, and can meet the needs of the millions of unemployed and underemployed American workers. I am confident she is committed to making the reauthorization of our Nation's workforce system a top priority of her first year.

I look forward to working with her to help ensure families can balance the competing needs of work and home by expanding job-protected leave and other family-friendly work policies.

To be fully productive, workers need to know that their employers and their Government are doing everything they can to ensure they are safe and they are healthy on the job.

Finally, I look forward to working with her to make OSHA and MSHA proactive agencies again where the health and the safety of our workers is their first priority. We have a lot of big challenges ahead of us in this country, but we also have a very big opportunity.

I know that together we can help our workers access training for 21st century careers, including the emerging green jobs we hear so much about; we can help our workers balance the needs of home and careers and help them keep safe on the job. We can work to protect their rights to organize and secure a better economic future for themselves; and, ultimately, we can help our working families improve their quality of life.

Now, more than ever, workers deserve a leader who is dedicated to seeing them succeed. I look forward to working with Secretary SOLIS and the Department to do that. I encourage all of our colleagues to support this critical nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I want to follow the comments of the Senator from Washington, being the ranking member on the committee that worked on this nomination. I thank Senator KENNEDY, Senator MURRAY, and other Senators on the committee for their help, cooperation, and due diligence on this matter.

I would be remiss if I did not thank Secretary Elaine Chao for the effort she put in during the time she was in office. I would mention that she made some of the first changes to OSHA and we made the first change in MSHA in 28 years while she was in office. It was a very bipartisan effort that we made, worked on both sides of the aisle, and done in 6 weeks, which is a record time for any of the committees around here to go through the regular process. There are other things we need to do in both OSHA and MSHA. I hope we have a chance to work on that.

I am here today to discuss the nomination of Representative HILDA SOLIS to serve as Secretary of Labor. This nomination followed regular order and worked through the committee process. Carefully reviewing nominations for Cabinet positions through the regular order is critical to fulfilling our constitutional advice and consent obligations.

As Senators, one of our most important responsibilities is confirming qualified and hopefully superior nominees to lead our executive agencies. In order to fulfill our responsibilities under the advice and consent clause properly, we have developed a process for vetting the President's nominees, all Presidents' nominees.

This vetting process typically includes a committee hearing, which encompasses a review of the nominee's credentials; a background check to screen for conflicts of interest, often related to financial holdings or associations with outside groups; followed by a markup and floor consideration, which is what we are doing today.

I am pleased that we are proceeding in this fashion with respect to the nominee for the Secretary of Labor. Representative SOLIS has a diverse background and a compelling personal story. Her life is one that epitomizes the American dream. Her dedication to public service is admirable, and it should serve as an example to young people everywhere.

Once confirmed, as chief Labor official, she is charged with overseeing job training programs, private pension plans, veterans employment and training issues, protecting America's workers' occupational safety and health, as well as ensuring mine safety and health, to name a very few of the things.

The Labor Secretary manages an annual budget of approximately $53 billion and nearly 17,000 full-time employees. Unfortunately, based on my review of her background, I am concerned about a lack of management experience that is needed to meet the demands of the job, even though I recognize that it is the President's prerogative in selecting his Cabinet.

In reviewing this nomination, we followed the same due diligence and background check that we follow for all nominees in both this administration and the previous administration. Unfortunately, we were not able to act on

this nomination for over a month because the nominee had numerous errors and omissions in the documents she filed with the committee in her application, as well as the financial disclosures to the House of Representatives, going back several years, and the Office of Government Ethics.

Because of these errors, we had to reconstruct her application and her financial statements to remove the possibility of any conflict of interest. If we had not faced these paperwork problems, we probably would have been able to vote on her nomination in January.

One of the conflict of interest issues that concerns me most is Representative SOLIS's position as a treasurer, a position with fiduciary responsibilities, of a 501(c)(4), a not-for-profit lobbying firm. As an accountant and the coauthor of the Sarbanes-Oxley Act, I can assure my colleagues that there is no such thing as an ''honorary'' treasurer of a 501(c)(4) organization that lobbies Congress. So-called ''honorary'' positions are reserved for board of director positions on 501(c)(3) charitable organizations but not positions with a fiduciary responsibility, such as treasurers or general counsels for 501(c)(4) groups.

I was also deeply troubled to learn that this entity has filed lobbying disclosure paperwork with the House of Representatives that shows it lobbies in support of bills that Representative SOLIS cosponsored and in which she would be involved as the top Labor official in the executive branch.

To address these concerns, I have obtained from Representative SOLIS a sworn affidavit that she has no check-writing or signing authority as treasurer for this 501(c)(4) entity, nor does she have any control over the ability to control this entity's expenditures for campaign ads. This affidavit goes a long way to showing that no conflict of interest appears to have taken place.

In addition, the entity has filed amended filings with the Federal Election Commission that do not list Representative SOLIS as being responsible for any monies going toward the campaign ads.

To avoid any future conflict of interest, I hope and expect that Speaker PELOSI will immediately amend the House ethics rules to prohibit Members of Congress from serving in a position of fiduciary responsibility for 501(c)(4) board organizations. It is a blatant conflict of interest, not allowed in the Senate, and the House of Representatives should prohibit it immediately.

Additionally, the press recently reported that there were unpaid tax liens related to Representative SOLIS's husband's small auto repair business. It now appears that all of the outstanding liens are paid, and all of them were her husband's liens. I have obtained a letter from the County of Los Angeles treasurer and tax collector verifying that the county liens have been released.

My staff also held a conference call with officials from the State of California and received word that all outstanding state liens have been released. Of equal importance, I am concerned that Representative SOLIS simply failed to fully respond to a host of very basic labor policy questions posed at the committee in the hearing and in writing.

The nominee dodged legitimate questions relating to the Employee Free Choice Act, right-to-work laws, employment standards, and overtime regulations, to name a few. This is not a nomination for a judicial position where a nominee quite understandably should not be expected to respond to hypotheticals involving cases that might come before her. This is a policy post, and policy questions deserve full answers from any nominee. I am disappointed that we did not receive them, and equally disappointed that her reticence to discuss them precluded us from having a more thoughtful and necessary discussion of her views.

I was very disappointed when President Obama issued an executive order that discriminates against the 94.7 percent of the construction workers in Wyoming who are nonunion members, and 84.4 percent of construction workers nationwide. The order reverses the Bush policy of neutrality on Government contracts and instead encourages agencies to require their private contractors to engage in collective bargaining agreements on contracts of $25 million or more. During the confirmation proceedings, I asked the nominee whether she would support the neutral Bush policy. Her response was that she had not studied it nor participated in discussions about repealing it. Now that it has been repealed, I hope she will study the issue closely and urge the administration not to further expand the executive order to smaller contracts.

I am very concerned that the administration is choosing to limit access to good construction projects at a time when construction unemployment is extremely high and a tremendous amount of taxpayer dollars is being spent on building projects. In many communities, the only construction projects bid on may well be Federal and not be restricted to 15.6 percent of construction workers who are unionized. This policy excludes many small and local contractors and also disadvantages women and minority employees who are less likely to be union members. Reserving the spoils of the stimulus bill for large unionized contractors seems to me the exact wrong policy for the current economic crisis. I hope Secretary Solis will take a careful study of these concerns and advise the administration that a neutral policy achieves the most equitable result and, even more importantly, will ensure that taxpayers get the most for their money.

Finally, I would also like to mention that prior to her hearing, Representative SOLIS and I discussed the Workforce Investment Act and how we need to reauthorize it immediately. I have been working on that for about 4 years, and we passed it unanimously through the Senate before, and it would train 900,000 workers for higher skilled jobs. I do not understand why we cannot get it through both bodies and get it conferenced and get it enacted. Instead of training people to get higher skilled jobs, we keep sending the jobs over to India and China and other places. So at a time when our economy is being challenged to create jobs that will bolster our infrastructure and our competitive edge in the 21st century, the skills of our workforce have not kept pace. We cannot afford to overlook the importance of providing lifelong access to quality education and training in our workforce. That is why I strongly believe we must renew and improve the Workforce Investment Act. Governors from States all over ask for more flexibility so they can actually use the money in that act. That is a law that would help provide American workers with the skills necessary to compete in the global economy.

I look forward to working with Representative SOLIS in her new Cabinet position as Secretary of Labor, and her staff, on this and many other labor and economic issues facing our country.

I know Members of the Senate are anxious to have a permanent Labor Secretary in place. I am too. It took longer than I would have liked to complete the necessary vetting, and, again, I wish to thank all my colleagues for their patience and help in allowing us to work through the regular order to ensure we fulfill our duties under the Constitution. Now that we have done our due diligence, we can move to have this nomination confirmed.

Mr. President, I ask unanimous consent to have printed in the RECORD the following documents: the affidavit from Representative SOLIS stating she did not have check-signing authority for American Rights at Work or control of their lobbying or campaign expenditures; and a statement from the Los Angeles County treasurer and Tax Collector's office stating that all liens relating to Representative SOLIS' husband's small business have been released.

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

DECLARATION OF HILDA SOLIS

1. My name is Hilda Solis.

2. From 2004 to 2007 I served as a board member and the treasurer of the nonprofit organization American Rights at Work (ARW).

3. At no time did I have authority to sign checks or make expenditures on behalf of ARW.

4. At no time did I control or have the ability to control ARW's lobbying or campaign expenditures.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February ____, 2009, in Washington, DC.

COUNTY OF LOS ANGELES,
TREASURER AND TAX COLLECTOR,
Los Angeles, CA, February 10, 2009.

TO WHOM IT MAY CONCERN: A search of our records reveals that all unsecured property taxes due as of February 10, 2009, have been paid in full and the associated liens filed in connection with the following names have been released:

Sams Fore Lessee
Sayyad, Sam
Sayyad, Sam DBA Sam's Auto Center

There were no liens filed by the Tax Collector under Sam's Foreign and Domestic Auto.

Should you need any further information, please contact me directly at (213) 893–7968.

Very truly yours,

MARK J. SALADINO,
Treasurer and Tax Collector.
KATHY WATERS,
Operations Chief, Revenue and Enforcement Division.

Mr. ENZI. I thank the Presiding Officer and I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I would like to speak 6 or 7 minutes as in morning business, but I also would like to ask—if there is nobody on the other side of the aisle who would intervene—if I could have another 15 minutes after this time. I do not wish to take advantage of anything, but if they do not know of any other people from the Democratic Party who wish to speak, I would like to speak longer. But right now I ask unanimous consent for 6 or 7 minutes.

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

The Senator from Iowa.

Mr. GRASSLEY. I forget. This is for my first 5 or 6 minutes?

The PRESIDING OFFICER. The Senator from Iowa is correct.

Mr. GRASSLEY. I thank the Chair.

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

Mr. GRASSLEY. Now, Mr. President, if I could proceed to that other speech. If there are people from the other party, from the majority party, who come to the Chamber, I will be glad to yield the floor at the time of their appearance.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 458 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

RECESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent the Senate stand in recess under the previous order.

There being no objection, the Senate, at 12:28 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

The PRESIDING OFFICER. The Senator from Washington is recognized.

NOMINATION OF HILDA L. SOLIS, OF CALIFORNIA, TO BE SECRETARY OF LABOR—Continued

Mrs. MURRAY. Mr. President, we are on the Solis nomination this afternoon.

I ask unanimous consent that the following Senators on our side be recognized to speak: Senator MENENDEZ for 10 minutes, Senator SANDERS for 15 minutes, Senator DODD for 15 minutes, and Senator BOXER for 10 minutes.

The PRESIDING OFFICER. To speak in that order?

Mrs. MURRAY. No. These Senators requested that time, and we will go back and forth in the usual fashion.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I rise today to give my strong support to President Obama's choice to lead the Department of Labor.

It is hard to stress enough how urgent it is for us to have a Labor Secretary at work in the face of this economic crisis: 3.6 million Americans have lost their jobs since this recession began in December of 2007—almost 600,000 in the last month alone—workers are losing their health care, their pensions, and their life savings.

The American men and women who have been damaged the worst by the financial crisis we have had—the worst financial crisis in generations—need full unemployment benefits to carry their families through this period of transition and the benefit of job training to be able to meet the challenges of the 21st century economy.

Those who still have a job to go to every day need a champion for their rights and their safety. As the American people struggle through these difficult economic times, it is more important than ever to have a fully functioning and fully staffed Department of Labor.

At this moment, we need a Secretary of Labor who believes workers should not be intimidated when they try to organize. We need a Secretary of Labor who believes that after decades of stagnation, it is time for wages to rise. We need a Secretary of Labor who believes it is not acceptable for women to make 78 cents for every dollar a man earns, for African Americans to earn 80 cents and Latinos to earn 68 cents for every dollar their white counterparts earn.

Some will argue that a recession is an inconvenient time to pay workers a fair wage or to protect them from exposure to dangerous chemicals because the economy will suffer under the weight of additional benefits or rights for employees. We need a Secretary who understands how false that argument is.

For 8 years, we have seen administration policies punish workers for their efforts and treat their rights in a way that ultimately can't sustain their hopes, dreams, aspirations, and their families.

The Bush administration virtually gutted the Department of Labor, drastically cutting its budget, choosing instead to trust CEOs and big business to look after the welfare of workers. In 8 years, the Department issued only one worker safety rule on its own accord. While the Department was neglecting to address safety in the workplace, it focused its attention on helping corporate interests weaken the rules for overtime compensation. After 8 years, we have seen who actually benefits from these policies: No one.

We now know that being pro-labor is pro-economic growth. We know a rising tide of wages can lift the ships of business as well, as American workers are also the customers who purchase our products and services. It is time we acted on a clear principle: An economy that works is an economy that works for everyone.

I can think of no one better to take up the challenge than HILDA SOLIS. She has the best interests of American workers in her heart and her blood. She is the daughter of union workers, the first in her family to go to college. I had the privilege of serving with her in the House of Representatives. She has served the people of southern California in Congress for 8 years, not just advocating for their rights but for recovery, not just expanded help for workers but creating jobs to expand the workforce. She knows that with the right investments, we will fuel the creation of millions of green jobs, bring down energy costs and end our dependence on foreign oil.

She has won friends on both sides of the aisle, and even when they don't agree with her on every issue, they cannot help but respect her work ethic, her intelligence, and her integrity. I know very much so that she is eminently capable to lead the Department of Labor. Also people throughout the country cannot help but admire history in the making. HILDA SOLIS would be the first Latina to hold the position of Secretary in a President's Cabinet. That is incredibly powerful for young Latinas across this country, a growing part of America's population who will look to a HILDA SOLIS and say that in fact everything is possible.

I look forward to voting to confirm her today because America's workforce and our economy cannot afford to wait.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, I thank the Senator from New Jersey for supporting the nomination of HILDA SOLIS to be President Obama's choice to lead the Department of Labor. I too rise in support of this nomination. Having served in a President's Cabinet myself and gone through this arduous and difficult process of confirmation, I adhere to the principle that a President should get the right to nominate his Cabinet and should have the opportunity to name the people he chooses to work with. It is, obviously, up to the

Senate to confirm and ratify those nominations but, assuming qualifications, it is something that ought to be forthcoming.

I may have some policy differences with the nominee. I am sure that, from time to time, we may look at the world a little differently. I am sure I do not endorse everything my dear friend and colleague just said about the prior 8 years punishing workers and things of that nature. But I do believe it is important that we come together to recognize a fine American. Having looked at Congresswoman SOLIS's record, and the testimony before the Health, Education, Labor and Pensions Committee, and her answers to the committee's questions, I am satisfied that she carries the qualifications and will serve the Department of Labor with great distinction as Secretary.

Congresswoman SOLIS graduated from California State Polytechnic University in Pomona and earned a Master's in Public Administration from the University of Southern California.

She worked in the White House for President Carter in the Office of Hispanic Affairs, and was later appointed as a management analyst with the Office of Management and Budget in the civil rights division.

As a member of the California State Senate back in 1996, she led a successful effort to raise the State's minimum wage from $4.25 to $5.75 an hour.

As U.S. Representative for California's 32nd district, she authored legislation that sought to protect and improve working conditions and the rights of farm workers, garment workers, the construction industry, janitors, State and local employees, and many others.

She authored the Green Jobs Act of 2007, an effort aimed at promoting job creation and renewable energy, which was signed into law as part of the 2007 omnibus.

I know there is a dynamic and unique relationship between the executive and legislative branches. We may not always see eye to eye on the issues. We may modify the President's proposals significantly through the committee and amendment process. But we always respect each other's positions and priorities.

Congresswoman SOLIS has demonstrated hard work and experience. Her life is an inspiration to many. In the areas of labor, health care, and the environment, she has made her mark and has done a tremendous job to highlight the issues and many problems throughout our country that urgently need attention. She has done that with competence, diligence, and tremendous determination. She will bring those same qualities to the Department of Labor as the Secretary of Labor.

I had the pleasure of working with the prior Secretary of Labor, who has a relationship with the Senate—Secretary Chao. She and I served in the Cabinet together. She served for 8 years in that role. Sometimes we faced many challenges, and I am sure that upon her confirmation, HILDA SOLIS will serve with distinction as well. But she will also be faced with many challenges, particularly in this difficult labor environment. There is no question, with unemployment at record highs, and continuing to rise, this is the time when the Secretary of Labor will be in a position where leadership can emanate throughout this country.

I urge my colleagues to support the confirmation of Congresswoman HILDA SOLIS to be the next Secretary of Labor. She will be making history as the first Hispanic woman to serve in a President's Cabinet. I understand something about that, and I look forward to working with her in that capacity. It is a great day for America when we can see that people can rise as a result of the opportunities that this country opens up to all those who seek them.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator is recognized.

Mr. SANDERS. Mr. President, let me begin by saying that I have not supported all of President Obama's nominations, but I am on the floor today to very proudly and enthusiastically support the nomination of HILDA SOLIS to be our next Secretary of Labor.

As a former Member of the House, I have had the honor and privilege of working with Congresswoman SOLIS on a number of very important issues over the years. I consider Congresswoman SOLIS not only an outstanding Member of that body but also a very good friend.

In my view, there are very few Members of Congress who have spent as many years as she has in the fight to expand the middle class, in the fight to address the problems of poverty, in the fight to make sure all of our fellow Americans have health care as a right. I believe very strongly that HILDA SOLIS will make an excellent—excellent—Secretary of the Department of Labor.

When I left the House and moved to the Senate, I was delighted to work with Congresswoman SOLIS to create the Green Jobs Workforce Training Program. This important initiative will not only lead to the creation of decent-paying jobs all over this country but will also help us combat the scourge of global warming and our dependence on foreign oil and help us move aggressively away from fossil fuels.

Mr. President, as you well know, millions of Americans from California to the State of Vermont are caught up in the worst economic crisis this country has faced since the Great Depression. Our people by the millions are losing their jobs. Our people are losing their homes. They are losing their health insurance. They are losing their pensions. They are losing their ability to send their kids to college. And perhaps most significantly, they are losing their hope, their belief that the American dream is still alive, that their kids will have at least a good, if not better, standard of living than our generation has.

Millions of American workers in recent years have seen their wages go down, and they are working longer hours for lower wages. During the last 8 years, some 7 million American workers have lost their health care; millions are unable to find quality childcare despite the fact that husband and wife are both working, and they just do not know what to do with their kids; and millions of Americans are wondering right now whether the dream of a college education will, in fact, be available to their kids.

What has happened over the last 8 years is, as the middle class has shrunk, poverty has increased, while the gap between the very wealthy and everybody else has grown wider. The United States of America can do better than that. Instead of seeing the middle class shrink and poverty increase, we have to see poverty go down and the middle class expand.

The American people and the workers of this country are entitled to have a Secretary of Labor who will stand with them, who will be aggressive in fighting for the rights of workers from California to Vermont. The truth is that no Secretary of Labor, no matter how great he or she may be, is going to solve all of the important problems facing our country. But what working people have a right to know is that they will have a Secretary of Labor who, in fact, understands what labor is about and is on the side of working people; a Secretary of Labor who is committed to protecting workers throughout the country from unscrupulous employers who try to steal their pay and threaten their health and safety to pad the bottom line and enrich the CEOs on top. And God only knows we have seen a lot of that over the last 8 years. For far too long, we have had a Labor Department that was more interested in protecting the actions of bad, unscrupulous employers than protecting the needs of hard-working employees. That has to change. When President Obama nominated HILDA SOLIS for Secretary of Labor, I think he sent a signal all over the country that that is going to change, that the rights of workers are going to be protected.

There is perhaps no more challenging time to be Secretary of Labor than at this very moment. The problems workers are experiencing are enormous. But, frankly, I cannot think of any person who is more up to the task at hand than HILDA SOLIS. Her character and

her work ethic are impeccable. Most of all, she will be a tireless advocate for working families throughout this country. For millions of American workers struggling to make ends meet, Congresswoman SOLIS is, indeed, a breath of fresh air.

I will be strongly supporting the Secretary of Labor nominee HILDA SOLIS, and I hope all of my colleagues will as well.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The nomination of HILDA SOLIS to be Secretary of Labor.

Mr. DODD. Mr. President, I rise this afternoon to speak on behalf of Congresswoman HILDA SOLIS to be our new Secretary of Labor. Before I begin, on behalf of all of us, regardless of which side of the proverbial aisle we sit on, I know we wish Senator TED KENNEDY the very best. He will be back in a matter of days and once again will be involved in the daily business of the Senate. Were he here at this moment, he would be adding his very strong and vibrant voice in support of this excellent nominee to be the new Secretary of Labor, HILDA SOLIS.

We all know these are tough economic times. It hardly needs to be said. The American people are living it every minute of every day. Too many are facing—within minutes or hours—the loss of a job, the loss of a home, or the total evaporation of their retirement accounts. This was showcased by one family I met over the weekend in my home State. They saved for years and years to provide their children with the opportunity to get a higher education, just to see it all wiped out in a matter of days. And with their children reaching the cusp of higher education, they are left wondering what will happen. Despite all the commitments they had made to those children and all their efforts to make sure they were financially prepared, today they find themselves in a very different position. Unemployment is rising. Incomes are stagnating, while the costs of health care and housing and education are skyrocketing. In my State, unemployment rates have risen from 4.8 percent in January of 2008 to 7.1 percent this past December. Every indication is these numbers are going to go up before they come back down again. Hopefully, they will come back down soon again.

I know this evening we are all anticipating the remarks of our new President as he addresses the joint Houses of Congress in his first State of the Union Message. I have gotten to know President Obama well. We served together in this body. We served on two committees together, and we campaigned for the Presidency both with each other and against each other for a brief period of time. I can tell you, he is an optimistic, positive, confident President; a reflection of who we are as a people.

This evening you are going to hear, in my view, a confident, optimistic President looking ahead to our future with hope, full of the aspirations I know we all share as Americans.

But the difficult problems we have in front of us make the need to confirm a Secretary of Labor more pressing than ever. The Department of Labor enforces the laws and regulations dealing with fair wages and hours, job training, workplace safety and health standards, unemployment, and family and medical leave—each absolutely essential to a productive, healthy workforce and economy.

Unfortunately, over the last 8 years, many of us have watched the Department of Labor with some concern as its focus moved away from the protection of employees in too many cases and focused more effort on protecting employers and denying workers their right to organize.

I do not view this as the Department's role, and I know Congresswoman SOLIS does not either. It certainly was not the intention of Congress when it created the Department in 1913 and wrote in the authorizing language, and I quote:

> The purpose of the Department of Labor shall be to foster, promote and develop the welfare of the wage earners of the United States, to improve their working conditions, and to advance their opportunities for profitable employment.

Let me say, as an aside, the departing Secretary of Labor, Elaine Chao, is a good friend of mine, and I have known her for a long time. Of course, her husband is our distinguished minority leader. She was, I think, the only Cabinet officer to serve all 8 years of the Bush administration.

Her job was, of course, to reflect the Bush administration's policies and judgments. I am not suggesting she disagreed with them, though I believe that from time to time she might have taken us on a different path, had she been in a position to solely decide what direction the country would go in. So when I express my disappointment over the direction of the Department of Labor over the last few years, I do not want it to reflect on the competency and the contribution Elaine made to our country.

However, looking at some of the decisions of the Department of Labor and the National Labor Relations Board under the last Administration—such as the outrageous overtime pay rules and the Kentucky River decisions that stripped tens of thousands of workers of the right to organize—I find it hard to believe they were made with the charter in mind that I described to you.

At this moment of such wrenching economic turmoil, it is essential that the Department of Labor recommit itself to protecting the rights of workers, and we need a strong leader such as HILDA SOLIS at the helm to do that.

The Department of Labor faces many challenges, not only in correcting what, in my view, were mistaken actions taken by the Bush administration but also in advancing the cause of workers' rights. One of the most important is the administration of the Family and Medical Leave Act, which will mark its 16th anniversary this month.

Since becoming law, the Family and Medical Leave Act has helped more than 60 million Americans take time off to care for a newborn or adopted baby, to help a parent through an illness, to get better themselves, to keep an eye on their children, knowing that their job will be there when the family problem diminishes.

I cannot think of how many occasions we have watched and supported one of our colleagues here in the Senate who has missed votes and committee hearings, for days or weeks on end, to recover from an illness or care for a spouse or a child who needed their attention.

I think of my wonderful friend, the new Vice President of our country, and the Presiding Officer who spent years working with him. When tragedy struck JOE BIDEN's family at the outset of his Senate career, he spent a lot of time, as he should have, at home with his children, making sure they could get through that difficult time.

He was applauded, and properly so, by his colleagues and others. No one ever suggested that Senator JOE BIDEN should not have his job back because he had missed work to be with his family.

I remember Jake Garn, my good friend and a former chairman of the Banking Committee, who donated a kidney to one of his daughters. He spent days away from here in order to take care of that child and to get back on his feet himself. No one suggested Senator Garn of Utah had done anything but what a father should do in those circumstances. His job was never in jeopardy. His pay and his pension were not put at risk. Yet, prior to the passage of the Family and Medical Leave Act, millions of our fellow citizens struggled through similar situations every single day without the security that their jobs would be there when they came back.

As the author of the Family and Medical Leave Act 16 years ago, I take as much pride in that bill as anything I have done here in 30 years. Nothing is healthier for a family, during a time of crisis, than to be together. These families deserve to get the support and backing they need. I have worried over the past 8 years about the efforts of the Department of Labor to water down, to minimize, to create obstacles in the

path of those who seek the family and medical leave protections.

FMLA has also benefitted businesses. With lower turnover and a boost to morale, 90 percent of employers told the Department of Labor in 2000 that the Family and Medical Leave Act had a neutral or positive effect on profits. No one should be forced in a crisis to make the impossible choice between work and family. Which is why I am so excited about the prospect of Congresswoman SOLIS leading the Department of Labor. She is a forceful advocate for working families and will bring to the job a genuine understanding and passion for the issues that affect families so deeply.

I am also particularly encouraged by HILDA SOLIS's knowledge and enthusiasm for green job training. In the House of Representatives, where she served with distinction, she authored the Green Jobs Training Act, which will help train American workers for jobs in the renewable energy and energy-efficiency industries. I share her belief that the creation of good-paying, green-collar jobs is critical to both our economic and energy security.

My own State of Connecticut is home to a number of exciting green energy companies, including world leaders in the design and manufacture of hydrogen fuel cells. I know the Congresswoman will bring her experience to the creation of new programs at the Department of Labor, within the Job Corps and elsewhere, to create a new generation of professionals. These programs will be critically important to our Nation's ability to transform and reinvigorate our economy.

These are but a few of the many challenges that will face the Department of Labor in the coming days. Others include revitalizing and restoring the Occupational Safety and Health Administration, modernizing unemployment insurance, and preventing wage theft, which results in as many as 2 to 3 million workers not being paid minimum wage and millions more being denied the overtime pay that they rightly deserve.

I would like to briefly conclude these remarks by addressing some of the issues being raised by some of my friends who have been critical and may, in fact, oppose this nomination. There have been questions about Congresswoman SOLIS's responsiveness to HELP Committee inquiries and about her work in an unpaid position on the board of a nonprofit workers advocacy organization. Congresswoman SOLIS has been very forthright and candid about all those issues. She has fully answered more than 140 questions from committee members, including 121 from my colleagues on the minority side.

Congresswoman SOLIS is a highly respected public servant, an eminently qualified nominee to be Secretary of Labor, and, in my view, deserving of support from every Member of this body. In these challenging times, we need a Secretary of Labor as soon as possible. The workers of our country need a strong leader at the Department to fight for them and to protect their rights.

HILDA SOLIS is that leader. I urge all my colleagues to support for this nomination and to vote for her when the vote occurs later this afternoon.

I yield the floor.

THE ECONOMY

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Kentucky for his leadership in the Senate. I wish to share a few remarks about where we are financially in our country and what we need to do about it.

I am very pleased the President has said he intends to ensure we eliminate the gimmicks that obfuscate the real nature of the financial crisis the country has. I think we can make some real progress on that. He would certainly have my support for that.

I also am pleased he has repeated publicly what he said to us Members of the Senate in private meetings, that he believes we have a challenge in these long-term entitlement programs. They are out of control, they are on autopilot, and they are growing at twice the rate, three or four times the rate sometimes, of inflation. That is the kind of expanding cost that cannot continue.

I believe he is sincere about that. I look forward to working with him on that. But that is down the road. Let's be honest. I wish to be honest here. I think he is correct on both these important issues, and I hope we can all work together. I would say we begin to ask when can we begin to get a containment on spending.

I would point out to my colleagues the nature of the deficit we are now facing. It is unlike anything we have ever had before. We are not hyping this. I am telling you what the facts are. This is a Congressional Budget Office chart. It shows what we have been doing. I would briefly go over it. In 2004, the deficit hit $413 billion. That was President Bush's largest deficit to date. He was severely criticized for it. It amounted to 3.6 percent of total gross domestic product. It was the largest deficit in dollar terms since World War II, and he took a lot of heat for that. I was unhappy myself.

The next year, 2005, it dropped to $317 billion. In 2006 it dropped to $248 billion. In 2007 it dropped to $161 billion, which was 1.2 percent of GDP, heading in the right direction. The next year, 2008, was the first full budget of the Democratic Congress, but President Bush was still in office at that time. He proposed last spring to spend $150-plus billion to send out checks to everybody to make sure we did not go into an economic slowdown.

I did not think that was a good idea. I did not vote for it. Now, I think only about 15 of us voted no. But I think almost every economist now in the hearings we have had in the Budget Committee showed it had almost no impact on the economy. But that one expenditure almost doubled the deficit. Then there were some other factors that went into it. It ended up at $455 billion, the largest deficit in the history of the country. That was last September 30, when the fiscal year ended, the 2008 fiscal year. Last September 30, we had a $455 billion deficit, the largest since World War II; I think the largest in dollar terms ever. But what about this year? You can see that chart and how long that line goes for the year we are in now, September 30, $1.371 trillion, three times-plus the amount of money we had in a deficit in 2008, the largest deficit in history.

It only includes about $185 billion from the stimulus package we passed. That is a historic event. It is not a little, bitty matter. That was a big event. One reason that number looks so bad—and we ought to talk about it so we can get a real picture of why 2009 looks so much worse than the other years—is because the Congressional Budget Office has the responsibility to ascertain how much money the Government is actually spending. So they score programs.

They scored the $700 billion Wall Street bailout, the TARP money, as costing the taxpayers $247 billion. It will probably happen over a series of years, but for some reason they decided to put it fully in 2009. Maybe that is so they can blame President Bush for it, and he deserves a lot of blame for it. He spent half of it. But they scored it all in 2009.

Then they also calculated the amount of money they believed the taxpayers will absorb as a loss from our takeover of Freddie Mac and Fannie Mae, those mortgage agencies of huge proportion that kicked off the crisis. We have been bailing them out, people have not talked about that very much, but we have been, and they score that at $240 billion. They stick that in 2009.

They assume we will spend about $185 billion out of the $800 billion stimulus package we passed a few weeks ago, every penny of which went straight to the debt because we were already in debt. Every dollar we spent increased the debt. So they come out with $1.371 trillion. That's a big deal. In 2010, they expect the deficit to be $1.1 trillion based on current law, more than twice as big as the biggest deficit we ever had in 2008. They project by 2011 we will still have about $134 billion unspent from the stimulus package. That plus the regular deficit will show us a deficit of $632 billion.

There are a couple things I wish to say. One is, the President has promised to cut the deficit in half by 2013. I do not think he used the figure $530 billion. Somebody has used that figure, perhaps. But by 2013 he promised he would cut it in half.

Well, if you cut $1.4 trillion in half, that is $700 billion. From the normal

operating expectations, as calculated by the Congressional Budget Office, we will have cut the deficit in half in 3 years. So that is going to happen. That is not a great promise to make, frankly. I would note the $632 billion, other than the 2 previous years, represents the biggest deficit in the history of the Republic. So we are still a long way from having financial responsibility here.

At one of our hearings, the chairman of the Budget Committee, Senator CONRAD, produced a New York Times article. It talked about the dramatic reduction in the trade surplus that China has. That is because they are not selling as much as they were either. It was out of that surplus that China was buying so many of our debt obligations. Where does the money come from to fund this debt? Well, just like you, you have to give somebody a mortgage. They give you money; you give them a mortgage and promise to pay it back.

Well, China has been the biggest buyer, and Japan has been a big buyer. Japan is already reducing its share of Treasurys. And China inevitably will because they do not have as much money, even if they desire to buy them.

Also, some of the oil-producing countries had bought our Treasurys. Oil is $40 a barrel this year instead of $140 a barrel. They do not have as much money to buy them either. So I asked the witness, and the consensus was that we are in an unusually beneficial time at this moment to borrow because the world is unsure financially, and they are willing to buy American Treasurys at 1 percent or less. But that is not going to continue. So during this year we are going to have to go out on the market and find three times as many people to buy our Treasurys as we did last year. Next year, we are going to have over twice as many Treasurys for people to buy; and the next one, a record year also. We are out here getting people to buy this, and they are going to demand higher interest, particularly if they are worried—which they probably will be—that one way we are going to pay back this debt is by deflating our currency, debasing our currency, and paying back the dollars in cheaper dollars than what we borrowed. Then the people who loan us money are going to get nervous and demand higher rates. So the CBO projects a significant increase in interest rates in the outyears.

This chart I have in the Chamber I think is relevant. It gives us some idea of the omnibus bill we are going to be seeing rather soon. What we understand is that the Democratic leadership in the Congress is going to submit to us an omnibus bill to complete this fiscal year. On top of the $800 billion we passed a couple weeks ago, they are going to propose one of the largest increases in discretionary spending in the history of the Republic.

For example, it is an 8-percent increase. This year's discretionary spending—in addition to the stimulus package we passed—is going to be an 8-percent increase. Now, those of you who know a little bit about interest rates know if you get a 7-percent return on your money, the money will double in 10 years. So I would suggest at an 8-percent rate increase, we are headed to more than doubling the discretionary spending in our country.

This is not good. President Bush was criticized, and sometimes rightly so, for excessive spending. But he did not propose an 8-percent increase in nondefense discretionary spending any year he was in office. So we could expect to see, if every year we had an 8-percent increase in discretionary spending—it goes into the baseline each year, and that is more than double what the current rate is. So within 10 years, our basic spending for all the things we do—highways, agriculture bills, Department of Justice, prisons—everything we do in America will double.

The only thing I am asking my colleagues is—and I will ask the President: I like what you are saying about confronting reckless spending. I do. But when?

I suggest with regard to this chart, maybe it will give us a little bit of an indication about the point I want to make now. Let me say something I believe to be a fact. I believe it is a fact that the $789 billion we sent out 2 weeks ago as a stimulus package will never be saved by any actions by this Congress or this President over the next 8 years, if he stays the President for 8 years. He will not come close to doing that.

I remember a few years ago Senator JUDD GREGG, then chairman of the Budget Committee, proposed an idea to reduce Medicare spending—one of these big entitlement programs—by $40 billion over 5 years. They worked on it for months, and they thought they could save money here, there, and otherwise, and they could save $40 billion. We lost it on the floor. A number of Republicans voted no. I think all the Democrats voted no. We could not cut $40 billion out of Medicare. Actually, it was not a cut. Medicare was increasing at 7 percent a year, and the reduction would have reduced the increase to about 6.5 percent a year. It would have saved $40 billion and would have only reduced the growth from 7 percent or so to 6.5 percent or so. That is the way I remember the numbers, and we could not pass that.

So we have added last week's $800 billion to the debt. This idea that somehow in the future we are going to all have a conference and we are going to figure out a way to get our house back in financial order, and by reducing Social Security or Medicare, is a matter that is not in reality with what I am seeing.

Now, we could do more than Senator GREGG proposed. He tried to get something he thought everybody could agree on. But we could not. I think you could save more, but I am saying: How much are we going to be able to reduce Medicare? Not that much if we are honest with ourselves. We are not going to be able to reduce it that much. Over 20 or 30 years, any savings, any integrity we bring to that process can mount up to hundreds of billions of dollars. There is no doubt about it.

But to think we are going to wipe out what we have done already, and then to see the bill come forward with the fundamental operating legislation for our Government that will be on the floor within a matter of days, and to see that be an 8-percent increase—when the inflation rate is—what?—2 percent or less—four times the rate of inflation, this is fiscal responsibility? Give me a break. I am worried about it.

So I will say, as we go forward, we will listen to some of the President's ideas tonight. He is such a fabulous spokesman for his values. He is so articulate. He is going to have a lot of support here. He is saying some very good things. But I urge my colleagues, if you applaud those statements about financial responsibility, ending this reckless spending, ending the surge of debt, and bringing some financial accountability, we are going to have to stand up and vote. We cannot keep sending up huge discretionary spending bills. This is not a war. These bills do not include homeland security and the Department of Defense. This is the basic operating of our Government. We are going to have an 8-percent increase every year? Well, maybe we will not next year, somebody will say. Maybe we won't year 2 or 3 when we are in better shape. Well, when do you start? Are you sure we are going to be serious 2 or 3 years from now if we are not serious today? Why would we be more serious then than we are today?

Words, I have learned in this body, are less important than dollars and action that goes out the door. So let's be thinking about that. I do not want to be a recalcitrant, but I have to tell you the truth. The truth is, I am worried about where we are going. I hear words about concern over rising debt that is the largest surge in debt this country has ever seen. But I am not sure I am seeing any actions about it.

Combined—let me share this figure with you—the two bills, the omnibus spending bill we will be voting on soon and the stimulus we saw, means we will spend 80 percent more money in 2009 than in 2008. My colleagues need to know we will be spending 80 percent more money as a result of these huge spending programs we have seen this year, which includes the TARP, which includes the Freddie and Fannie bailout, and includes the stimulus package.

Those are my concerns. I hope my colleagues will at least consider the challenges we face. They are not small. They are quite large. We have never seen anything like this kind of spending. It seems they are determined to help us work through this debt spasm

we are in by borrowing record amounts of money. I am thinking we need to get away from borrowing sooner rather than later and get ourselves on a path of sound money.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. BOXER. Mr. President, what is the current order?

The PRESIDING OFFICER. The nomination of HILDA SOLIS to be Secretary of Labor.

Mrs. BOXER. Thank you very much, Mr. President. I am going to speak about HILDA SOLIS, someone I know very well, and someone I am very proud of.

I could not help but hear the comments of Senator SESSIONS about this borrowing, and I do not know where Senator SESSIONS has been over the past 8 years, when we saw the debt go from $5 trillion to $10 trillion. And that was George Bush's program, supported by the Republicans. It went to Iraq. It went to tax cuts for the wealthiest Americans. All of a sudden, there is this newfound worry because we believe it is time the American people, who work for a living and who are struggling, get a hand out of this recession.

As we will hear tonight from our new President, he understands that there is a time to stimulate this economy and then, of course, in the long term, as we Democrats did under Bill Clinton, get back to a balanced budget.

Mr. SESSIONS. Mr. President, will the Senator from California yield?

Mrs. BOXER. In a moment.

We did it. We did it without one Republican vote. We passed the Clinton budget. I have the names of the Senators. I was fortunate enough to have a good researcher give me those. What they said when we passed that budget—we passed that budget under Bill Clinton because Al Gore, the Vice President, broke a tie. We couldn't get one Republican vote. And here is what they said, to a person: This budget is going to set us on the course of a recession. This budget is going to set us on the course of deficit spending. Guess what. They couldn't have been more wrong. That budget set us off on a course of the best economy known to humankind in peacetime—23 million new jobs and a balanced budget with a surplus. I remember looking at my children—because the debt was on the way down so fast at that time under Bill Clinton and the Democrats—and I said: What are we going to do? We can't buy Treasury bonds. There won't be any more. We won't have to borrow anymore. So it is extraordinary to me that my colleagues come up here now and they say: We can't spend this money.

Yes, it is true people are hurting. My State has over 9 percent unemployment. There are pockets, I say to my friends, of 18 percent unemployment. I think the American people know there are no panaceas here. They know it is going to be hard. They know we may make mistakes, but they also know this: They want us to present hope to them—hope. Frankly, I wish to be associated with hope, not nope: Nope, we can't do this; nope, we can't do that; nope, it would be better not to do this. The American people—and I see what they are saying to people who ask them—are patient, and they know it is going to take some time. Yes, we may have to inject some funds into this economy because $1 trillion was lost out of this economy due to the recession. So yes, we are, in fact, injecting hope into this economy. We will pay it back. We will get back onto a balanced budget. We will do it in time, and we will do it responsibly.

I am happy to yield to my friend without losing my right to the floor.

Mr. SESSIONS. Mr. President, I thank the Senator from California for allowing me to interrupt. Most Senators, a lot of times, don't like to do that. She is a good advocate on the floor.

I would just say that we need to get away from the political situation. As I showed in my chart, I would note to the Senator, the Bush administration had the largest debt since World War II in 2004 and was rightly criticized for that. After going down for 3 years, when we sent out the checks last year, it jumped to $455 billion, and we got not much for it. This is $1.3 trillion this year, $1 trillion the next year, $632 billion the next year, according to the Congressional Budget Office scoring. So I think this is a quantum leap higher than the deficits we saw in previous years.

I know we are in a difficult time. I would just say I hope my colleagues will share President Obama's commitment to deal with the long-term structural problems we have. He is correct on that. He has a commitment to quit using gimmicks, which we have been using in the Senate too often to mask how big the deficit is. Those are good steps, but sooner or later we are going to need to reduce spending.

I thank the Chair.

Mrs. BOXER. Mr. President, I will take that as a question: Do I support President Obama's commitment to wrap his arms around the deficit and to do it with us, Republicans and Democrats? You bet I do, because I did it before under Bill Clinton. Unfortunately, then, we couldn't get one Republican vote. I praise my friend for showing the deficits under George Bush. I do. But I have to simply say—and this is a fact, this is a proven fact—that we didn't hear much from that side of the aisle when we had an open checkbook for Iraq. In fact, we didn't hear anything. They kept it open. We didn't hear much when they kept giving tax breaks to people who earn over $1 million, and that is what got us into this fix.

Right now, as a temporary measure, yes, we are going to have to spend some. As I know President Obama will lay out tonight, he wants to jolt and jump-start this economy. We are going to do it.

I am so proud we were able to reach across party lines in this Senate and get three Republicans to join us. I am so pleased that in my home State, we got six Republicans to join the Democrats and pass a budget there because when I went home—I went to Sacramento, our capital, and they were in deadlock. I think one of the things that helped me and others make the case was that we had to put party aside. We had to put ideology aside. We had to put egos aside. We did it with the stimulus bill because we only had three options there and they only had three options for the budget in California.

One option is do nothing and be the party of nope instead of the party of hope. Do nothing. Do nothing. Well, when you do nothing, that is not a passive act. Doing nothing is, it seems to me, a hostile act. It is a hostile act on the working families of this country and of my State. So doing nothing, I believe, is irresponsible.

Now, the other thing one could say in light of the stimulus or a budget one doesn't like is: I want to do it my way. My way or the highway. Here is my bill. I have written it. It is great. I have the perfect solution. Well, clearly, I am going to be able to write the perfect bill for me. My friend from Delaware can write the perfect bill for him. My friend from Georgia, I know he can write the perfect bill for Georgia. They love him there, and he would reflect everything they want. But at the end of the day, it doesn't work that way. That is also saying nope.

So the only answer, it seems to me—the only answer—is for us to compromise. That is what we did on the stimulus. That is what my State Republicans did, six of them.

By the way, they got censured by the party in my State. I just can't believe it. I just can't believe it. There was anger because they said they would never raise taxes and they signed a pledge. Well, you have to understand we are in uncharted waters with this downturn. There are hundreds of thousands of jobs lost every month. We all want to keep our pledges, but once in a while you have to look inside yourself and say: How can I help the people of my State?

So I say to those Republicans here who helped us, I say to the Republicans at home in the State of California who helped us: Thank you, thank you, thank you. Because there are moments when we do have to take a risk in life for the greater good.

I am looking forward to hearing the President tonight because I think what he is going to do—because I have watched him—he is going to give us an honest assessment of where we are as a nation. He is not going to sugarcoat where we are. He is going to tell it like it is, but then he is going to offer hope. He has a lot to say on that because we did get that first piece of the economic recovery bill through, the stimulus

bill—very important. I think he is going to show us through the housing plan he has that it is going to help ordinary people. My friend from Georgia is here, and he worked so hard to get a tax credit in the stimulus bill for new home purchases. These are the kinds of things we need to embrace, regardless of political party. I certainly embrace it.

Then he will talk about the banks. Speaking just for myself, I don't want to nationalize a bank. I really do not. If you go back to the Great Depression—I am reading a good book called ''The Defining Moment: FDR's Hundred Days.'' There was a big move not by the President but by a lot of people to nationalize the banks, and FDR said: No, we shouldn't be running the banks. So I am very hopeful that we will be able to do some things by converting preferred stock to common stock, to help get these banks on their feet and doing what they need to do, which is to lend.

I have spent some time talking about our current situation, and needless to say, what we have seen in the past 8 years or so—and especially the past few years—is we have seen a real decline in the quality of life of our working families. Their voices have not been heard enough. That creates an imbalance in our lives.

Everybody talks about the powerful unions. The unions that represent working men and women are representing fewer and fewer, and the voices of working men and women have gotten softer and softer. I think President Obama understands this, and he has given us a voice for working men and women in selecting Congresswoman HILDA SOLIS to be the Secretary of Labor.

I wish to say to my friends who may not know HILDA as I know her—she is from my State and is an ally and a friend—she is one of the best people you will ever meet. She is one of the most humble people you are ever going to meet. She is one of the most intelligent people. She has knowledge of politics and how to get things done. She knows how to reach out to people who don't agree with her. She has a strong understanding of the struggles of working families because she has seen it in her district in California.

Jobs lost since the beginning of the recession in December of 2007: 3.6 million. Jobs lost in the last 3 months: 1.8 million. The nationwide unemployment rate is at 7.6 percent. In my State, it is 9.3 percent. Long-term unemployed Americans: 2.6 million. That is why the stimulus was so important—to give them a little extra help getting through this nightmare. Underemployed Americans—that means Americans who are working at jobs for which they are overqualified—7.8 million Americans are working at jobs for which they are overqualified. So we can see this is not a recession that is just hitting a few pockets of America; it is hitting hard and it is hitting deep.

Throughout her entire career, Congresswoman SOLIS has been a forceful advocate for working men and women in California and throughout the Nation.

She was born and raised in the San Gabriel Valley in southern California. She was instilled with the values of hard work. Her father emigrated from Mexico, and he worked as a Teamsters shop steward. Her mother came to the United States from Nicaragua and worked at a local factory.

She was the very first Latina elected to the California State senate. She led efforts there to pass a much needed increase in California's minimum wage. I can tell my colleagues this because I worked closely with her on this issue.

In the 1990s, when she discovered that toxic sites were disproportionately located near minority and low-income neighborhoods, she wrote an environmental justice law to guarantee protections for those communities. For her dedication to this cause, she became the first woman ever honored with the John F. Kennedy Profile in Courage Award.

She was elected to represent California's 32nd congressional district in the year 2000. I have worked with her very closely on many environmental issues, on worker issues, and it is a delight to work with her. I have worked with her on veterans issues. Before she got tapped to be Secretary of Labor, HILDA and I sat next to each other on the plane, and she was telling me about an event she had where she holds a fair for the veterans in her community, in her district, and she brings together all of the various entities in the Federal Government that could help those veterans. This is a woman with a heart of gold.

So I am confident that HILDA SOLIS will turn the many challenges we face into new opportunities for the American people. As Secretary, she will continue to promote policies that will invigorate our economy, protect our jobs, retrain our workforce. She will work for a sustainable energy future, which is going to mean lots of jobs and new technologies. She will ensure safe working conditions. She will enforce fairly the wage and hour laws we have on the books. We don't need more laws on the books; we have laws on the books for wage and hour. She will protect against worker discrimination. She will strengthen the middle class. Yet I think in her way she will make the case that people in the workplace should have a right to be represented. She will argue that. She also plans to improve skills development and job search assistance for unemployed workers and create new career opportunities for at-risk youth and our military heroes, as I mentioned.

I am so thrilled she was picked for this job. I was very surprised because I had no clue President Obama was going to tap her. But when he did, I said to my family that this is a great choice. I think as Members of the Senate from both sides of the aisle get to know HILDA, they will soon trust HILDA. They will know they can talk to her about any subject, that she will listen, and that she will understand their point of view. After all, this is a woman who has been in elected office and she understands, as we all do, that there are differing viewpoints. She is not going to come in there and say: It is my way or the highway, Senator, so don't bother explaining to me. She will work with Senators. I know it because I have worked with her.

If anybody needed a personal recommendation for HILDA SOLIS today, I hope they will trust me because you know me, and I don't stand up for every nominee, but I am so proud to stand for this one. I urge each and every one of my colleagues—Republicans, Democrats, Independents—to please support her nomination.

I thank my friend from Georgia, who I know has been waiting. I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I rise to discuss the nomination of HILDA SOLIS to be Secretary of Labor. I do so as a Senator whose responsibility, constitutionally, it is to advise and consent on the nominees of the President. I also do so as ranking member of the subcommittee of the Health, Education, Labor, and Pensions Committee dealing with occupational safety. I will vote to confirm Ms. SOLIS this afternoon, after a great deal of study, after a lot of interaction, and a lot of direct conversations over issues about which Ms. SOLIS and I have different points of view.

President Obama was elected, and it is his right to choose a Cabinet. It is the Senate's responsibility to give advice and consent on those nominees. After the due diligence and the process this nominee has gone through, making sure she was properly vetted, it is my belief that she is worthy of the appointment of Secretary of Labor of the United States of America. I am going to cast that vote because I will expect, as ranking member of the occupational safety subcommittee, the same type of conversation from the Secretary as we deal with some of the contentious issues we both know lie before us in the months and years ahead.

One is card check. I am adamantly opposed to card check. I believe the right to a secret ballot is a fundamental right—not only at the ballot box in November but as to the question of whether you were organized and unionized in work. I know that when labor unions were formed and labor legislation was originally passed, it was the union movement that sought to ensure a secret ballot on behalf of the workers to make sure there was no intimidation from the company. That has served us well in this country for over 90 years and will continue to serve us for many years ahead. I know Ms.

SOLIS differs on that, but I hope when the issue comes before us, she will be as respectful in the arguments and debates we will bring forward as she will of her own opinion in that regard.

Secondly, as a Senator from the South and from the great State of Georgia, I am very proud of the right to work statutes of our State. It has served us well, as it has a number of States in this country that are right to work States. Those are States where an awful lot of manufacturing has come and been born, and even in difficult times today new manufacturing entities are coming to States, such as the Kia plant coming to La Grange, GA. I know Ms. SOLIS was at least equivocal in her response as to whether she supported the right to work status for States. I stand on the floor today and say unequivocally that I support them, and I support my State of Georgia and the right to work of all of its workers.

With those points made, Ms. SOLIS's reputation and record and the handling of her personal responsibilities, such as her taxes and her responsibilities in the House, all pass muster in terms of the Committee, and I will vote in favor of her confirmation when the vote comes before us.

DIFFICULT TIMES

Mr. President, we are in difficult times. Tonight the President will speak to all of us. I look forward to those remarks with great anticipation.

I told the President, when he appeared before our caucus just 3 weeks ago for lunch, that every night I pray for his success. And I do. Our people are in difficult times. We have difficult economic circumstances. It is imperative that we move forward together as Members of the House and Senate and the executive branch to find solutions to the challenges before us.

Similar to most Members of the Senate, I have a few suggestions. I wish to offer four of them today as we lead up to the discussion tonight and the debate that will follow.

Some of the economic difficulties in the United States are self-inflicted by our own regulatory agencies. In particular, there are two areas I wish to discuss. First is the SEC. Last fall when the markets began to cascade down on Wall Street and when the financial stocks took their initial hit and the subsequent tumble, it was because of short sellers rushing to the market and shorting financial stocks and accelerating the decline of those values. I called Chris Cox, then the SEC Commissioner, and begged him to please implement the uptick rule, which would stop the short selling on the downside and protect the value of those equities.

Fortunately, they did declare a moratorium for 27 days and stopped the short selling and things stabilized. Unfortunately, when that 27 days was over, they reinstituted the former rule, short selling accelerated, and financial stocks deteriorated so that now they are 85 to 90 percent below their value of 18 to 24 months ago. It is imperative the SEC reinstitute the uptick rule to ensure we don't have people coming into the marketplace and taking advantage of difficulties and suppressing the values of equities even greater than the market might otherwise dictate.

Secondly, there has been a lot of speeches made on the floor about mark to market, and I will make one now. I am going to use specific examples to show you how the imposition of mark to market is hurting our financial institutions desperately, and it is disproportionately penalizing the people we serve.

Mark to market basically takes the position that on any given day you are going to mark your assets based on their value of that day. Given the clients we have seen in mortgage-backed securities and real estate, marking to market has caused a tremendous decline in the asset side of the ledger while liabilities continued to grow, which has caused capital problems in the banking system and exacerbated the financial problems we have today. In fact, mark to market should not be an arbitrary and capricious writedown to zero but, rather, should be a recognition of the transition of values in a down market or in an up market.

The Senate, in 2005, in dealing with the pension crisis and defined benefit programs in America, asked businesses to come in one year and replenish retirement funds because the decline in the stocks was unrealistic. So we passed legislation that provided for a smoothing, meaning we amortized over years 3, 4, 5 or 6 the amount of money a pension fund was short, to give a company the ability to invest capital in the fund to restore it but not to deplete all the capital the company had to operate.

Today, what is happening in our financial institutions, when the FDIC comes in and says you are going to mark to market, and this real estate asset that might have been worth $20 million 2 years ago is worth $6 million today, you are going to take a $14 million hit on the asset side when, in fact, over time that asset might have brought 15, 16, 17, 18 or maybe the original 20 percent because most real estate is absorbed over time and not in one fell swoop. It is very important our financial institutions be able to recognize value in a realistic environment. Some will tell you we don't want to do what Japan did—and we don't. Japan, in the 1990s, bought a lot of real estate and put it on the books at what they paid for it. As values declined, they didn't change the values in the books, and finally when they recognized them, they were underwater.

That was an unrealistic approach. Equally unrealistic is today's approach of taking today's economy and saying: Well, because you cannot sell it for X today, that as its value went over time, we could smooth or amortize and approach it realistically. What is happening over and over again, mark to market is causing banks to do things that compound the things we are facing in the Senate and in the House and in our country.

Last December, this body passed the ability for banks to carry back losses against profitable years, pull back some of the money they paid in taxes and provide liquidity. Because of that advantage, which we did for the right reasons, a number of banks took real estate assets in December of last year and wrote them off, even though they were performing, so they could take the loss carryback against income in better years. But now they are coming against the properties as a nonperforming asset and marking it to market in order to call the loan, with nobody out there willing to take them out. The unintended consequences of mark to market and the loss carryback that this Congress passed made it almost impossible for the commercial real estate industry and the development industry and the single-family real estate industry to compete in the United States today.

So my suggestion is to install the uptick rule; second, stop the ridiculous nature of mark to market from absolute to absolute, and put in a mechanism of amortization or smoothing so the absorption of those assets over time is more reflective of reality and less of the dire straits we find ourselves in today.

Third—and I appreciate very much the Senator from California mentioning the housing tax credit—I am very pleased that in the stimulus bill that passed, the credit is now $8,000 rather than $7,500. I am glad it is not repayable now but, in fact, is an actual credit. I am sorry it was means tested and limited to incomes of $75,000 or $150,000, and I am sorry it was only for first-time home buyers.

I believe that until we fix housing, we can fix nothing else. We must fix housing first, and we must have an incentive and a reason for those people to return to the marketplace and begin to absorb the houses that become vacant because of foreclosure, transfer or because of default.

So I hope we will continue to work on catalytic agents to inspire the consumers to come back to the marketplace and buy. That is essential. I think the tax credit of $15,000 for the purchase of any home by a family that occupies that home for 3 years is good for America, good for a business, and it is a small price to pay for what it will bring. CBO estimates its cost at $34.8 billion. They also estimate it would create 700,000 sales and 587,000 jobs in 1 day. That is no bad payback when you consider we have thrown billions after billions at the banking system and the stimulus system.

Lastly—and I know the President will talk about mortgages today—I listened to his remarks last week and am encouraged by some of the things he said. I think there are some things we

can do in terms of financing that can help us with our problem.

No. 1, we do have to get back to sound underwriting. The President's proposals of a threshold of 31 percent debt service to gross monthly income illustrated that the President sees to it that we have fundamentals of qualifications under loans that are made, and I commend him for that.

Secondly, I also recognize the fact that we can refinance loans that are in difficulty today at lower interest rates, amortize them over 30 years, and, in fact, save people from foreclosure. Some we cannot save, but some we can, and I am for that. But we have to remember, just as 1 in 10 houses in America is in default, 9 out of 10 are performing. To those people who are performing, who are making their payments, who are living by the rules, who are doing what is right, the same type of refinance opportunities ought to be available to them as are available to someone who is in trouble.

I fully believe if we would direct Fannie Mae to issue debt with the full faith and credit of the United States of America behind it, we could generate a pool of resources to make loans for less than 5 percent on a 30-year basis in the United States of America, loans that many people who are in trouble could actually find they could work their way through because it would lessen their monthly payment. But to those who are paying their payments but have rates of 5½, 6, 7½, 8 percent, give them the same opportunity to reduce the cost of their debt service. Just because they are performing does not mean they should be penalized in a time in which we have 10 percent nonperformance.

I stand here today on the floor of the Senate willing and able anytime, anyplace, anywhere to work with the President and work with the Members of this Congress to address the fundamentals of our economy and the fundamental problems we face.

It is my sincere hope the SEC will take another look at the uptick rule and establish it. I think it will be an advantage to the market, advantageous to investors, and I think it will stop an egregiously bad process.

Second, on mark to market, I don't want us to go the route of Japan, but I want us to go the route we went in this body in 2005 on pensions and let's smooth and amortize those obligations without catastrophic writedowns of assets which only cause difficulty in the financial community.

Third, let's do fix housing first, and let's make sure we have a tax credit that is meaningful, available across the board, fosters home ownership, restores our marketplace, creates the 700,000 sales we need, and the 587,000 jobs we so desperately want.

Lastly, as we make available creative financing and inexpensive financing for those in trouble to work their way out of a difficult mortgage, let's not forget those who are playing by the rules, the 9 out of 10 who are making the payments. Let's make sure we make the same thing available to them so the rates at which they can refinance are equally competitive and as beneficial.

Mr. President, I yield back the remainder of my time. 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. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak for 3 minutes.

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

Mr. ALEXANDER. Mr. President, I simply wish to congratulate the Senator from Georgia for his leadership on housing. He has consistently, since he arrived in the Senate 6 years ago, been the Senate's foremost spokesman for housing, and we badly need it today. Housing helped us get into the economic mess we are in in the country, and housing will help us get out of the economic mess.

As the Senator from Georgia has so succinctly said, there are a number of things we can do to keep us from going further down the hole and to help people who are in trouble and cannot pay their bills. But we want to get out of the hole, and the way we get out of the hole is to give people who are creditworthy and have money the opportunity to buy a home. The Isakson amendment, as originally passed by the Senate, provided a $15,000 tax credit and would do that. It would create demand.

The idea of low-interest mortgage rates which Republicans have offered to give millions of creditworthy Americans, for the next year, an opportunity to have a low-interest mortgage to buy a home or refinance their home would help us get out of the housing hole. We are all in favor of helping those people who are hurting, but that is not going to end the economic crisis. We want to climb out of this economic mess, and the way to get out of it is to get out of the housing hole we are in. The way to do that is through the Isakson amendment that creates a $15,000 tax credit for homebuyers and to provide a low mortgage interest rate.

I thank the Senator for his eloquence and his persistence. I hope more and more Members on both sides of the aisle and this country will hear his call to fix housing first.

I yield the floor.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. KENNEDY. Mr. President, I am pleased and proud that the Senate today is taking up the nomination of HILDA SOLIS for Secretary of Labor. Representative SOLIS is an extraordinary person, with an impressive background in public service. Anyone familiar with her work and her many accomplishments can attest that she is a truly inspirational leader. In the face of the current, unprecedented economic crisis, her confirmation to this important position is especially significant.

Each day, the headlines contain troubling new economic reports. Americans lost 3 million jobs last year. Mr. President, 2.6 million have been looking for work for more than 6 months, 2.3 million have lost their homes, 31 million rely on food stamps to put food on the table.

But this economic crisis is not just about numbers on a page or a lead story on the evening news. It is about what is happening to millions of working families. They are enduring tremendous hardships, and they know their friends and neighbors are suffering as well. The recovery bill passed under President Obama's leadership is a significant step in the right direction, but we still have an enormous challenge ahead of us.

To rebuild our economy, we must restore security for working people. They need to know that they can get up and go to work in the morning without worrying about a pink slip, that they will earn a fair day's pay for a fair day's work so they can support their families, and that they can provide a better future for their children and a secure retirement for themselves.

Most of all, they want leaders in government who understand how important these basic necessities are. That is why HILDA SOLIS is the right choice for Secretary of Labor.

Representative SOLIS is from a hardworking American family. Her father was a farmworker, a railroad worker, and a laborer in a battery recycling plant. Her mother worked for 22 years on the assembly line in a toy factory. She watched her parents sacrifice all their lives to build a better future for her and their other children. Because of their struggles, HILDA became the first person in her family to go to college.

HILDA SOLIS knows from deeply personal experience the challenges that American families face, because she has lived these challenges herself. And she has brought the lessons she learned from those years to her career in public service.

Since her earliest days in public life, HILDA has put working families first. Whether it's fighting to keep toxic waste out of poor communities, championing legislation to protect victims of domestic violence, or leading efforts to train our workforce for the ''green collar'' jobs of the 21st century, she has never turned away from a challenge. She has never hesitated to stand up for what is right.

In 2000, she became the first woman to receive the Profile in Courage Award for her remarkable work as a California State senator. The award is

given each year to those people who have demonstrated the political courage that President Kennedy so admired, and HILDA SOLIS exemplifies these outstanding qualities. As I said at the time she received the award, ''The extraordinary successes of Hilda Solis as a member of the California legislature show the power of one person with vision, ability, dedication, and courage to overcome even the most powerful forces of oppression and resistance.''

Now, again, HILDA has powerful forces to overcome, and tremendous challenges ahead. I have every confidence that she is the right person for the job. She is exactly who we need at the helm of such an important agency at this critical time for out country.

America's workers are the best in the world, and they deserve our best efforts to help them through these difficult times. And they deserve to have the best possible advocate on their side. Today, we will do them a great service by confirming HILDA SOLIS.

She is a true hero for working families, and we are fortunate to have someone of her tremendous talents at the Department. I look forward to working closely with our new Secretary of Labor to tackle the immense challenges facing America's workers, and to bring job security and real opportunity for all Americans.●

Mrs. FEINSTEIN. Mr. President, I rise today to support the nomination of my fellow Californian, Representative HILDA SOLIS, to be the next Secretary of Labor.

President Obama has selected Representative SOLIS to serve in his Cabinet because she is an experienced, committed, and effective public servant.

Representative SOLIS has dedicated her life to public service and to improving the lives of those in her community.

As the daughter of immigrants, Representative SOLIS epitomizes the possibilities of the American dream. Her parents worked hard to ensure that she and her siblings could attain all that this country has to offer, and this nomination is proof that, in this country, anything is possible.

Representative SOLIS was the first member of her family to attend college and in 1979 earned her undergraduate degree in Political Science from the California State Polytechnic University, Pomona.

In 1981, she completed a master's degree in public administration at the University of Southern California. Her career in public service started in President Carter's administration, where she served as the Editor-in-Chief of Publications in the Office of Hispanic Affairs.

After returning to California, she ran for office and was elected to the Rio Hondo Community College Board in 1985.

In 1992, Representative SOLIS was elected to the State Assembly, and 2 years later became the first Hispanic woman to serve in the California State Senate.

As the Chairwoman of the powerful California State Senate Industrial Relations Committee, she was instrumental in the successful battle to increase the state minimum wage.

She has also been a tireless fighter for environmental justice. In 1999, despite strong opposition from industry groups, legislation that she authored was enacted to protect disadvantaged communities from the environmental toxins and pollutants that are disproportionately located in such areas.

Her effort earned her the Profile in Courage Award from the John F. Kennedy Library Foundation in 2000, the same year she was elected to the House of Representatives.

In Congress, Representative SOLIS has demonstrated her commitment to expanding opportunities for job training, which is essential for our economic recovery.

She truly understands the potential of clean energy and solar power to propel the economy of the 21st century. To this end, Representative SOLIS authored legislation to provide more than $100 million for ''green collar'' jobs training and has been a pioneer in this arena.

Representative SOLIS is a woman of common sense and, I believe, sound judgment.

She understands that the Secretary of Labor must be responsive to the voices of both management and labor. As Secretary of Labor, she will be a champion for workers across America.

Given the economic crisis our Nation confronts, I am confident that Representative SOLIS will work to promote policies that ultimately will create jobs, benefiting businesses and workers across the board.

The economic challenges we face at this moment are considerable, and the task at hand is substantial.

At a time when so many Americans are seeking jobs, it is critical that we have a Secretary of Labor who is ready to tackle these problems and be responsive to the needs of all workers.

Representative SOLIS understands the struggles that so many Americans are facing. She knows how to get things done, and she knows that there is no time to waste.

Representative SOLIS is well prepared for the task at hand, and it is time for the President to have his choice for Secretary of Labor confirmed.

I urge my colleagues to join me in confirming Representative SOLIS without further delay.

Mrs. MURRAY. Mr. President, I thank all of my colleagues for their remarks today, including the distinguished ranking member of our HELP Committee, the Senator from Wyoming, and the ranking member on my Subcommittee on Employment, the Senator from Georgia. We have all worked together on a number of issues that are important to the well-being of workers in this country, and today is no different as we consider the nomination of HILDA SOLIS to serve as President Obama's Labor Secretary.

As a committee and as a body, we have done our due diligence in reviewing her nomination and materials. Now it is time to move forward.

Working families across the country are facing the hardest of economic downturns. Most of them have never experienced anything like this. It is affecting everyone across our country. Earlier today, we learned that about 303,570 people in my home State of Washington were unemployed and looking for work in January. That is the largest number ever in my State. That is over 303,000 families who are now wondering how they are going to be able to pay their bills or keep their house or afford health care or even save for retirement.

Workers in my State and across the country cannot afford to wait one more day for an advocate in this administration who will make their voice heard as we work to repair our country's economy. They cannot afford to wait any longer for a new leader at the agency that is responsible for unemployment insurance, job training, and placement services, protecting the health and safety of our workers on the job, and ensuring their rights in the workplace are protected. We have to have a Labor Department that can move into high gear to meet workers where they are. HILDA SOLIS stands ready to answer that call.

Before I conclude, I want to take just a minute to thank a number of people who helped us to get to this point. In addition to the distinguished ranking member on the HELP Committee, Senator ENZI, and the ranking member on our subcommittee, Senator ISAKSON, and all of their staff members, I wish to recognize and thank Senator KENNEDY who is the chairman of our Health, Education, Labor, and Pensions Committee. His dedication to America's working families is unmatched. And his staff, including Portia Wu and Lauren McFarren, have dedicated countless hours to moving this nomination forward.

I also thank Senator DODD, who chaired the HELP Committee executive session that reported Representative SOLIS out of committee, bringing us a step closer to today's confirmation.

Let me also thank my staff who have worked so hard with me: Gerri Fiala, Crystal Bridgeman, Mike Waske, Mike Spahn, and Stacy Rich. I appreciate all of their joint efforts to getting us here today.

Of course, I thank our great floor staff who worked tirelessly to help move this process forward.

Finally, I want to particularly thank Representative HILDA SOLIS for, once again, answering the call to serve. We expect the final vote on her nomination shortly. I encourage all Senators and colleagues to support her confirmation on behalf of all the working

families in our country who need a voice in Washington, DC.

Mr. President, I yield back the remainder of time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of HILDA L. SOLIS, of California, to be Secretary of Labor?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote ''yea.''

The result was announced—yeas 80, nays 17, as follows:

[Rollcall Vote No. 66 Ex.]

YEAS—80

Akaka	Feingold	McConnell
Alexander	Feinstein	Menendez
Barrasso	Gillibrand	Merkley
Baucus	Graham	Mikulski
Bayh	Grassley	Murkowski
Begich	Gregg	Murray
Bennet	Hagan	Nelson (FL)
Bennett	Hatch	Nelson (NE)
Bingaman	Hutchison	Pryor
Boxer	Inouye	Reed
Brown	Isakson	Reid
Brownback	Johanns	Rockefeller
Burris	Johnson	Sanders
Byrd	Kaufman	Schumer
Cantwell	Kerry	Shaheen
Cardin	Klobuchar	Snowe
Carper	Kohl	Specter
Casey	Landrieu	Stabenow
Chambliss	Lautenberg	Tester
Cochran	Leahy	Udall (CO)
Collins	Levin	Udall (NM)
Conrad	Lieberman	Voinovich
Corker	Lincoln	Warner
Dodd	Lugar	Webb
Dorgan	Martinez	Whitehouse
Durbin	McCain	Wyden
Enzi	McCaskill	

NAYS—17

Bond	DeMint	Sessions
Bunning	Ensign	Shelby
Burr	Inhofe	Thune
Coburn	Kyl	Vitter
Cornyn	Risch	Wicker
Crapo	Roberts	

NOT VOTING—2

Harkin	Kennedy

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Senator from Washington is recognized.

MORNING BUSINESS

Mrs. MURRAY. Mr. President, I ask unanimous consent to go to a period for morning business, with Senators permitted to speak for 10 minutes each.

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

AARON EILERTS DAY OF SERVICE AND GIVING

Mr. GRASSLEY. Mr. President, I wish to visit with you about voluntarism. I wish to use the example of a deceased Boy Scout as the perfect example.

Today is the day we Iowans honor the life and legacy of a young Boy Scout—a compassionate teenager who lived his life in passionate service to others. Mr. President, 14-year-old Aaron Eilerts from Eagle Grove, IA, tragically lost his own life last summer when a deadly tornado swept through Camp Little Sioux on January 11, 2008. One Iowan, Aaron, and three Nebraska boys lost their lives that evening.

Fifteen years ago today, Bob and Carol Eilerts experienced the overwhelming joy and elation that parents treasure the day their child is born. The Eilerts undoubtedly took pride in shouldering the responsibilities and sacrifices that parenthood brings. It was not long before his parents would realize their beloved son spread joy in service to others, in ways big and small, with family, friends, neighbors, the elderly, and even total strangers.

As a Boy Scout, Aaron took to heart the tenets of his organization. Through words and deeds, he upheld the Boy Scout Law, which prescribed a Scout as ''trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent.'' Every Boy Scout knows those words.

By all accounts, Aaron Eilerts lived and breathed the objectives of an honorable Boy Scout, which included character development, citizenship, and personal fitness. As a parent and grandparent, I can appreciate the demands placed on our youth to excel in academics, navigate social pressures, participate in extracurricular activities, and to just ''be.''

Similar to many young people growing up in small town Iowa, Aaron's extensive list of activities was impressive. Besides the Humboldt Boy Scout Troop 108, Aaron participated in football, cross country, track, band, choir, theater, and art. Aaron also was an agent of the CIA; that is, ''Character in Action,'' a youth leadership character-building organization at Robert Blue Middle School. With so many irons in the fire, it is even more remarkable to consider the time and energy Aaron devoted in service to others.

Consider a few of the community service projects this industrious 14-year-old organized: hand-sewing pillowcases for pediatric patients, teachers, and others in need; making blankets for animals at the Humane Society; volunteering at the local senior center and nursing home; performing the National Anthem at local high school events; and making it a habit to do great deeds and simple acts of kindness just to make his community a better place to live.

We can honor his legacy of service by following in the footsteps of this local teenage legend. The Governor of Iowa, Chet Culver, has proclaimed today, February 24, as the first annual Aaron Eilerts Day of Service and Giving. Scores of schools and service organizations across the State of Iowa have made plans to participate. Inspired by this young man's spirit of service, thousands of school students across Iowa will seize this opportunity to make their community a better place.

Just a few of the service projects underway today include shoveling snow; sewing pillowcases to donate to hospitals, veterans facilities, and nursing homes; creating fleece tie blankets for shelters; packaging meals in a box for local food pantries; conducting food and diaper services and drives that are connected with that; and pumping gas and cleaning windshields at local service stations.

The Bible tells us in Acts 20:35:

> It is more blessed to give than receive.

Many of us who contribute time, talents, and treasure in service to others often find we are the ones who are blessed by giving. If I may suggest, I believe Aaron Eilerts, if he were alive today, would agree.

Although he did not share the world stage of Mother Teresa, who devoted her life to poverty in service to others, Aaron showed his compassion for others on the stages of his hometown, from the senior centers, to hospitals, school and community events. Mother Teresa is attributed with an observation that applies so well to this young man from Eagle Grove. Mother Teresa said:

> Do not wait for leaders. Do it alone, person to person.

Aaron Eilerts was a product of small-town Iowa—a small town that took pride in its community, and he took pride in his community. Eagle Grove takes pride in this young man, Aaron Eilerts, who was killed last June.

I would like to extend, again, my sincerest condolences to the family and loved ones Aaron Eilerts has preceded into God's Kingdom. I also would like to take this opportunity to extend an invitation to my fellow citizens from the other 49 States. I welcome you to join the State of Iowa, and Iowans generally, next year on February 24 to participate in the annual Aaron Eilerts Day of Service and Giving, as declared by Governor Culver of my State of Iowa.

Tragic circumstances abbreviated the life of this young Iowan with no warning and with no opportunity for second chances.

Let Aaron's life and legacy of service inspire each of us to respond in our own neighborhoods and communities to the call of service of giving.

TRIBUTE TO WILLIAM ''BILL'' RAGGIO

Mr. REID. Mr. President, I rise today to honor my longtime colleague in Nevada government, State senator William ''Bill'' Raggio, for his extensive record of public service and community activism.

At this year's Governor's Points of Light Award Dinner, Senator Raggio will be honored with the inaugural ''Governor's Choice Award.'' This award, which will be formally presented by Governor Jim Gibbons on February 26, recognizes Senator Raggio for his commitment to community improvement through volunteerism and philanthropy.

A longtime resident of Nevada, Bill has been a devoted and active member of his community. As a young man during World War II, Senator Raggio served his community and his country honorably as a second lieutenant in the U.S. Marine Corps Reserve. Upon return, he graduated from the University of Nevada at Reno before pursuing a law degree.

Since that time, Bill has been a tireless advocate for the people of Nevada. He has served on the ninth Circuit U.S. Court of Appeals and also as the district attorney for Washoe County. In 1973, Bill made the jump to the State senate, where his career has flourished and continues today. He has worked in various capacities in the State's legislative body, and is currently the minority leader of the senate.

I can think of no better recipient of the ''Governor's Choice Award'' than Senator Raggio. His 36 years of public service and selfless sacrifice are an example of how a single person can be an overwhelming influence for good in his community. There is no doubt that his wife Dale and their children are extremely proud of him. Indeed, all Nevadans have reason to be proud of Senator Raggio.

I congratulate Senator Raggio upon receiving this tremendous honor, and wish him all the best in his future undertakings.

Mr. DURBIN. Mr. President, strong leadership at the Department of Labor is essential as the economy continues to worsen.

Workers who are struggling need leaders who have been there, who know what it is like to grow up in a working class household. HILDA SOLIS is the right person to run the most important federal agency for workers who need a helping hand. I strongly support her nomination.

Congresswoman SOLIS grew up in southern California and has for decades fought for the rights of working men and women.

While a member of the California State Senate she led the fight in 1996 to increase the State minimum wage.

Since her election to Congress in 2000, she has cochaired the bipartisan Congressional Caucus for Women's Issues and played a key role in the reauthorization of the Violence Against Women Act in 2006.

Last year she helped lead the effort to provide workforce training for ''green collar'' jobs.

She is also a nationally recognized leader on the environment, and for that she became the first woman to receive the John F. Kennedy Profile in Courage Award in 2000.

Congresswoman SOLIS has articulated a strong vision for the Department. She is ready to lead the Department's efforts in: training and job placement for unemployed workers; building career ladders for at-risk youth, and expanding opportunities for our military heroes returning from combat.

Over 2.6 million workers have lost their jobs since this recession began, and the end is not yet in sight.

America needs an active Department of Labor to help these workers retrain for the economy of the 21st century and find new work.

America needs HILDA SOLIS to take charge of the Labor Department and to get to work today.

I urge my colleagues to support her nomination.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS RULES OF PROCEDURE

Mr. DODD. Mr. President, I ask unanimous consent that the rules of procedure for the Committee on Banking, Housing, and Urban Affairs be printed in the RECORD.

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

RULES OF PROCEDURE FOR THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

RULE 1. REGULAR MEETING DATE FOR COMMITTEE

The regular meeting day for the Committee to transact its business shall be the last Tuesday in each month that the Senate is in Session; except that if the Committee has met at any time during the month prior to the last Tuesday of the month, the regular meeting of the Committee may be canceled at the discretion of the Chairman.

RULE 2. COMMITTEE

[a] Investigations. No investigation shall be initiated by the Committee unless the Senate, or the full Committee, or the Chairman and Ranking Member have specifically authorized such investigation.

[b] Hearings. No hearing of the Committee shall be scheduled outside the District of Columbia except by agreement between the Chairman of the Committee and the Ranking Member of the Committee or by a majority vote of the Committee.

[c] Confidential testimony. No confidential testimony taken or confidential material presented at an executive session of the Committee or any report of the proceedings of such executive session shall be made public either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Committee and the Ranking Member of the Committee or by a majority vote of the Committee.

[d] Interrogation of witnesses. Committee interrogation of a witness shall be conducted only by members of the Committee or such professional staff as is authorized by the Chairman or the Ranking Member of the Committee.

[e] Prior notice of markup sessions. No session of the Committee or a Subcommittee for marking up any measure shall be held unless [1] each member of the Committee or the Subcommittee, as the case may be, has been notified in writing via electronic mail or paper mail of the date, time, and place of such session and has been furnished a copy of the measure to be considered, in a searchable electronic format, at least 3 business days prior to the commencement of such session, or [2] the Chairman of the Committee or Subcommittee determines that exigent circumstances exist requiring that the session be held sooner.

[f] Prior notice of first degree amendments. It shall not be in order for the Committee or a Subcommittee to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless fifty written copies of such amendment have been delivered to the office of the Committee at least 2 business days prior to the meeting. It shall be in order, without prior notice, for a Senator to offer a motion to strike a single section of any measure under consideration. Such a motion to strike a section of the measure under consideration by the Committee or Subcommittee shall not be amendable. This section may be waived by a majority of the members of the Committee or Subcommittee voting, or by agreement of the Chairman and Ranking Member. This subsection shall apply only when the conditions of subsection [e][1] have been met.

[g] Cordon rule. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or Subcommittee, from initial consideration in hearings through final consideration, the Clerk shall place before each member of the Committee or Subcommittee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added. In addition, whenever a member of the Committee or Subcommittee offers an amendment to a bill or joint resolution under consideration, those amendments shall be presented to the Committee or Subcommittee in a like form, showing by typographical devices the effect of the proposed amendment on existing law. The requirements of this subsection may be waived when, in the opinion of the Committee or Subcommittee Chairman, it is necessary to expedite the business of the Committee or Subcommittee.

RULE 3. SUBCOMMITTEES

[a] Authorization for. A Subcommittee of the Committee may be authorized only by the action of a majority of the Committee.

[b] Membership. No member may be a member of more than three Subcommittees and no member may chair more than one Subcommittee. No member will receive assignment to a second Subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one Subcommittee, and no member shall receive assignment to a third Subcommittee until, in order of seniority, all members have chosen assignments to two Subcommittees.

[c] Investigations. No investigation shall be initiated by a Subcommittee unless the Senate or the full Committee has specifically authorized such investigation.

[d] Hearings. No hearing of a Subcommittee shall be scheduled outside the District of Columbia without prior consultation with the Chairman and then only by agreement between the Chairman of the Subcommittee and the Ranking Member of the Subcommittee or by a majority vote of the Subcommittee.

[e] Confidential testimony. No confidential testimony taken or confidential material presented at an executive session of the Subcommittee or any report of the proceedings of such executive session shall be made public, either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Subcommittee and the Ranking Member of the Subcommittee, or by a majority vote of the Subcommittee.

[f] Interrogation of witnesses. Subcommittee interrogation of a witness shall be conducted only by members of the Subcommittee or such professional staff as is authorized by the Chairman or the Ranking Member of the Subcommittee.

[g] Special meetings. If at least three members of a Subcommittee desire that a special meeting of the Subcommittee be called by the Chairman of the Subcommittee, those members may file in the offices of the Committee their written request to the Chairman of the Subcommittee for that special meeting. Immediately upon the filing of the request, the Clerk of the Committee shall notify the Chairman of the Subcommittee of the filing of the request. If, within 3 calendar days after the filing of the request, the Chairman of the Subcommittee does not call the requested special meeting, to be held within 7 calendar days after the filing of the request, a majority of the members of the Subcommittee may file in the offices of the Committee their written notice that a special meeting of the Subcommittee will be held, specifying the date and hour of that special meeting. The Subcommittee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk of the Committee shall notify all members of the Subcommittee that such special meeting will be held and inform them of its date and hour. If the Chairman of the Subcommittee is not present at any regular or special meeting of the Subcommittee, the Ranking Member of the majority party on the Subcommittee who is present shall preside at that meeting.

[h] Voting. No measure or matter shall be recommended from a Subcommittee to the Committee unless a majority of the Subcommittee are actually present. The vote of the Subcommittee to recommend a measure or matter to the Committee shall require the concurrence of a majority of the members of the Subcommittee voting. On Subcommittee matters other than a vote to recommend a measure or matter to the Committee no record vote shall be taken unless a majority of the Subcommittee is actually present. Any absent member of a Subcommittee may affirmatively request that his or her vote to recommend a measure or matter to the Committee or his vote on any such other matters on which a record vote is taken, be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter and to inform the Subcommittee as to how the member wishes his or her vote to be recorded thereon. By written notice to the Chairman of the Subcommittee any time before the record vote on the measure or matter concerned is taken, the member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee.

RULE 4. WITNESSES

[a] Filing of statements. Any witness appearing before the Committee or Subcommittee [including any witness representing a Government agency] must file with the Committee or Subcommittee [24 hours preceding his or her appearance] 75 copies of his or her statement to the Committee or Subcommittee, and the statement must include a brief summary of the testimony. In the event that the witness fails to file a written statement and brief summary in accordance with this rule, the Chairman of the Committee or Subcommittee has the discretion to deny the witness the privilege of testifying before the Committee or Subcommittee until the witness has properly complied with the rule.

[b] Length of statements. Written statements properly filed with the Committee or Subcommittee may be as lengthy as the witness desires and may contain such documents or other addenda as the witness feels is necessary to present properly his or her views to the Committee or Subcommittee. The brief summary included in the statement must be no more than 3 pages long. It shall be left to the discretion of the Chairman of the Committee or Subcommittee as to what portion of the documents presented to the Committee or Subcommittee shall be published in the printed transcript of the hearings.

[c] Ten-minute duration. Oral statements of witnesses shall be based upon their filed statements but shall be limited to 10 minutes duration. This period may be limited or extended at the discretion of the Chairman presiding at the hearings.

[d] Subpoena of witnesses. Witnesses may be subpoenaed by the Chairman of the Committee or a Subcommittee with the agreement of the Ranking Member of the Committee or Subcommittee or by a majority vote of the Committee or Subcommittee.

[e] Counsel permitted. Any witness subpoenaed by the Committee or Subcommittee to a public or executive hearing may be accompanied by counsel of his or her own choosing who shall be permitted, while the witness is testifying, to advise him or her of his or her legal rights.

[f] Expenses of witnesses. No witness shall be reimbursed for his or her appearance at a public or executive hearing before the Committee or Subcommittee unless such reimbursement is agreed to by the Chairman and Ranking Member of the Committee.

[g] Limits of questions. Questioning of a witness by members shall be limited to 5 minutes duration when 5 or more members are present and 10 minutes duration when less than 5 members are present, except that if a member is unable to finish his or her questioning in this period, he or she may be permitted further questions of the witness after all members have been given an opportunity to question the witness.

Additional opportunity to question a witness shall be limited to a duration of 5 minutes until all members have been given the opportunity of questioning the witness for a second time. This 5-minute period per member will be continued until all members have exhausted their questions of the witness.

RULE 5. VOTING

[a] Vote to report a measure or matter. No measure or matter shall be reported from the Committee unless a majority of the Committee is actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his or her vote to report a matter be cast by proxy. The proxy shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of the rollcall vote of the members present and voting, as an official record of the vote on the measure or matter.

[b] Vote on matters other than to report a measure or matter. On Committee matters other than a vote to report a measure or matter, no record vote shall be taken unless a majority of the Committee are actually present. On any such other matter, a member of the Committee may request that his or her vote may be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his or her vote to be recorded thereon. By written notice to the Chairman any time before the vote on such other matter is taken, the member may withdraw a proxy previously given. All proxies relating to such other matters shall be kept in the files of the Committee.

RULE 6. QUORUM

No executive session of the Committee or a Subcommittee shall be called to order unless a majority of the Committee or Subcommittee, as the case may be, are actually present. Unless the Committee otherwise provides or is required by the Rules of the Senate, one member shall constitute a quorum for the receipt of evidence, the swearing in of witnesses, and the taking of testimony.

RULE 7. STAFF PRESENT ON DAIS

Only members and the Clerk of the Committee shall be permitted on the dais during public or executive hearings, except that a member may have one staff person accompany him or her during such public or executive hearing on the dais. If a member desires a second staff person to accompany him or her on the dais he or she must make a request to the Chairman for that purpose.

RULE 8. COINAGE LEGISLATION

At least 67 Senators must cosponsor any gold medal or commemorative coin bill or resolution before consideration by the Committee.

EXTRACTS FROM THE STANDING RULES OF THE SENATE—RULE XXV, STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

[d][1] Committee on Banking, Housing, and Urban Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Banks, banking, and financial institutions.
2. Control of prices of commodities, rents, and services.
3. Deposit insurance.
4. Economic stabilization and defense production.
5. Export and foreign trade promotion.
6. Export controls.
7. Federal monetary policy, including Federal Reserve System.
8. Financial aid to commerce and industry.
9. Issuance and redemption of notes.
10. Money and credit, including currency and coinage.
11. Nursing home construction.
12. Public and private housing [including veterans' housing].
13. Renegotiation of Government contracts.
14. Urban development and urban mass transit.

[2] Such committee shall also study and review, on a comprehensive basis, matters relating to international economic policy as it affects United States monetary affairs, credit, and financial institutions; economic

growth, urban affairs, and credit, and report thereon from time to time.

COMMITTEE PROCEDURES FOR PRESIDENTIAL NOMINEES

Procedures formally adopted by the U.S. Senate Committee on Banking, Housing, and Urban Affairs, February 4, 1981, establish a uniform questionnaire for all Presidential nominees whose confirmation hearings come before this Committee.

In addition, the procedures establish that:

[1] A confirmation hearing shall normally be held at least 5 days after receipt of the completed questionnaire by the Committee unless waived by a majority vote of the Committee.

[2] The Committee shall vote on the confirmation not less than 24 hours after the Committee has received transcripts of the hearing unless waived by unanimous consent.

[3] All nominees routinely shall testify under oath at their confirmation hearings.

This questionnaire shall be made a part of the public record except for financial information, which shall be kept confidential.

Nominees are requested to answer all questions, and to add additional pages where necessary.

NATIONAL PEACE CORPS WEEK

Mr. BARRASSO. Mr. President, I rise today to acknowledge National Peace Corps Week and the many U.S. Peace Corps volunteers serving across the globe.

There are currently 22 U.S. Peace Corps volunteers from Wyoming who are serving around the world. These men and women have joined a unique organization of people who are willing to make a personal commitment to lend a helping hand to those in the world who are less fortunate than us.

These Americans often live and work in challenging areas as they partner with their local counterparts to aid development. Peace Corps volunteers have made significant contributions assisting people to improve health care services, create business opportunities, promote education, and develop resources.

Many people in the world today are suffering from political unrest, natural disasters, disease, and a lack of economic opportunities. I commend all the Peace Corps volunteers who leave behind the comforts of home to live in different areas of the world and work to make the world a better place.

The Peace Corps volunteers' reputation as ambassadors of good-will demonstrates the ability of individuals to make a difference in our world. As they work alongside people from different nations, these volunteers have the opportunity to represent America and the values that we hold dear. Additionally, our volunteers' knowledge of the unique challenges people face gives us insight into developing better relations with other countries. I applaud their efforts and dedication.

I would like to recognize the men and women from Wyoming who are currently serving as U.S. Peace Corps volunteers: Lisa J. Balland, serving in Uganda; Thomas P. Burian, serving in Capre Verde; Bria M. Chimenti, serving in Tonga; Jenna M. Dillion, serving in Senegal; Heather Dixon, serving in Gambia; Seth H. Edmunds, serving in Fiji; Sagar L. Gondalia, serving in Kazakhstan; Larry R. Hanson, serving in Fiji; Daniel J. Healy, serving in Ukriane; Sarah D. Hunt, serving in Romania; Kevin U. Malatesta, serving in Armenia; Joshuah C. Marshall, serving in Morocco; Kathryn D. Mcmillan, serving in Costa Rica; Korie C. Merrill, serving in Togo; Jennifer D. Moore, serving in Nambia; Maggie K. Moran, serving in Romania; Michael O. Nielsen, serving in Malawi; Kelly M. Olenyik, serving in Malawi; Brandon J. Perkins, serving in Burkina Faso; Michael S. Quinn, serving in Kazakhstan; Garrett C. Schiche, serving in Thailand; and Brian M. Steen, serving in Kyrgyzstan.

CONGRATULATING HAMILTON COUNTY, NEBRASKA

Mr. JOHANNS. Mr. President, I wish to offer my congratulations to Hamilton County, NE, as Progressive Farmer named them the top county in our country to raise a family. As I am sure the senior Senator from Nebraska would agree, this is a community worthy of the honor. With the great beauty, work ethic, and commitment to family and neighbors, truly Hamilton County and all of Nebraska offers visitors and residents a uniquely fulfilling quality of life.

I know the senior Senator from Nebraska has also been to Hamilton County numerous times. Would the senior Senator like to offer his thoughts on the honor this Nebraska county has received?

Mr. NELSON of Nebraska. Mr. President, I thank the junior Senator from Nebraska. I, too, offer my praises to Hamilton County, NE, and to express how truly fitting this honor from the Progressive Farmer is. Hamilton County has always been a place imbued with the strong values of our great State of Nebraska values of the family, a strong work ethic, and the beauty that the State is known for. Aptly named for our Nation's first Treasury Secretary—Alexander Hamilton—this county holds many of Nebraska's treasures. From Phillips to Hampton, Aurora to Marquette, Giltner to Hordville, and even little Stockham, this county embodies what Nebraska is all about.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS RULES OF PROCEDURE

Mr. LIEBERMAN. Mr. President, Senate Standing Rules XXVI requires each committee to adopt rules to govern the procedure of the committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. On February 24, 2009, a majority of the members of the Committee on Homeland Security and Governmental Affairs' Permanent Subcommittee on Investigations adopted subcommittee rules of procedure.

Consistent with Standing Rule XXVI, I ask unanimous consent to have printed in the RECORD a copy of the rules of procedure of the Permanent Subcommittee on Investigations.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, AS ADOPTED

FEBRUARY 24, 2009

1. No public hearing connected with an investigation may be held without the approval of either the Chairman and the Ranking Minority Member or the approval of a Majority of the Members of the Subcommittee. In all cases, notification to all Members of the intent to hold hearings must be given at least 7 days in advance to the date of the hearing. The Ranking Minority Member should be kept fully apprised of preliminary inquiries, investigations, and hearings. Preliminary inquiries may be initiated by the Subcommittee Majority staff upon the approval of the Chairman and notice of such approval to the Ranking Minority Member or the Minority counsel. Preliminary inquiries may be undertaken by the Minority staff upon the approval of the Ranking Minority Member and notice of such approval to the Chairman or Chief Counsel. Investigations may be undertaken upon the approval of the Chairman of the Subcommittee and the Ranking Minority Member with notice of such approval to all Members.

No public hearing shall be held if the Minority Members unanimously object, unless the full Committee on Homeland Security and Governmental Affairs by a majority vote approves of such public hearing.

Senate Rules will govern all closed sessions convened by the Subcommittee (Rule XXVI, Sec. 5(b), Standing Rules of the Senate).

2. Subpoenas for witnesses, as well as documents and records, may be authorized and issued by the Chairman, or any other Member of the Subcommittee designated by him or her, with notice to the Ranking Minority Member. A written notice of intent to issue a subpoena shall be provided to the Chairman and Ranking Minority Member of the Committee, or staff officers designated by them, by the Subcommittee Chairman or a staff officer designated by him or her, immediately upon such authorization, and no subpoena shall be issued for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chairman and Ranking Minority Member waive the 48 hour waiting period or unless the Subcommittee Chairman certifies in writing to the Chairman and Ranking Minority Member that, in his or her opinion, it is necessary to issue a subpoena immediately.

3. The Chairman shall have the authority to call meetings of the Subcommittee. This authority may be delegated by the Chairman to any other Member of the Subcommittee when necessary.

4. If at least three Members of the Subcommittee desire the Chairman to call a special meeting, they may file in the office of the Subcommittee, a written request therefor, addressed to the Chairman. Immediately thereafter, the clerk of the Subcommittee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Subcommittee Members may file in the office of the Subcommittee their written notice that

a special Subcommittee meeting will be held, specifying the date and hour thereof, and the Subcommittee shall meet on that date and hour. Immediately upon the filing of such notice, the Subcommittee clerk shall notify all Subcommittee Members that such special meeting will be held and inform them of its date and hour. If the Chairman is not present at any regular, additional or special meeting, the Ranking Majority Member present shall preside.

5. For public or executive sessions, one Member of the Subcommittee shall constitute a quorum for the administering of oaths and the taking of testimony in any given case or subject matter.

One-third of the Members of the Subcommittee shall constitute a quorum for the transaction of Subcommittee business other than the administering of oaths and the taking of testimony, provided that one member of the minority is present.

6. All witnesses at public or executive hearings who testify to matters of fact shall be sworn.

7. If, during public or executive sessions, a witness, his or her counsel, or any spectator conducts himself or herself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing, the Chairman or presiding Member of the Subcommittee present during such hearing may request the Sergeant at Arms of the Senate, his or her representative or any law enforcement official to eject said person from the hearing room.

8. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing, and to advise such witness while he or she is testifying, of his or her legal rights; provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Subcommittee Chairman may rule that representation by counsel from the government, corporation, or association, or by counsel representing other witnesses, creates a conflict of interest, and that the witness may only be represented during interrogation by staff or during testimony before the Subcommittee by personal counsel not from the government, corporation, or association, or by personal counsel not representing other witnesses. This rule shall not be construed to excuse a witness from testifying in the event his or her counsel is ejected for conducting himself or herself in such a manner so as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of the hearings; nor shall this rule be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

9. Depositions.

9.1 Notice. Notices for the taking of depositions in an investigation authorized by the Subcommittee shall be authorized and issued by the Chairman. The Chairman of the full Committee and the Ranking Minority Member of the Subcommittee shall be kept fully apprised of the authorization for the taking of depositions. Such notices shall specify a time and place of examination, and the name of the Subcommittee Member or Members or staff officer or officers who will take the deposition. The deposition shall be in private. The Subcommittee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear unless the deposition notice was accompanied by a Subcommittee subpoena.

9.2 Counsel. Witnesses may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Rule 8.

9.3 Procedure. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Subcommittee Members or staff. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Subcommittee Members or staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or such Subcommittee Member as designated by him or her. If the Chairman or designated Member overrules the objection, he or she may refer the matter to the Subcommittee or he or she may order and direct the witness to answer the question, but the Subcommittee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify after he or she has been ordered and directed to answer by a Member of the Subcommittee.

9.4 Filing. The Subcommittee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review pursuant to the provisions of Rule 12. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the Subcommittee clerk. Subcommittee staff may stipulate with the witness to changes in this procedure; deviations from this procedure which do not substantially impair the reliability of the record shall not relieve the witness from his or her obligation to testify truthfully.

10. Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Chief Counsel or Chairman of the Subcommittee 48 hours in advance of the hearings at which the statement is to be presented unless the Chairman and the Ranking Minority Member waive this requirement. The Subcommittee shall determine whether such statement may be read or placed in the Record of the hearing.

11. A witness may request, on grounds of distraction, harassment, personal safety, or physical discomfort, that during the testimony, television, motion picture, and other cameras and lights, shall not be directed at him or her. Such requests shall be ruled on by the Subcommittee Members present at the hearing.

12. An accurate stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. The record of his or her own testimony, whether in public or executive session, shall be made available for inspection by witness or his or her counsel under Subcommittee supervision; a copy of any testimony given in public session or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness at his or her expense if he or she so requests.

13. Interrogation of witnesses at Subcommittee hearings shall be conducted on behalf of the Subcommittee by Members and authorized Subcommittee staff personnel only.

14. Any person who is the subject of an investigation in public hearings may submit to the Chairman of the Subcommittee questions in writing for the cross-examination of other witnesses called by the Subcommittee. With the consent of a majority of the Members of the Subcommittee present and voting, these questions, or paraphrased versions of them, shall be put to the witness by the Chairman, by a Member of the Subcommittee, or by counsel of the Subcommittee.

15. Any person whose name is mentioned or who is specifically identified, and who believes that testimony or other evidence presented at a public hearing, or comment made by a Subcommittee Member or counsel, tends to defame him or her or otherwise adversely affect his or her reputation, may (a) request to appear personally before the Subcommittee to testify in his or her own behalf, or, in the alternative, (b) file a sworn statement of facts relevant to the testimony or other evidence or comment complained of. Such request and such statement shall be submitted to the Subcommittee for its consideration and action.

If a person requests to appear personally before the Subcommittee pursuant to alternative (a) referred to herein, said request shall be considered untimely if it is not received by the Chairman of the Subcommittee or its counsel in writing on or before thirty (30) days subsequent to the day on which said person's name was mentioned or otherwise specifically identified during a public hearing held before the Subcommittee, unless the Chairman and the Ranking Minority Member waive this requirement.

If a person requests the filing of his or her sworn statement pursuant to alternative (b) referred to herein, the Subcommittee may condition the filing of said sworn statement upon said person agreeing to appear personally before the Subcommittee and to testify concerning the matters contained in his or her sworn statement, as well as any other matters related to the subject of the investigation before the Subcommittee.

16. All testimony taken in executive session shall be kept secret and will not be released for public information without the approval of a majority of the Subcommittee.

17. No Subcommittee report shall be released to the public unless approved by a majority of the Subcommittee and after no less than 10 days' notice and opportunity for comment by the Members of the Subcommittee unless the need for such notice and opportunity to comment has been waived in writing by a majority of the Minority Members.

18. The Ranking Minority Member may select for appointment to the Subcommittee staff a Chief Counsel for the Minority and such other professional staff members and clerical assistants as he or she deems advisable. The total compensation allocated to such Minority staff members shall be not less than one-third the total amount allocated for all Subcommittee staff salaries during any given year. The Minority staff members shall work under the direction and supervision of the Ranking Minority Member. The Chief Counsel for the Minority shall be kept fully informed as to preliminary inquiries, investigations, and hearings, and shall have access to all material in the files of the Subcommittee.

19. When it is determined by the Chairman and Ranking Minority Member, or by a majority of the Subcommittee, that there is reasonable cause to believe that a violation of law may have occurred, the Chairman and Ranking Minority Member by letter, or the Subcommittee by resolution, are authorized to report such violation to the proper State, local and/or Federal authorities. Such letter or report may recite the basis for the determination of reasonable cause. This rule is not authority for release of documents or testimony.

SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, In mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD:

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

Thank you for this opportunity to talk about this issue.

I am not complaining. I have a wonderful life here in Idaho that I could never afford in California. These are the facts of my life.

I am a 46-year-old, divorced female with no children. I am a high school graduate. I am not a minority. I am an American citizen.

Like a lot of Idahoans, I work full time for a low wage. I make $13.00 an hour without employee benefits. I buy my own health insurance and contribute an inadequate amount to my own IRA. I do own a modest town home in downtown Boise. I have almost paid off my dream vehicle, a medium-sized pickup truck. My monthly expenses are about $1,200 a month. This does not include groceries, gas, clothes or entertainment. I commute seven miles (round trip) to my job at Hewlett-Packard five days a week. I eat my lunch at my desk. I love my job, I love my home, I love my truck, I love Idaho!

Last year it was really tight. I kept my home heat at 60–65 degrees during the winter. This year it is impossible for me to make ends meet. The cost of gas and food has increased way more than my salary. I am using my credit card, that I had just paid off, to put gas into my truck. Dumb, but I got to have gas to make my life work. We all do!

I have a small ''carbon footprint.'' And [now I am told to conserve!]

I looked at taking the bus, Valley Ride. It would take me one-and-a-half hours to take the bus to work and one-and-a-half hours to go home at the end of the day. My time is too valuable. I would rather go to the gym, ride my bike on the greenbelt, play with my dog, mow my lawn, have a beer with my buds.

I am furious! There is no reason on God's green earth why this should be happening to Americans. We are the greatest nation on earth with vast resources that our Government has taken from us with their [moratoriums!]

Manmade global warming is nothing more that a leftist power grab and I am sick of elitists telling the rest of us how to live our lives! I want to take care of myself, not the government! What we have going on [right now] is national economic suicide! I appreciate all you try to do for Idaho and the citizens of the United States. You have been a wonderful Senator. I am very excited about having nuclear power plants in Idaho. And I look forward to our State creating more businesses, jobs and revenue by using our state's renewable resources. Any chance Idaho has some coal or oil we could exploit? Free market is the way to go for all of America's needs!

SUZANNE, *Boise*.

I am sure you have received thousands of responses by now, and I am sure I am not the first to come to you with these concerns and ideas. I just hope that adding our ''story'' to the mix, might add some additional light to the situation.

Who we are: We are a family of six. Our children are 5 years and almost 3-year-old triplets. We own/operate a dairy in Kuna.

Each trip into Boise costs us about $10 (round trip) in gas. I used to do all my shopping at Walmart/Costco/Winco since the price of groceries are cheaper there than at our Kuna Paul's store. However, adding in the cost of gas now makes tasks as simple as grocery shopping that much more expensive. We are trying to last up to 2 weeks in between shopping trips, just because of the cost of gas. We are eating more frozen foods and less fresh foods.

Trips to the zoo or park have been completely eliminated.

My husband and I have been volunteering at St. Luke's NICU for the last eight months, but have been finding it hard to justify spending the $10 in gas each time we go, when we are struggling just to pay for the groceries each month.

At our dairy, the cost to feed our own livestock is astronomically high!! The past several months have all been negative income months due entirely to the cost of grains. As a dairy owner, the milk price is going to have to go higher if dairies are going to survive.

My suggestions: Abolish the ethanol subsidies. It is pushing our food prices higher and higher. The cost of grain to make foods or to feed the livestock (that then becomes our food) is pushing a lot of the grocery bills higher and higher. If we have to, we can start riding bikes, but I do not have much choice when it comes to feeding my family.

We need to become more self-sufficient for our own energy needs. We need to start drilling. We need to start pushing for more electric and hybrid cars. Could we even start a program that would help convert gas engines into hybrids??? I would gladly spend a couple thousand (probably would go on a credit card honestly) right now to convert our family vehicle into a hybrid!

Hopefully you have time to read this e-mail and if you did, thank you so much!

LESLIE.

I am cutting back on fuel and fertilizer as much as I can. But, as a person pushing seventy, being frugal and ''making do'' is no problem and the challenge can be rather enjoyable—a virtue, not a vice. This seems to not be the case with the ''boomers'' and their progeny. They do not want to do without and they look for simplistic answers from politicians to a complex issue.

This is what I have seen in my lifetime: A doubling of world population every 25 years; Rising standards of living in large areas of the non-Western European-North American world and rising demand for energy; Finite easily and cheaply accessible oil and gas reserves; Unmistakable evidence of serious environmental damage, in part due to profligate use of fossil fuels; The swing in my lifetime away from efficient affordable public transportation and towards an emphasis on private motor transportation, truck haulage, and air travel; A reversal of conservation measures and the encouragement of alternative energy development began in the seventies.

There are no quick fixes. The feds and the states can embark on a serious program of conservation. They can see what the Europeans have done along these lines the past thirty years. They can get really serious about public transportation—especially rail—the most efficient way of moving freight and people on land. More efficient engines as well, and smaller vehicles.

Long term, we need a serious energy strategy that involves alternatives, renewables, and changing lifestyles.

Can it be done? It better be done, but it will take some real leadership on the national level.

CLEVE, *Bonners Ferry*.

Drill! Build new refineries! Stop cowering to the environmental special interests! Stop selling this country's sovereign nation down the tubes. Thank you for trying to do something about this crisis.

The opportunity to have an open dialog regarding high energy prices is a refreshing change. It is apparent to me that by opening this door you are comfortable in the understanding that elected officials serve the people interest and not visa-versa.

My family is struggling. The increases we are seeing in the cost of energy are directly affected ''every'' area of our life. We are a simple middle-class family. Prior to this last year, we had seen a steady increase in the cost of living. However the sharp rise over the last year has been so tremendous we have been forced cut way back.

Highlights from the previous 12 months: We have depleted our savings accounts; We have accepted food donations; We have removed a large majority of all non-essential expenses in the home; We are using the economic stimulus check to pay off our tax debt from last year.

Idaho's economy is not on an even par with California, Florida, New York or Washington D.C. Wages are substantially lower here. Yet the cost of living is skyrocketing. This is directly due to the higher energy costs. Currently we do not have an alternate source of power to move our industry. A gallon of milk or a dozen eggs are produced, processed and transported with the use of natural gas, coal and oil. These are the three primary resources used by industrial nations to sustain their viability.

We are losing our viability and limiting our innovation. If you take a look at Maslow's Hierarchy of Needs theory, you will see that human nature will move up or down based on whether the needs at a given level are being met. The cost of living is forcing our society to circle the wagons. People are spending money on food that, in some cases, has doubled. Basic services that were affordable in years past are not. Small businesses are suffering. Large businesses are losing the support of small businesses all of which has stalling economic growth. Stalled economic growth creates a cascading snowball pushing us closer and closer to the razor's edge. In our country, we have always been considered a nation of opportunity. We are falling backwards. Hope, vision, trust and growth are losing ground to Fear and Anger.

As the cost of fuel go up, manufacturers push their costs onto the markets and the markets just push those cost onto the consumer. Initially the manufacturers and markets do not feel a big squeeze because the consumer adjusts to the market. My wife spent about six months adjusting to the market before we gave up and drastically

changed our consumer spending habits. Please inform your fellow Senators that until energy cost go down you will see very little of my money coming in from consumer based taxes currently being levied because I refuse to buy ''anything!'' if I cannot supply shelter and food for my family.

You should warn your fellow Senators that the markets that lobby for their support are going to start screaming very soon, if they are not already, to take action. If the government is unwilling to move based on the requests of the people they server maybe they will move when the markets force them and the money generated from taxes starts to dry up.

There is a groundswell out here of people that will, out of necessity, organize to find ways to reduce cost without the help of government and without the need to rely on markets. Due to the lack of action by the government to allow for the explore from additional resources, both the government and the markets are going to see a major shift away from a consumer-based economy.

Reduction in the cost of energy plus a increase the investment in exploration plus increase the investment in alternate energy sources equals Sustainability, Growth, Innovation, Independence, Cost of living reduction, increased revenue.

Please also remember to remind your fellow Senators that ''We the People'' do not work hard to increase government revenue. We work hard to sustain and/or increase personal revenue.

SEAN, *Boise*.

I think this country is going to go down the tubes because no one will take action and are pandering to the extreme environmentalists. Why do we think that the rest of the world needs to take all the risks of oil drilling and we do not. Yes, eventually our country could probably adjust to the lack of oil we have now. But this happened way too fast and adjustments just cannot happen fast enough. We need to have our own supplies and we need to be taking steps now for our own supplies and to develop alternatives. I back 100% the drilling and even going to Alaska. Most people who have lived there or know about the pipelines say that there is almost no negative effects on wildlife. We cannot go on not taking our own risks for our own oil.

My husband and myself live in a community that is 30 miles from the nearest decent grocery store and jobs. We cannot afford to go out and buy a high gas mileage car right now, so what are we to do? We do not have a mass transit system available to us—not even a bus. I am 65 and never thought that I would see our life end the way it looks like it is going to end. The US has lost its supremacy in this world and we will soon be a second rate country, if not third world.

Thank you for asking common citizens their opinions. I do not know of anyone that agrees with what is happening and the burying of the heads in the sand. I hate what Pres. Bush has done to this country, but I am very afraid of where we will go under the extreme Democrats.

LESLEY.

My husband and I are both past retirement age, and we live for the most part on a fixed income, which we supplement by both of us working part-time. My husband is in very poor health, but he has to work in order for us to get by financially. The energy prices are having a great impact on everyone that we know. They have driven up the cost of everything. It does not matter what you buy—it costs more every time you go to the store. Our children live in the Logan, Utah area, the Boise area, and in Houston, Texas. We are now to the point where we cannot go to watch our grandchildren's ball games, school programs, recitals, Church programs etc. We have older grandchildren, so there are showers, weddings, missionary farewells and reports. We have several family gatherings every year, and now we all feel that we cannot afford to travel. I know that you share our beliefs in the importance of the family and spending time together. It no longer is a matter of choice—we cannot afford to visit them, and they cannot afford to come home. When I went to Rigby this morning, gas was $3.93. When I came home an hour later, it was $4.05—a 12-cent raise, and we all know it is just going to continue to go higher. Utah Power has asked for a rate increase, and the cost of propane has increased along with gas prices. Our income will only cover so much expense no matter how much we try to cut back and cut out.

We support using our own oil—uncapping existing wells, drilling wherever there is oil, drilling in ANWR, and drilling offshore. We support nuclear energy. We do not support the manufacture and use of ethanol. Making ethanol has pushed corn prices out of sight, which has affected livestock prices, further increasing the cost of food. It takes too much energy to produce ethanol for it to be economically feasible. We have been sold the proverbial ''bill of goods'' where ethanol is concerned.

Thank you for everything that you are doing to try to solve the energy crisis. We appreciate your efforts very much.

GARY and JULIE, *Rigby*.

The gas prices have impacted our family significantly. We have three vehicles that we use for transportation. Since the price of gas has increased, we spend almost as much on gas as we do for a house payment. That is excessive! All of our transportation is to and from work and school, and running errand such as doctor appointment and getting groceries.

We have tried to cut down the car usage by car pooling and riding our bike when possible. This seldom works because our schedules seldom correspond with each other and they are not flexible enough to get them to work; we do not have a bus service out by where we live so that is not an option; we do not have a safe bike lane and/or sidewalks to ride our bikes without competing for space with other vehicles that drive 40 to 50 miles an hour even though the speed limit is 35. The meeting places for the Share A Ride Program, are in the opposite direction of where we need to be. We are prisoners of our economy. This is both by gas prices and no other safe alternative.

The money for gas has got to come from somewhere so we do not go to movies, out to eat, or camping. We have not ever been able to take a typical vacation because our occupations do not pay the type of salary that would support that lifestyle, so camping three times in the summer was our form of vacation. We do not fly anywhere or drive anywhere outside of Boise and Meridian. My husband's family lives in Pocatello, and it has been almost one year since we have visited them.

Everything has increased in price whether it is directly or indirectly related to rising gas prices. I now hang my clothes out on a clothesline instead of drying them in the dryer; I raise vegetables in the garden instead of supporting the farmer's market; I can anything and everything I can find that is extra produce; we do not use the air conditioning at all; we heat by burning wood in the fireplace. I am not sure how we are going to afford the gas to pay for us to go and cut our firewood for the coming winter.

All prices are increasing, businesses are failing, unemployment is at an all-time high. It has hit the working class the hardest. The rich get richer and the poor get poorer. For my generation, I feel this is the beginning of our Depression for America. The sad thing is, I do not even see a glimmer of hope for things to change in the next 15 years. By then I will be old enough to retire . . . but retire to what?

Thank you for this opportunity to tell you how our family has been affected by the increase in fuel prices.

CATHY, *Boise*.

I am a [conservative voter] and applaud you for taking on this issue. Please do all you can to lobby your colleagues to vote for some of the following ideas to ease the energy crisis.

1. Open offshore areas for oil drilling
2. Begin oil shale operations
3. Drill in Alaska
4. Increase our own production of natural gas
5. Approve CLEAN coal plants
6. Approve CLEAN nuclear plants
7. Make it easier to get permits for oil refineries and drilling

Also, please work with Congress to limit the ability of conservation groups to file lawsuits against the seven items above. I am very tired of individuals and fringe groups bogging down our great country with their ''legal terrorism.''

Finally, stop using corn for ethanol; investigate hydrogen or electric instead.

ERIC.

First of all, I am 50% whole bodied disabled and was not able to live on our Social Security system so I am working at what the doctors say I not do in order to make my payments on my bills. Now the gas is over $4.00 a gallon and this makes it worse because I am spending most of my money buying gas to get to work. This also drives up all the basic needs such as food on the table also. All extra activities are not happening period. This is making it difficult when my pay is only $1.15 more an hour than what I made almost 20 years ago. Prices on everything including government must slow down so my wages can catch up. By the way, gas 20 years ago was far less than $0.60 a gallon then. Go figure.

DOUG, *Rupert*.

NOMINATION OF REPRESENTATIVE HILDA SOLIS TO BE LABOR SECRETARY

Mr. MCCAIN. Mr. President, HILDA SOLIS has a remarkable story of self-determination as the daughter of Mexican and Nicaraguan immigrants who has been nominated by the President to serve as our nation's 25th Secretary of Labor. Congresswoman SOLIS was the first from her family to graduate from college and then went on to earn a master's degree in public administration from the University of Southern California. In 1992, she began her career in public service when she was elected to the California State Assembly and has represented California's 32nd District in the House of Representatives since 2000.

These are very tough economic times for all Americans. Today, the Federal Reserve Chairman, Ben Bernanke, said that he doesn't expect our labor markets to improve until 2011. We will see the end of this recession. However, as businesses fight to get back on their

feet, we need to be preparing and training workers who have lost their jobs so they can continue to succeed in our world economy. I hope that Congresswoman SOLIS, once confirmed, will make as a top priority the availability of adequate worker training programs for our labor force.

While I know that Congresswoman SOLIS and I have divergent views on many of the issues she will consider as Labor Secretary, I am proud of her nomination as the first Latina to be considered for the position of Secretary of Labor. I do believe her nomination could have been considered sooner if the Congresswoman had not submitted documents to the Committee and the House of Representatives that included errors and omissions, specifically regarding her position as Treasurer of a not-for-profit lobbying firm. However, I am pleased that the nominee worked with the Committee to correct these errors and omissions and hope this spirit of cooperation continues between Congresswoman SOLIS and the Congress when she serves as a member of the new administration.

ADDRESS BY THE PRESIDENT DELIVERED TO A JOINT SESSION OF CONGRESS ON FEBRUARY 24, 2009—PM 8

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was which was ordered to lie on the table.

To The Congress of the United States:

I've come here tonight not only to address the distinguished men and women in this great chamber, but to speak frankly and directly to the men and women who sent us here.

I know that for many Americans watching right now, the state of our economy is a concern that rises above all others. And rightly so. If you haven't been personally affected by this recession, you probably know someone who has—a friend; a neighbor; a member of your family. You don't need to hear another list of statistics to know that our economy is in crisis, because you live it every day. It's the worry you wake up with and the source of sleepless nights. It's the job you thought you'd retire from but now have lost; the business you built your dreams upon that's now hanging by a thread; the college acceptance letter your child had to put back in the envelope. The impact of this recession is real, and it is everywhere.

But while our economy may be weakened and our confidence shaken; though we are living through difficult and uncertain times, tonight I want every American to know this:

We will rebuild, we will recover, and the United States of America will emerge stronger than before.

The weight of this crisis will not determine the destiny of this Nation. The answers to our problems don't lie beyond our reach. They exist in our laboratories and universities; in our fields and our factories; in the imaginations of our entrepreneurs and the pride of the hardest-working people on Earth. Those qualities that have made America the greatest force of progress and prosperity in human history we still possess in ample measure. What is required now is for this country to pull together, confront boldly the challenges we face, and take responsibility for our future once more. Now, if we're honest with ourselves, we'll admit that for too long, we have not always met these responsibilities—as a Government or as a people. I say this not to lay blame or look backwards, but because it is only by understanding how we arrived at this moment that we'll be able to lift ourselves out of this predicament.

The fact is, our economy did not fall into decline overnight. Nor did all of our problems begin when the housing market collapsed or the stock market sank. We have known for decades that our survival depends on finding new sources of energy. Yet we import more oil today than ever before. The cost of health care eats up more and more of our savings each year, yet we keep delaying reform. Our children will compete for jobs in a global economy that too many of our schools do not prepare them for. And though all these challenges went unsolved, we still managed to spend more money and pile up more debt, both as individuals and through our Government, than ever before.

In other words, we have lived through an era where too often, short-term gains were prized over long-term prosperity; where we failed to look beyond the next payment, the next quarter, or the next election. A surplus became an excuse to transfer wealth to the wealthy instead of an opportunity to invest in our future. Regulations were gutted for the sake of a quick profit at the expense of a healthy market. People bought homes they knew they couldn't afford from banks and lenders who pushed those bad loans anyway. And all the while, critical debates and difficult decisions were put off for some other time on some other day.

Well that day of reckoning has arrived, and the time to take charge of our future is here.

Now is the time to act boldly and wisely—to not only revive this economy, but to build a new foundation for lasting prosperity. Now is the time to jumpstart job creation, re-start lending, and invest in areas like energy, health care, and education that will grow our economy, even as we make hard choices to bring our deficit down. That is what my economic agenda is designed to do, and that's what I'd like to talk to you about tonight.

It's an agenda that begins with jobs.

As soon as I took office, I asked this Congress to send me a recovery plan by President's Day that would put people back to work and put money in their pockets. Not because I believe in bigger Government—I don't. Not because I'm not mindful of the massive debt we've inherited—I am. I called for action because the failure to do so would have cost more jobs and caused more hardships. In fact, a failure to act would have worsened our long-term deficit by assuring weak economic growth for years. That's why I pushed for quick action. And tonight, I am grateful that this Congress delivered, and pleased to say that the American Recovery and Reinvestment Act is now law.

Over the next 2 years, this plan will save or create 3.5 million jobs. More than 90 percent of these jobs will be in the private sector—jobs rebuilding our roads and bridges; constructing wind turbines and solar panels; laying broadband and expanding mass transit.

Because of this plan, there are teachers who can now keep their jobs and educate our kids. Health care professionals can continue caring for our sick. There are 57 police officers who are still on the streets of Minneapolis tonight because this plan prevented the layoffs their department was about to make.

Because of this plan, 95 percent of the working households in America will receive a tax cut—a tax cut that you will see in your paychecks beginning on April 1st.

Because of this plan, families who are struggling to pay tuition costs will receive a $2,500 tax credit for all four years of college. And Americans who have lost their jobs in this recession will be able to receive extended unemployment benefits and continued health care coverage to help them weather this storm.

I know there are some in this chamber and watching at home who are skeptical of whether this plan will work. I understand that skepticism. Here in Washington, we've all seen how quickly good intentions can turn into broken promises and wasteful spending. And with a plan of this scale comes enormous responsibility to get it right.

That is why I have asked Vice President BIDEN to lead a tough, unprecedented oversight effort—because nobody messes with JOE. I have told each member of my Cabinet as well as mayors and governors across the country that they will be held accountable by me and the American people for every dollar they spend. I have appointed a proven and aggressive Inspector General to ferret out any and all cases of waste and fraud. And we have created a new Web site called recovery.gov so that every American can find out how and where their money is being spent.

So the recovery plan we passed is the first step in getting our economy back on track. But it is just the first step. Because even if we manage this plan flawlessly, there will be no real recovery unless we clean up the credit crisis that has severely weakened our financial system.

I want to speak plainly and candidly about this issue tonight, because every American should know that it directly affects you and your family's well-being. You should also know that the money you've deposited in banks across the country is safe; your insurance is secure; and you can rely on the continued operation of our financial system. That is not the source of concern.

The concern is that if we do not re-start lending in this country, our recovery will be choked off before it even begins.

You see, the flow of credit is the lifeblood of our economy. The ability to get a loan is how you finance the purchase of everything from a home to a car to a college education; how stores stock their shelves, farms buy equipment, and businesses make payroll.

But credit has stopped flowing the way it should. Too many bad loans from the housing crisis have made their way onto the books of too many banks. With so much debt and so little confidence, these banks are now fearful of lending out any more money to households, to businesses, or to each other. When there is no lending, families can't afford to buy homes or cars. So businesses are forced to make layoffs. Our economy suffers even more, and credit dries up even further.

That is why this Administration is moving swiftly and aggressively to break this destructive cycle, restore confidence, and re-start lending.

We will do so in several ways. First, we are creating a new lending fund that represents the largest effort ever to help provide auto loans, college loans, and small business loans to the consumers and entrepreneurs who keep this economy running.

Second, we have launched a housing plan that will help responsible families facing the threat of foreclosure lower their monthly payments and refinance their mortgages. It's a plan that won't help speculators or that neighbor down the street who bought a house he could never hope to afford, but it will help millions of Americans who are struggling with declining home values—Americans who will now be able to take advantage of the lower interest rates that this plan has already helped bring about. In fact, the average family who refinances today can save nearly $2000 per year on their mortgage.

Third, we will act with the full force of the Federal Government to ensure that the major banks that Americans depend on have enough confidence and enough money to lend even in more difficult times. And when we learn that a major bank has serious problems, we will hold accountable those responsible, force the necessary adjustments, provide the support to clean up their balance sheets, and assure the continuity of a strong, viable institution that can serve our people and our economy.

I understand that on any given day, Wall Street may be more comforted by an approach that gives banks bailouts with no strings attached, and that holds nobody accountable for their reckless decisions. But such an approach won't solve the problem. And our goal is to quicken the day when we re-start lending to the American people and American business and end this crisis once and for all.

I intend to hold these banks fully accountable for the assistance they receive, and this time, they will have to clearly demonstrate how taxpayer dollars result in more lending for the American taxpayer. This time, CEOs won't be able to use taxpayer money to pad their paychecks or buy fancy drapes or disappear on a private jet. Those days are over.

Still, this plan will require significant resources from the Federal Government—and yes, probably more than we've already set aside. But while the cost of action will be great. I can assure you that the cost of inaction will be far greater, for it could result in an economy that sputters along for not months or years, but perhaps a decade. That would be worse for our deficit, worse for business, worse for you, and worse for the next generation. And I refuse to let that happen.

I understand that when the last Administration asked this Congress to provide assistance for struggling banks, Democrats and Republicans alike were infuriated by the mismanagement and results that followed. So were the American taxpayers. So was I.

So I know how unpopular it is to be seen as helping banks right now, especially when everyone is suffering in part from their bad decisions. I promise you—I get it.

But I also know that in a time of crisis, we cannot afford to govern out of anger, or yield to the politics of the moment. My job—our job—is to solve the problem. Our job is to govern with a sense of responsibility. I will not spend a single penny for the purpose of rewarding a single Wall Street executive, but I will do whatever it takes to help the small business that can't pay its workers or the family that has saved and still can't get a mortgage.

That's what this is about. It's not about helping banks—it's about helping people. Because when credit is available again, that young family can finally buy a new home. And then some company will hire workers to build it. And then those workers will have money to spend, and if they can get a loan too, maybe they'll finally buy that car, or open their own business. Investors will return to the market, and American families will see their retirement secured once more. Slowly, but surely, confidence will return, and our economy will recover.

So I ask this Congress to join me in doing whatever proves necessary. Because we cannot consign our Nation to an open-ended recession. And to ensure that a crisis of this magnitude never happens again, I ask the Congress to move quickly on legislation that will finally reform our outdated regulatory system. It is time to put in place tough, new common-sense rules of the road so that our financial market rewards drive and innovation, and punishes short-cuts and abuse.

The recovery plan and the financial stability plan are the immediate steps we're taking to revive our economy in the short-term. But the only way to fully restore America's economic strength is to make the long-term investments that will lead to new jobs, new industries, and a renewed ability to compete with the rest of the world. The only way this century will be another American century is if we confront at last the price of our dependence on oil and the high cost of health care; the schools that aren't preparing our children and the mountain of debt they stand to inherit. That is our responsibility.

In the next few days, I will submit a budget to the Congress. So often, we have come to view these documents as simply numbers on a page or laundry lists of programs. I see this document differently. I see it as a vision for America—as a blueprint for our future.

My budget does not attempt to solve every problem or address every issue. It reflects the stark reality of what we've inherited—a trillion dollar deficit, a financial crisis, and a costly recession.

Given these realities, everyone in this chamber—Democrats and Republicans—will have to sacrifice some worthy priorities for which there are no dollars. And that includes me.

But that does not mean we can afford to ignore our long-term challenges. I reject the view that says our problems will simply take care of themselves; that says Government has no role in laying the foundation for our common prosperity.

For history tells a different story. History reminds us that at every moment of economic upheaval and transformation, this Nation has responded with bold action and big ideas. In the midst of civil war, we laid railroad tracks from one coast to another that spurred commerce and industry. From the turmoil of the Industrial Revolution came a system of public high schools that prepared our citizens for a new age. In the wake of war and depression, the GI Bill sent a generation to college and created the largest middle class in history. And a twilight struggle for freedom led to a nation of highways, an American on the moon, and an explosion of technology that still shapes our world.

In each case, Government didn't supplant private enterprise; it catalyzed private enterprise. It created the conditions for thousands of entrepreneurs and new businesses to adapt and to thrive.

We are a Nation that has seen promise amid peril, and claimed opportunity from ordeal. Now we must be that nation again. That is why, even as it cuts

back on the programs we don't need, the budget I submit will invest in the three areas that are absolutely critical to our economic future: energy, health care, and education.

It begins with energy.

We know the country that harnesses the power of clean, renewable energy will lead the 21st century. And yet, it is China that has launched the largest effort in history to make their economy energy efficient. We invented solar technology, but we've fallen behind countries like Germany and Japan in producing it. New plug-in hybrids roll off our assembly lines, but they will run on batteries made in Korea.

Well I do not accept a future where the jobs and industries of tomorrow take root beyond our borders—and I know you don't either. It is time for America to lead again.

Thanks to our recovery plan, we will double this Nation's supply of renewable energy in the next 3 years. We have also made the largest investment in basic research funding in American history—an investment that will spur not only new discoveries in energy, but breakthroughs in medicine, science, and technology.

We will soon lay down thousands of miles of power lines that can carry new energy to cities and towns across this country. And we will put Americans to work making our homes and buildings more efficient so that we can save billions of dollars on our energy bills.

But to truly transform our economy, protect our security, and save our planet from the ravages of climate change, we need to ultimately make clean, renewable energy the profitable kind of energy. So I ask this Congress to send me legislation that places a market-based cap on carbon pollution and drives the production of more renewable energy in America. And to support that innovation, we will invest $15 billion a year to develop technologies like wind power and solar power; advanced biofuels, clean coal, and more fuel-efficient cars and trucks built right here in America.

As for our auto industry, everyone recognizes that years of bad decision-making and a global recession have pushed our automakers to the brink. We should not, and will not, protect them from their own bad practices. But we are committed to the goal of a retooled, re-imagined auto industry that can compete and win. Millions of jobs depend on it. Scores of communities depend on it. And I believe the Nation that invented the automobile cannot walk away from it.

None of this will come without cost, nor will it be easy. But this is America. We don't do what's easy. We do what is necessary to move this country forward.

For that same reason, we must also address the crushing cost of health care.

This is a cost that now causes a bankruptcy in America every 30 seconds. By the end of the year, it could cause 1.5 million Americans to lose their homes. In the last 8 years, premiums have grown four times faster than wages. And in each of these years, one million more Americans have lost their health insurance. It is one of the major reasons why small businesses close their doors and corporations ship jobs overseas. And it's one of the largest and fastest-growing parts of our budget.

Given these facts, we can no longer afford to put health care reform on hold.

Already, we have done more to advance the cause of health care reform in the last thirty days than we have in the last decade. When it was days old, this Congress passed a law to provide and protect health insurance for 11 million American children whose parents work full-time. Our recovery plan will invest in electronic health records and new technology that will reduce errors, bring down costs, ensure privacy, and save lives. It will launch a new effort to conquer a disease that has touched the life of nearly every American by seeking a cure for cancer in our time. And it makes the largest investment ever in preventive care, because that is one of the best ways to keep our people healthy and our costs under control.

This budget builds on these reforms. It includes an historic commitment to comprehensive health care reform—a down payment on the principle that we must have quality, affordable health care for every American. It's a commitment that's paid for in part by efficiencies in our system that are long overdue. And it's a step we must take if we hope to bring down our deficit in the years to come.

Now, there will be many different opinions and ideas about how to achieve reform, and that is why I'm bringing together businesses and workers, doctors and health care providers, Democrats and Republicans to begin work on this issue next week.

I suffer no illusions that this will be an easy process. It will be hard. But I also know that nearly a century after Teddy Roosevelt first called for reform, the cost of our health care has weighed down our economy and the conscience of our Nation long enough. So let there be no doubt: health care reform cannot wait, it must not wait, and it will not wait another year.

The third challenge we must address is the urgent need to expand the promise of education in America.

In a global economy where the most valuable skill you can sell is your knowledge, a good education is no longer just a pathway to opportunity—it is a prerequisite.

Right now, three-quarters of the fastest-growing occupations require more than a high school diploma. And yet, just over half of our citizens have that level of education. We have one of the highest high school dropout rates of any industrialized nation. And half of the students who begin college never finish.

This is a prescription for economic decline, because we know the countries that out-teach us today will out-compete us tomorrow. That is why it will be the goal of this Administration to ensure that every child has access to a complete and competitive education—from the day they are born to the day they begin a career.

Already, we have made an historic investment in education through the economic recovery plan. We have dramatically expanded early childhood education and will continue to improve its quality, because we know that the most formative learning comes in those first years of life. We have made college affordable for nearly seven million more students. And we have provided the resources necessary to prevent painful cuts and teacher layoffs that would set back our children's progress.

But we know that our schools don't just need more resources. They need more reform. That is why this budget creates new incentives for teacher performance; pathways for advancement, and rewards for success. We'll invest in innovative programs that are already helping schools meet high standards and close achievement gaps. And we will expand our commitment to charter schools.

It is our responsibility as lawmakers and educators to make this system work. But it is the responsibility of every citizen to participate in it. And so tonight, I ask every American to commit to at least 1 year or more of higher education or career training. This can be community college or a four-year school; vocational training or an apprenticeship. But whatever the training may be, every American will need to get more than a high school diploma. And dropping out of high school is no longer an option. It's not just quitting on yourself, it's quitting on your country—and this country needs and values the talents of every American. That is why we will provide the support necessary for you to complete college and meet a new goal: by 2020, America will once again have the highest proportion of college graduates in the world.

I know that the price of tuition is higher than ever, which is why if you are willing to volunteer in your neighborhood or give back to your community or serve your country, we will make sure that you can afford a higher education. And to encourage a renewed spirit of national service for this and future generations, I ask this Congress to send me the bipartisan legislation that bears the name of Senator ORRIN HATCH as well as an American who has never stopped asking what he can do for his country—Senator EDWARD KENNEDY.

These education policies will open the doors of opportunity for our children. But it is up to us to ensure they walk through them. In the end, there is no program or policy that can substitute for a mother or father who will

attend those parent/teacher conferences, or help with homework after dinner, or turn off the TV, put away the video games, and read to their child. I speak to you not just as a President, but as a father when I say that responsibility for our children's education must begin at home.

There is, of course, another responsibility we have to our children. And that is the responsibility to ensure that we do not pass on to them a debt they cannot pay. With the deficit we inherited, the cost of the crisis we face, and the long-term challenges we must meet, it has never been more important to ensure that as our economy recovers, we do what it takes to bring this deficit down.

I'm proud that we passed the recovery plan free of earmarks, and I want to pass a budget next year that ensures that each dollar we spend reflects only our most important national priorities.

Yesterday, I held a fiscal summit where I pledged to cut the deficit in half by the end of my first term in office. My Administration has also begun to go line by line through the Federal budget in order to eliminate wasteful and ineffective programs. As you can imagine, this is a process that will take some time. But we're starting with the biggest lines. We have already identified two trillion dollars in savings over the next decade.

In this budget, we will end education programs that don't work and end direct payments to large agribusinesses that don't need them. We'll eliminate the no-bid contracts that have wasted billions in Iraq, and reform our defense budget so that we're not paying for Cold War-era weapons systems we don't use. We will root out the waste, fraud, and abuse in our Medicare program that doesn't make our seniors any healthier, and we will restore a sense of fairness and balance to our tax code by finally ending the tax breaks for corporations that ship our jobs overseas.

In order to save our children from a future of debt, we will also end the tax breaks for the wealthiest 2 percent of Americans. But let me be perfectly clear, because I know you'll hear the same old claims that rolling back these tax breaks means a massive tax increase on the American people: if your family earns less than $250,000 a year, you will not see your taxes increased a single dime. I repeat: not one single dime. In fact, the recovery plan provides a tax cut—that's right, a tax cut—for 95 percent of working families. And these checks are on the way.

To preserve our long-term fiscal health, we must also address the growing costs in Medicare and Social Security. Comprehensive health care reform is the best way to strengthen Medicare for years to come. And we must also begin a conversation on how to do the same for Social Security, while creating tax-free universal savings accounts for all Americans.

Finally, because we're also suffering from a deficit of trust, I am committed to restoring a sense of honesty and accountability to our budget. That is why this budget looks ahead 10 years and accounts for spending that was left out under the old rules—and for the first time, that includes the full cost of fighting in Iraq and Afghanistan. For 7 years, we have been a nation at war. No longer will we hide its price.

We are now carefully reviewing our policies in both wars, and I will soon announce a way forward in Iraq that leaves Iraq to its people and responsibly ends this war.

And with our friends and allies, we will forge a new and comprehensive strategy for Afghanistan and Pakistan to defeat al Qaeda and combat extremism. Because I will not allow terrorists to plot against the American people from safe havens half a world away.

As we meet here tonight, our men and women in uniform stand watch abroad and more are readying to deploy. To each and every one of them, and to the families who bear the quiet burden of their absence, Americans are united in sending one message: we honor your service, we are inspired by your sacrifice, and you have our unyielding support. To relieve the strain on our forces, my budget increases the number of our soldiers and Marines. And to keep our sacred trust with those who serve, we will raise their pay, and give our veterans the expanded health care and benefits that they have earned.

To overcome extremism, we must also be vigilant in upholding the values our troops defend—because there is no force in the world more powerful than the example of America. That is why I have ordered the closing of the detention center at Guantanamo Bay, and will seek swift and certain justice for captured terrorists—because living our values doesn't make us weaker, it makes us safer and it makes us stronger. And that is why I can stand here tonight and say without exception or equivocation that the United States of America does not torture.

In words and deeds, we are showing the world that a new era of engagement has begun. For we know that America cannot meet the threats of this century alone, but the world cannot meet them without America. We cannot shun the negotiating table, nor ignore the foes or forces that could do us harm. We are instead called to move forward with the sense of confidence and candor that serious times demand.

To seek progress toward a secure and lasting peace between Israel and her neighbors, we have appointed an envoy to sustain our effort. To meet the challenges of the 21st century—from terrorism to nuclear proliferation; from pandemic disease to cyber threats to crushing poverty—we will strengthen old alliances, forge new ones, and use all elements of our national power.

And to respond to an economic crisis that is global in scope, we are working with the nations of the G–20 to restore confidence in our financial system, avoid the possibility of escalating protectionism, and spur demand for American goods in markets across the globe. For the world depends on us to have a strong economy, just as our economy depends on the strength of the world's.

As we stand at this crossroads of history, the eyes of all people in all nations are once again upon us—watching to see what we do with this moment; waiting for us to lead.

Those of us gathered here tonight have been called to govern in extraordinary times. It is a tremendous burden, but also a great privilege—one that has been entrusted to few generations of Americans. For in our hands lies the ability to shape our world for good or for ill.

I know that it is easy to lose sight of this truth—to become cynical and doubtful; consumed with the petty and the trivial. co But in my life, I have also learned that hope is found in unlikely places; that inspiration often comes not from those with the most power or celebrity, but from the dreams and aspirations of Americans who are anything but ordinary.

I think about Leonard Abess, the bank president from Miami who reportedly cashed out of his company, took a $60 million bonus, and gave it out to all 399 people who worked for him, plus another 72 who used to work for him. He didn't tell anyone, but when the local newspaper found out, he simply said, ''I knew some of these people since I was 7 years old. I didn't feel right getting the money myself.''

I think about Greensburg, Kansas, a town that was completely destroyed by a tornado, but is being rebuilt by its residents as a global example of how clean energy can power an entire community—how it can bring jobs and businesses to a place where piles of bricks and rubble once lay. ''The tragedy was terrible,'' said one of the men who helped them rebuild. ''But the folks here know that it also provided an incredible opportunity.''

And I think about Ty'Sheoma Bethea, the young girl from that school I visited in Dillon, South Carolina—a place where the ceilings leak, the paint peels off the walls, and they have to stop teaching six times a day because the train barrels by their classroom. She has been told that her school is hopeless, but the other day after class she went to the public library and typed up a letter to the people sitting in this room. She even asked her principal for the money to buy a stamp. The letter asks us for help, and says, ''We are just students trying to become lawyers, doctors, congressmen like yourself and one day president, so we can make a change to not just the state of South Carolina but also the world. We are not quitters.''

We are not quitters.

These words and these stories tell us something about the spirit of the people who sent us here. They tell us that even in the most trying times, amid the most difficult circumstances, there

is a generosity, a resilience, a decency, and a determination that perseveres; a willingness to take responsibility for our future and for posterity.

Their resolve must be our inspiration. Their concerns must be our cause. And we must show them and all our people that we are equal to the task before us.

I know that we haven't agreed on every issue thus far, and there are surely times in the future when we will part ways. But I also know that every American who is sitting here tonight loves this country and wants it to succeed. That must be the starting point for every debate we have in the coming months, and where we return after those debates are done. That is the foundation on which the American people expect us to build common ground.

And if we do—if we come together and lift this Nation from the depths of this crisis; if we put our people back to work and restart the engine of our prosperity; if we confront without fear the challenges of our time and summon that enduring spirit of an America that does not quit, then someday years from now our children can tell their children that this was the time when we performed, in the words that are carved into this very chamber, ''something worthy to be remembered.'' Thank you, God Bless you, and may God Bless the United States of America.

BARACK OBAMA.

THE WHITE HOUSE, *February 24, 2009*.

MESSAGE FROM THE HOUSE

At 2:31 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 44. An act to implement the recommendations of the Guam War Claims Review Commission.

H.R. 601. An act to provide for the conveyance of parcels of land to Mantua, Box Elder County, Utah.

H.R. 603. An act to require the conveyance of certain public land within the boundaries of Camp Williams, Utah, to support the training and readiness of the Utah National Guard.

H.R. 714. An act to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes.

H.R. 911. An act to require certain standards and enforcement provisions to prevent child abuse and neglect in residential programs, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 44. An act to implement the recommendations of the Guam War Claims Review Commission; to the Committee on Energy and Natural Resources.

H.R. 601. An act to provide for the conveyance of parcels of land to Mantua, Box Elder County, Utah; to the Committee on Energy and Natural Resources.

H.R. 603. An act to require the conveyance of certain public land within the boundaries of Camp Williams, Utah, to support the training and readiness of the Utah National Guard; to the Committee on Energy and Natural Resources.

H.R. 714. An act to authorize the Secretary of the Interior to lease certain lands in Virgin Islands National Park, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 911. An act to require certain standards and enforcement provisions to prevent child abuse and neglect in residential programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees'' (Rept. No. 111–4).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. THUNE (for himself and Ms. KLOBUCHAR):

S. 457. A bill to establish pilot projects under the Medicare program to provide incentives for home health agencies to utilize home monitoring and communications technologies; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. LEAHY, Mr. SPECTER, and Mr. WHITEHOUSE):

S. 458. A bill to amend the False Claims Act; to the Committee on the Judiciary.

By Mrs. MCCASKILL (for herself and Mr. CORKER):

S. 459. A bill to improve and enhance substance use disorder programs for members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. GRASSLEY (for himself and Mr. FEINGOLD):

S. 460. A bill to amend the Agriculture Marketing Act of 1946 to foster efficient markets and increase competition and transparency among packers that purchase livestock from producers; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. LINCOLN (for herself and Mr. CRAPO):

S. 461. A bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit; to the Committee on Finance.

By Mrs. BOXER (for herself and Mr. VITTER):

S. 462. A bill to amend the Lacey Act Amendments of 1981 to prohibit the importation, exportation, transportation, and sale, receipt, acquisition, or purchase in interstate or foreign commerce, of any live animal of any prohibited wildlife species, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KERRY:

S. 463. A bill to impose limitations on certain expenditures by participants in the Troubled Asset Relief Program; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD (for himself, Mr. COCHRAN, Mr. KENNEDY, Ms. MIKULSKI, Mr. CASEY, Mrs. LINCOLN, Mr. CARDIN, Mr. ROCKEFELLER, and Mr. NELSON of Florida):

S. 464. A bill to amend the National and Community Service Act of 1990 to improve the educational awards provided for national service, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Mr. COCHRAN, Mr. KENNEDY, Mr. CASEY, and Mr. NELSON of Florida):

S. 465. A bill to amend the National and Community Service Act of 1990 to establish a Semester of Service grant program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Mr. COCHRAN, Mr. KENNEDY, Mr. CASEY, Mr. KERRY, Mr. ROCKEFELLER, and Mr. NELSON of Florida):

S. 466. A bill to amend the National and Community Service Act of 1990 to establish a Summer of Service State grant program, a Summer of Service national direct grant program, and related national activities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Mr. COCHRAN, Mr. KENNEDY, Mr. CASEY, Mr. KOHL, and Mr. NELSON of Florida):

S. 467. A bill to amend the National and Community Service Act of 1990 to establish Encore Service Programs, Encore Fellowship Programs, and Silver Scholarship Programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. LINCOLN (for herself, Mr. SCHUMER, Mr. CHAMBLISS, and Mr. BENNETT):

S. Res. 53. A resolution authorizing a plaque commemorating the role of enslaved African Americans in the construction of the Capitol; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. DURBIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 61, a bill to amend title 11 of the United States Code with respect to modification of certain mortgages on principal residences, and for other purposes.

S. 144

At the request of Mr. KERRY, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 160

At the request of Mr. LIEBERMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 160, a bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

S. 167

At the request of Mr. KOHL, the name of the Senator from New York (Mrs.

GILLIBRAND) was added as a cosponsor of S. 167, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to enhance the COPS ON THE BEAT grant program, and for other purposes.

S. 254

At the request of Mrs. LINCOLN, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 254, a bill to amend title XVIII of the Social Security Act to provide for the coverage of home infusion therapy under the Medicare Program.

S. 316

At the request of Mrs. LINCOLN, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 316, a bill to amend the Internal Revenue Code of 1986 to make permanent the reduction in the rate of tax on qualified timber gain of corporations, and for other purposes.

S. 343

At the request of Mrs. LINCOLN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 343, a bill to amend title XVIII of the Social Security Act to provide for Medicare coverage services of qualified respiratory therapists performed under the general supervision of a physician.

S. 354

At the request of Mr. WEBB, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 354, a bill to provide that 4 of the 12 weeks of parental leave made available to a Federal employee shall be paid leave, and for other purposes.

S. 371

At the request of Mr. THUNE, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 371, a bill to amend chapter 44 of title 18, United States Code, to allow citizens who have concealed carry permits from the State in which they reside to carry concealed firearms in another State that grants concealed carry permits, if the individual complies with the laws of the State.

S. 381

At the request of Mr. AKAKA, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 381, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians, to provide a process for the reorganization of a Native Hawaiian and the recognition by the United States of the Native Hawaiian government, and for other purposes.

S. 390

At the request of Mr. CRAPO, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 390, a bill to expand the authority of the Secretary of the Air Force to convey certain relocatable military housing units to Indian tribes located in Idaho and Nevada.

S. 395

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 395, a bill to direct the Librarian of Congress and the Secretary of the Smithsonian Institution to carry out a joint project at the Library of Congress and the National Museum of African American History and Culture to collect video and audio recording of personal histories and testimonials of individuals who participated in the Civil Rights movement, and for other purposes.

S. 407

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 407, a bill to increase, effective as of December 1, 2009, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes.

S. 456

At the request of Mr. DODD, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 456, a bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop guidelines to be used on a voluntary basis to develop plans to manage the risk of food allergy and anaphylaxis in schools and early childhood education programs, to establish school-based food allergy management grants, and for other purposes.

S. RES. 9

At the request of Mr. LUGAR, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. Res. 9, a resolution commemorating 90 years of U.S.-Polish diplomatic relations, during which Poland has proven to be an exceptionally strong partner to the United States in advancing freedom around the world.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. LEAHY, Mr. SPECTER, and Mr. WHITEHOUSE):

S. 458. A bill to amend the False Claims Act; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I am here as part of what I am calling ''Accountability in Government Week.'' I plan to introduce various bills this week that will strengthen oversight of Government programs, integrity of taxpayer-funded initiatives, and bring sunshine to the executive, legislative, and judicial branches of our Government. These bills are important and will help all Americans better understand their Government in addition to making sure taxpayers' dollars are not lost to fraud, waste, and abuse.

The first bill I am introducing this week, and am introducing today, is the False Claims Clarification Act of 2009. I am glad to be joined by my original cosponsor, Mr. DURBIN, the majority whip, the Senator from Illinois, who has worked closely with me in crafting this legislation that will update the 1986 amendments to the False Claims Act I authored.

This legislation is similar to a version that was introduced in the last Congress that cleared the Judiciary Committee by unanimous voice vote. We have made some updates to the bill that was the result of sitting down with various interested parties and hearing their concerns. We made a commitment last Congress to move that bill through regular order to ensure that all interested stakeholders had a say. I believe this version of the bill not only clarifies the original intent of the 1986 amendments but also makes a number of modifications that strengthen the False Claims Act and will help the Government recover taxpayers' dollars lost to fraud and abuse for years to come.

Senator DURBIN and I are also joined by other original cosponsors, including Senator LEAHY, whom you recognize is the chairman of the Judiciary Committee, and Senator SPECTER, its ranking member, and Senator WHITEHOUSE, a member of the committee. It is a bipartisan bill that is about protecting taxpayers' dollars and strengthening the Government's hand in combating fraud.

A little history: Back in 1986, the Government was in a situation that had some parallel to today's economic situation. Government military expenditures were a significant portion of the budget, and there was ample evidence of fraud and abuse in Government contracts. Today, we are facing an economic situation where the Government is now on the hook for trillions of dollars in new Government spending in an attempt to jump-start our ailing economy. That is compounded by the fact that the Treasury Department has taken unprecedented steps to bail out financial institutions with hundreds of billions of taxpayers' dollars.

I am concerned this new Government spending has occurred too quickly and could be ripe with opportunities for fraud and abuse. I would say there are 99 other Senators who can say the same thing. But that is the reason this legislation is timely and urgently needed.

The False Claims Act, which is also known as Lincoln's Law, was originally passed by Congress in 1865 to combat war profiteering by Government contractors during the Civil War. The False Claims Act allowed individual citizen whistleblowers to go to court to collect Government money that was lost to unscrupulous contractors that were selling false or fraudulent goods to Union troops. This legal mechanism, known as qui tam—Q-U-I T-A-M, for you Latin lovers—is the key component to the False Claims Act, allowing individual citizens to act as private

''attorneys general'' to help unearth fraud and recover lost money.

However, following World War II, the False Claims Act was weakened by an act of Congress which lowered the penalties, limiting the money the Government could recover from this fraud. This remained the case from the end of World War II until 1986 with the False Claims Act. That is when I authored amendments to that act which restored the teeth and breathed new life into a law that was designed to do nothing but to protect all American taxpayers.

Now, since 1986 the Federal Government has recovered $22 billion from those who defraud the Government. By working with qui tam whistleblowers, the Justice Department has turned Lincoln's law into the single most effective tool in the Federal Government's tool box to help protect taxpayers' dollars. However, it has been a hard fought battle to get the False Claims Act to where it is today as deep-pocket Government contractors have spent hundreds of millions of dollars to litigate the False Claims Act. As a result, various court interpretations have limited the applicability and the reach of the False Claims Act, cutting off many worthy cases from ever going forward. Some of these cases have been around for quite a while, others more recent. Yet the one thing these cases have in common is they threaten to undermine both the spirit and the intent of the 1986 amendments to Lincoln's law called the False Claims Act.

The first case that created problems for the False Claims Act was the Totten case where the DC Circuit Court of Appeals held that false claims must be presented directly to the Government—in this case, employees at Amtrak, which is a Government grantee—and were not actually presented to the Federal Government. As a result, the Government was precluded from recovering money lost to fraud and abuse perpetrated against Amtrak.

More recently, the Supreme Court held in Allison Engine Co. v. U.S. that for liability to attach a defendant must not only make a false statement but must intend to get the claim paid and approved directly by the Government based upon that false statement. While this sounds straightforward, it creates a huge loophole in the False Claims Act because subcontractors who receive Federal money never actually submit a claim directly to the Government because they do it through the contractors. Instead, they pass the claim to the prime contractor who then gives it to the Government. So under the Allison Engine decision, it could be virtually impossible to prove a False Claims Act case where the subcontractor knowingly ripped off the taxpayers. In fact, a judge in my home State of Iowa dismissed a case based solely upon the Allison Engine decision, even without a motion from the defendant. This has created a significant problem for recovering taxpayers' dollars that trickle down to subcontractors, particularly in Medicare and Medicaid Programs where subcontractors are frequently utilized.

Further, this could become a bigger problem if the second tranche of TARP money—some people might refer to that as the bailout money—is used to purchase distressed assets through a third party broker as originally envisioned.

Another case that is detrimental to the False Claims Act is Rockwell International Corporation v. U.S. In that case, the Supreme Court interpreted an area of the False Claims Act known as the ''public disclosure bar,'' which prohibits a false claims case from moving forward if the case was based upon publicly disclosed information such as a Government report, unless the whistleblower filing the case was the ''original source'' of the information. Here, the Supreme Court held that a qui tam whistleblower was barred from receiving a share of any money recovered unless they were the original source of all claims ultimately settled.

This may not sound like a troublesome decision. However, the impact is that oftentimes a case is brought by a whistleblower on a certain set of facts and then expanded by the Department of Justice that ultimately settles on other grounds. As a result, this case creates a disincentive for a whistleblower to bring forth information about fraud as they may not get to share in any part of that recovery. That is the incentive under false claims: a whistleblower, not a lawyer, not in the Justice Department, to get a percentage of what is recovered as an incentive to get this information out there and get it prosecuted, particularly if the Justice Department is overloaded or maybe doesn't want to take the case.

Now, one last case I will mention is the Custer Battles case decided in 2006. In this case, a jury found that a defense contractor in Iraq had defrauded the Government of $10 million. However, the judge overturned the jury's verdict, finding that the money lost was not U.S. taxpayer money but was instead Iraqi money under the control of the U.S. Government. As a result of this case, the U.S. Government may not recover for any fraud committed against the U.S. Government if the funds are not American funds, even if the U.S. Government has been entrusted with the management of those funds, just as if money is somehow not fungible. These decisions, which are by no means an exhaustive list, are contrary to the spirit and the intent of the 1986 amendments. And who should know that? I should know it because I authored this legislation.

This bill we are introducing today—a bipartisan bill by Senator DURBIN and myself—seeks to clarify the False Claims Act so these judicial interpretations that have limited the False Claims Act are overruled. It is narrowly tailored—I wish to emphasize ''narrowly tailored''—to ensure that the intent of Congress in the 1986 amendments is upheld, if nothing else.

The False Claims Clarification Act would correct these negative interpretations in addition to making technical and clarifying amendments. First, the bill would address the Totten decision by removing the requirement that false claims be directly presented to the Government officials instead of tying the liability directly to Government money and property. It would also correct the Allison Engine decision, ensuring that subcontractors who rip off the taxpayers will be held accountable.

The bill would also address the Rockwell decision by requiring the Attorney General to file a timely motion to dismiss claims that violate the public disclosure bar. By allowing the Attorney General to present to the court information about public disclosures up front in a case, the bill would eliminate procedural uncertainties that exist now by allowing public disclosures to be addressed at any time during the proceeding.

The bill also clarifies that nontaxpayer funds under the control of the U.S. Government subject to fraud are actionable under the False Claims Act. Thus, monies directly under the control of the U.S. Government subject to fraud that are currently outside the scope of the False Claims Act would now be covered. This would correct the problems that have arisen following the decision of Custer Battles.

Additionally, the bill clarifies a split between the Federal Circuit Courts of Appeal that currently exists regarding whether a Government employee may file a False Claims Act case. It takes a dissenting opinion from the Tenth Circuit and codifies that by allowing Government employees to bring a False Claims Act case based upon information learned in the course of their employment only when the employee: One, discloses the fraud to a supervisor; two, discloses the fraud to the Inspector General of the agency; three, discloses the fraud to the Attorney General and then waits 18 months without Government action.

Further, it restricts a Government employee from bringing a False Claims Act case if they derive information for their case in an indictment or information, any ongoing criminal, civil, or administrative investigation, or if they are an auditor, investigator, or attorney who has a duty—a duty—to investigate fraud. This ensures that a Government employee can act as a relator, but only if he or she is truly bringing a claim that the Government has refused to investigate.

The bill makes some additional technical corrections that I am not going to go into. Finally, the bill includes a new section that will require the Attorney General to report to Congress on an annual basis regarding the use of the False Claims Act and any settlements made upon these sorts of lawsuits. This has two purposes. It allows

Congress, first, to see if the Justice Department is utilizing the act consistent with the spirit and intent; and, secondly, ensures that the seal provisions allowing the case to be privately sealed with the court are not being abused to the detriment of qui tam relators.

So the False Claims Act clarification bill is narrowly tailored to ensure that the legislative intent of 1986 is truly understood. It will bring a level of reason and sanity instead of the current hodgepodge of laws across various circuit courts of appeals. This bill is designed to protect the American taxpayer from fraud and is timely, given the recent actions to shore up the balance sheets of banks and private businesses across the country.

I am glad we have a bipartisan coalition ready to pick up where we left off in the last Congress. I believe we made great strides last year in working through the concerns of various stakeholders, and I encourage my colleagues to join me and Senator DURBIN in strengthening Lincoln's law so that it can stand up and work for the American taxpayers for years to come as it has for the last 22 years, bringing about $22 billion back to the Federal Treasury.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 458

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''False Claims Act Clarification Act of 2009''.

SEC. 2. FALSE CLAIMS GENERALLY.

Section 3729 of title 31, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

''(a) LIABILITY FOR CERTAIN ACTS.—

''(1) IN GENERAL.—Subject to paragraph (2), any person who—

''(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

''(B) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved;

''(C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G) or otherwise to get a false or fraudulent claim paid or approved;

''(D) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;

''(E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

''(F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge the property; or

''(G) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government, or knowingly conceals, avoids, or decreases an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 104–410), plus 3 times the amount of damages which the Government sustains because of the act of that person.

''(2) REDUCED DAMAGES.—If the court finds that—

''(A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;

''(B) such person fully cooperated with any Government investigation of such violation; and

''(C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation,

the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of that person.

''(3) COSTS OF CIVIL ACTIONS.—A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.'';

(2) by striking subsections (b) and (c) and inserting the following:

''(b) DEFINITIONS.—For purposes of this section—

''(1) the terms 'knowing' and 'knowingly' mean that a person, with respect to information—

''(A) has actual knowledge of the information;

''(B) acts in deliberate ignorance of the truth or falsity of the information; or

''(C) acts in reckless disregard of the truth or falsity of the information,

and no proof of specific intent to defraud is required;

''(2) the term 'claim'—

''(A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that—

''(i) is presented to an officer, employee, or agent of the United States; or

''(ii) is made to a contractor, grantee, or other recipient if the United States Government—

''(I) provides or has provided any portion of the money or property requested or demanded; or

''(II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and

''(B) does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual's use of the money or property; and

''(3) the term 'obligation' means a fixed duty, or a contingent duty arising from an express or implied contractual, quasi-contractual, grantor-grantee, licensor-licensee, fee-based, or similar relationship, and the retention of any overpayment.'';

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(4) in subsection (c), as redesignated, by striking ''subparagraphs (A) through (C) of subsection (a)'' and inserting ''subsection (a)(2)''.

SEC. 3. GOVERNMENT RIGHT TO DISMISS CERTAIN ACTIONS.

Section 3730(b) of title 31, United States Code, is amended—

(1) in paragraph (2), by striking ''Rule 4(d)(4)'' and inserting ''rule 4''; and

(2) by adding at the end the following:

''(6)(A) Not later than 120 days after the date of service under paragraph (2), the Government may move to dismiss from the action a qui tam relator that is an employee of the Federal Government, or that is an immediate family member of an employee of the Federal Government, if—

''(i) the necessary and specific material allegations contained in such action were derived from a filed criminal indictment or information or an open and active criminal, civil, or administrative investigation or audit by the Government into substantially the same fraud alleged in the action;

''(ii) the duties of the employee's position specifically include uncovering and reporting the particular type of fraud that is alleged in the action, and the employee, as part of the duties of that employee's position, is participating in or has knowledge of an open and active criminal, civil, or administrative investigation or audit by the Government of the alleged fraud;

''(iii) the person bringing the action learned of the information that underlies the alleged violation of section 3729 that is the basis of the action in the course of the person's employment by the United States, and either—

''(I) in a case in which the employing agency has an inspector general, such person, before bringing the action has not—

''(aa) disclosed in writing substantially all material evidence and information that relates to the alleged violation that the person possessed to such inspector general; and

''(bb) notified in writing the person's supervisor and the Attorney General of the disclosure under division (aa); or

''(II) in a case in which the employing agency does not have an inspector general, such person, before bringing the action has not—

''(aa) disclosed in writing substantially all material evidence and information that relates to the alleged violation that the person possessed, to the Attorney General; and

''(bb) notified in writing the person's supervisor of the disclosure under division (aa); or

''(iv) the person bringing the action learned of the information that underlies the alleged violation of section 3729 that is the basis of the action in the course of the person's employment by the United States, made the required disclosures and notifications under clause (iii), and—

''(I) less than 18 months (and any period of extension as provided for under subparagraph (B)) have elapsed since the disclosures of information and notification under clause (iii) were made; or

''(II) within 18 months (and any period of extension as provided for under subparagraph (B)) after the disclosures of information and notification under clause (iii) were made, the Attorney General has filed an action based on such information.

''(B) Prior to the expiration of the 18-month period described under subparagraph (A)(iv)(II) and upon notice to the person who

has disclosed information and provided notice under subparagraph (A)(iii), the Attorney General may extend such 18-month period by 1 additional 12-month period.

''(C) For purposes of subparagraph (A), a person's supervisor is the officer or employee who—

''(i) is in a position of the next highest classification to the position of such person;

''(ii) has supervisory authority over such person; and

''(iii) such person believes is not culpable of the violation upon which the action under this subsection is brought by such person.

''(D) A motion to dismiss under this paragraph shall set forth documentation of the allegations, evidence, and information in support of the motion.

''(E) Any person against whom the Government has filed a motion to dismiss under subparagraph (A) shall be provided an opportunity to contest a motion to dismiss under this paragraph. The court may restrict access to the evidentiary materials filed in support of the motion to dismiss, as the interests of justice require. A motion to dismiss and evidentiary material filed in support or opposition of such motion shall not be—

''(i) made public without the prior written consent of the person bringing the civil action; and

''(ii) subject to discovery by the defendant.

''(F) Upon granting a motion filed under subparagraph (A), the court shall dismiss the qui tam relator from the action.

''(G) If the motion to dismiss under this paragraph is granted, the matter shall remain under seal.

''(H) Not later than 12 months after the date of the enactment of this paragraph, and every 12 months thereafter, the Department of Justice shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives relating to—

''(i) the cases in which the Department of Justice has filed a motion to dismiss under this paragraph;

''(ii) the outcome of such motions; and

''(iii) the status of false claims civil actions in which such motions were filed.

''(I) Nothing in this paragraph shall be construed to limit the authority of the Government to dismiss an action or claim, or a person who brings an action or claim, under this subsection for any reason other than the grant of a motion filed under subparagraph (A).''.

SEC. 4. BARRED ACTIONS.

(a) PROVISIONS RELATING TO ACTIONS BARRED.—Section 3730(b)(1) of title 31, United States Code, is amended by adding at the end the following: ''No claim for a violation of section 3729 may be waived or released by any action of any person who brings an action under this subsection, except insofar as such action is part of a court approved settlement of a false claim civil action brought under this section. Nothing in this paragraph shall be construed to limit the ability of the United States to decline to pursue any claim brought under this subsection, or to require court approval of a settlement by the Government with a defendant of an action brought under subsection (a), or under this subsection, unless the person bringing the action objects to the settlement under subsection (c)(2)(B).''.

(b) DISMISSAL.—Section 3730(e)(4) of title 31, United States Code, is amended to read as follows:

''(4) A court shall dismiss an action or claim or the person bringing the action or claim under subsection (b), upon a motion by the Government filed on or before service of a complaint on the defendant under subsection (b), or thereafter for good cause shown if—

''(A) on the date the action or claim was filed, substantially the same matters, involving the same wrongdoer, as alleged in the action or claim were contained in, or the subject of—

''(i) a filed criminal indictment or information, or an open and active criminal, civil, or administrative investigation or audit; or

''(ii) a news media report, or public congressional hearing, report, or investigation, if within 90 days after the issuance or completion of such news media report or congressional hearing, report, or investigation, the Department of Justice or an Office of Inspector General opened a fraud investigation or audit of the facts contained in such news media report or congressional hearing, report, or investigation as a result of learning about the public report, hearing, or investigation;

''(B) any new information provided by the person does not add substantial grounds for additional recovery beyond those encompassed within the Government's existing criminal indictment or information, or an open and active criminal, civil, or administrative investigation or audit; and

''(C) the Government's existing criminal indictment or information, or an open and active criminal, civil, or administrative investigation or audit, or the news media report, or congressional hearing, report, or investigation was not initiated or published after the Government's receipt of information about substantially the same matters voluntarily brought by the person to the Government.''.

(c) QUI TAM AWARDS.—Section 3730(d) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking the second sentence and inserting ''If the person bringing the action is not dismissed under subsection (e)(4) because the person provided new information that adds substantial grounds for additional recovery beyond those encompassed within the Government's existing indictment, information, investigation, or audit, then such person shall be entitled to receive a share only of proceeds of the action or settlement that are attributable to the new basis for recovery that is stated in the action brought by that person.''; and

(2) by striking paragraph (3) and inserting the following:

''(3)(A) Whether or not the Government proceeds with the action, the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which a person would otherwise receive under paragraph (1) or (2) of this subsection (taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation), if the court finds that person—

''(i) planned and initiated the violation of section 3729 upon which the action was brought; or

''(ii) derived the knowledge of the claims in the action primarily from specific information relating to allegations or transactions (other than information provided by the person bringing the action) that the Government publicly disclosed, as that term is defined in subsection (e)(4)(A), or that the Government disclosed privately to the person bringing the action in the course of its investigation into potential violations of this subchapter.

''(B) If the person bringing the action is convicted of criminal conduct arising from the role of that person in the violation of section 3729, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice.''.

SEC. 5. RELIEF FROM RETALIATORY ACTIONS.

Section 3730(h) of title 31, United States Code, is amended to read as follows:

''(h) RELIEF FROM RETALIATORY ACTIONS.—

''(1) IN GENERAL.—Any employee, government contractor, or agent shall be entitled to all relief necessary to make that employee, government contractor, or agent whole, if that employee, government contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, government contractor, or agent on behalf of the employee, government contractor, or agent or associated others in furtherance of other efforts to stop 1 or more violations of this subchapter.

''(2) RELIEF.—Relief under paragraph (1) shall include reinstatement with the same seniority status that employee, government contractor, or agent would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An action under this subsection may be brought in the appropriate district court of the United States for the relief provided in this subsection.''.

SEC. 6. STATUTE OF LIMITATIONS.

Section 3731(b) of title 31, United States Code, is amended to read as follows:

''(b)(1) A civil action under section 3730 may not be brought more than 10 years after the date on which the violation of section 3729 or 3730 is committed.

''(2) Upon intervention, the Government may file its own complaint in intervention or amend the complaint of a person who has brought an action under section 3730(b) to clarify or add detail to the claims in which the Government is intervening and to add any additional claims with respect to which the Government contends it is entitled to relief. For statute of limitations purposes, any such Government pleading shall relate back to the filing date of the complaint of the person who originally brought the action, to the extent that the claim of the Government arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the prior complaint of that person.''.

SEC. 7. CIVIL INVESTIGATIVE DEMANDS.

Section 3733 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A)—

(I) by inserting '', or a designee (for purposes of this section),'' after ''Whenever the Attorney General''; and

(II) by striking ''the Attorney General may, before commencing a civil proceeding under section 3730 or other false claims law,'' and inserting ''the Attorney General, or a designee, may, before commencing a civil proceeding under section 3730(a) or other false claims law, or electing under section 3730(b),''; and

(ii) in the matter following subparagraph (D)—

(I) by striking ''may not delegate'' and inserting ''may delegate''; and

(II) by adding at the end the following: ''Any information obtained by the Attorney General or a designee of the Attorney General under this section may be shared with any qui tam relator if the Attorney General or designee determine it is necessary as part of any false claims act investigation.''; and

(B) in paragraph (2)(G), by striking the second sentence;

(2) in subsection(i)(2)—

(A) in subparagraph (B), by striking '', who is authorized for such use under regulations which the Attorney General shall issue''; and

(B) in subparagraph (C), by striking ''Disclosure of information to any such other agency shall be allowed only upon application, made by the Attorney General to a United States district court, showing substantial need for the use of the information by such agency in furtherance of its statutory responsibilities.''; and

(3) in subsection (l)—

(A) in paragraph (6), by striking ''and'' after the semicolon; and

(B) in paragraph (7), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(8) the term 'official use' means any use that is consistent with the law, and the regulations and policies of the Department of Justice, including use in connection with internal Department of Justice memoranda and reports; communications between the Department of Justice and a Federal, State, or local government agency, or a contractor of a Federal, State, or local government agency, undertaken in furtherance of a Department of Justice investigation or prosecution of a case; interviews of any qui tam relator or other witness; oral examinations; depositions; preparation for and response to civil discovery requests; introduction into the record of a case or proceeding; applications, motions, memoranda and briefs submitted to a court or other tribunal; and communications with Government investigators, auditors, consultants and experts, the counsel of other parties, arbitrators and mediators, concerning an investigation, case or proceeding.''.

SEC. 8. FALSE CLAIMS SETTLEMENTS.

(a) REPORTS BY ATTORNEY GENERAL.—Not later than November 1 of each year, the Attorney General shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes each settlement or compromise of any claim, suit, or other action entered into with the Department of Justice that—

(1) relates to an alleged violation of section 1031 of title 18, United States Code, or section 3729 of title 31, United States Code (including all settlements of alternative remedies); and

(2) results from a claim of damages in excess of $100,000.

(b) CONTENTS OF REPORTS.—The descriptions of each settlement or compromise required to be included in the annual report under subsection (a) shall include—

(1) the overall amount of the settlement or compromise and the portions of the settlement attributed to various statutory authorities;

(2) the amount of actual damages, or in the event no actual amount is available a good faith estimate of the damages, estimated to have been sustained and the minimum and maximum potential civil penalties incurred as a consequence of the defendants that is the subject of the settlement or compromise;

(3) the basis for the estimate of damages sustained and the potential civil penalties incurred;

(4) the amount of the settlement that represent damages and the multiplier or percentage of the actual damages applied in the actual settlement or compromise;

(5) the amount of the settlement that represents civil penalties and the percentage of the potential penalty liability captured by the settlement or compromise;

(6) the amount of the settlement that represents criminal fines and a statement of the basis for such fines;

(7) the length of time involved from the filing of the complaint until the finalization of the settlement or compromise, including—

(A) the date of the original filing of the complaint;

(B) the time the case remained under seal;

(C) the date upon which the Department of Justice determined whether or not to intervene in the case; and

(D) the date of settlement or compromise;

(8) whether any of the defendants, or any divisions, subsidiaries, affiliates, or related entities, had previously entered into 1 or more settlements or compromises relating to section 1031 of title 18, United States Code, or section 3730(b) of title 31, United States Code, and if so, the dates and monetary size of such settlements or compromises;

(9) whether the defendant or any of its divisions, subsidiaries, affiliates, or related entities—

(A) entered into a corporate integrity agreement relating to the settlement or compromise;

(B) entered into a deferred prosecution agreement relating to the settlement or compromise; and

(C) had previously entered into 1 or more corporate integrity agreements relating to section 3730(b) of title 31, United States Code, or a deferred prosecution agreement relating to section 1031 of title 18, United States Code, and if so, whether the previous corporate integrity agreements covered the conduct that is the subject of the settlement or compromise being reported on or similar conduct;

(10) in the case of settlements involving Medicaid, the amounts paid to the Federal Government and to each of the States participating in the settlement or compromise;

(11) whether civil investigative demands were issued in process of investigating the case;

(12) in qui tam actions, the percentage of the settlement amount awarded to the relator, and whether or not the relator requested a fairness hearing pertaining to the percentage received by the relator or the overall amount of the settlement;

(13) the extent to which officers of the department or agency that was the victim of the loss resolved by the settlement or compromise participated in the settlement negotiations; and

(14) the extent to which relators and their counsel participated in the settlement negotiations.

SEC. 9. SEVERABILITY.

If any provision or application of this Act is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provisions or applications of this Act are severable.

SEC. 10. EFFECTIVE DATE AND APPLICATION.

(a) IN GENERAL.—Except as provided under subsections (b) and (c), the amendments made by this Act shall take effect on the date of enactment of this Act and shall apply to all civil actions filed before, on, or after that date.

(b) FALSE CLAIMS.—The amendments made by section 2 shall take effect on the date of enactment of this Act and shall apply to conduct occurring after that date of enactment.

(c) STATUTE OF LIMITATION.—The amendment made to section 3731(b)(1) of title 31, United States Code, by section 6 of this Act shall take effect on the date of enactment of this Act and shall apply to civil actions filed after that date of enactment.

Mr. DURBIN. Mr. President, I am pleased to join my colleague Senator GRASSLEY in introducing the False Claims Act Clarification Act of 2009. This bipartisan legislation takes important steps to modernize and strengthen the federal False Claims Acts, FCA, and will help protect the government and taxpayers from waste, fraud and abuse related to government funds. Last Congress Senator GRASSLEY and I introduced similar legislation, which was passed by voice vote out of the Senate Judiciary Committee. I look forward to working with Senator GRASSLEY as well as our fellow cosponsors, Senator LEAHY, the Chairman of the Judiciary Committee; Senator SPECTER, the Ranking Member of the Judiciary Committee; and Senator WHITEHOUSE, to see this important legislation passed into law.

Since it was signed into law by President Lincoln in 1863, the FCA, or ''Lincoln's Law,'' has played a key role in enabling the federal government and qui tam whistleblowers to prevent unscrupulous government contractors from defrauding the nation's taxpayers. In 1986, Senator GRASSLEY and Congressman BERMAN sponsored amendments to the FCA and its qui tam provisions that revitalized the effectiveness of the FCA as a fraud-fighting tool. Since 1986, the federal government and qui tam relators have worked together to recover over $21 billion in monies that would otherwise have been lost to fraud, waste or abuse in government programs. The recovery of this enormous sum is a victory for taxpayers, and a demonstration of the success of the FCA and its qui tam model.

Senator GRASSLEY and I first introduced FCA reform legislation in September 2007 because several recent court interpretations of the 1986 FCA amendments had threatened to limit the Act's effectiveness. Our legislation was designed to correct erroneous interpretations of the FCA's presentment clause in the 2004 D.C. Circuit case U.S. ex rel. Totten v. Bombardier Corp., and the FCA's public disclosure bar in the 2007 Supreme Court case Rockwell International Corp. v. U.S. Our bill also sought to make further clarifications to the FCA's scope and application in keeping with the intent of the authors of the 1986 FCA amendments.

In the time since we first introduced this bill last Congress, the need to strengthen Lincoln's Law has become even more urgent. The economic recession has required massive expansion of federal assistance to various industries, and this has created an increased opportunity for waste, fraud and abuse by recipients of that assistance. As the federal government moves ahead with various economic recovery measures, it is important that we have effective anti-fraud provisions in place to deter and catch those who would abuse public monies and the public trust. We owe this to the American taxpayer.

Also, the False Claims Act Clarification Act of 2009 is further needed in light of the Supreme Court's June 2008 decision in Allison Engine Co. v. U.S.

ex rel. Sanders. In Allison Engine, the Supreme Court read the 1986 FCA amendments to include a barrier to liability in subcontractor fraud cases that Congress did not intend. The Allison Engine Court held that in cases involving false claims submitted by a subcontractor to a prime contractor for payment involving federal funds, the plaintiff must prove that the subcontractor intended for the false statement to be used by the prime contractor to get the government to pay its claim. Our legislation makes clear that subcontractors are liable for knowingly perpetrating fraud involving government funds, regardless of whether that fraud was perpetrated directly upon the government or indirectly through another contractor. In light of the numerous levels of subcontractors used in many government contracting arrangements, this statutory fix is necessary to ensure accountability no matter where in the contracting chain the fraud takes place.

The changes that our legislation would make to the FCA are narrowly tailored, but will have a significant impact in catching and deterring fraud. I commend Senator GRASSLEY, the Senate architect of the 1986 FCA amendments, for his devotion to ensuring the effective functioning of the FCA, and I will continue to work with him to better combat waste, fraud and abuse in government programs.

In sum, the False Claims Act Clarification Act will enhance whistleblowers' ability to shine a light on fraudulent conduct involving government funds, and to hold the perpetrators accountable through legitimate qui tam claims. The legislation we are introducing today will strengthen the legacy of Lincoln's Law, and I am pleased to serve as its lead Democratic cosponsor. I urge my colleagues to support its passage.

By Mr. KERRY:

S. 463. A bill to impose limitations on certain expenditures by participants in the Troubled Asset Relief Program; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KERRY. Mr. President, today I am introducing the TARP Taxpayer Protection and Corporate Responsibility Act of 2009. Recently, it was reported that the Northern Trust Corporation threw lavish events in conjunction with the Northern Trust Open. Last year, Northern Trust Company received approximately $1.6 billion in funds from the Troubled Relief Asset Program and laid off almost 450 employees.

At a time when banks are not lending and need federal assistance, they should not be treating themselves to lavish parties with performances by Sheryl Crow. I supported the Emergency Economic Stabilization Act of 2008 because I believe that we need to help our financial institutions in order to stabilize our economy. However, I firmly believe that every institution receiving funds has a responsibility to appropriately use the federal assistance provided by taxpayers.

I am sick of hearing about financial institutions that are receiving funds and behaving inappropriately. CEOs need to exert leadership during these trying economic times. If they don't, they should repay taxpayers out of their own pocket. Now is not the time to be throwing lavish parties, giving out excessive bonuses, and spending on unnecessary renovations. It is time to focus on how best to restore the economy and for the banks, this means responsible lending.

Northern Trust is not the first TARP recipient company to spend foolishly, but I want it to be the last. For this reason I am introducing the TARP Taxpayer Protection and Corporate Responsibility Act of 2009 which would prohibit TARP recipients from sponsoring, hosting, or paying for entertainment or holiday events during the year in which they receive assistance or the following year. The legislation would give the Secretary of the Treasury the authority to issue waivers and would become effective as of March 1, 2009.

I applaud the action the Obama Administration has taken to address executive compensation and the provisions included in the American Recovery and Reinvestment Act of 2009, but I believe we must do more. The American Recovery and Reinvestment Act requires the Treasury Department to publish guidelines on the use of funds. However, I believe we need to do more than providing guidelines for the use of these funds. As we all know, money is fungible and a TARP recipient can always explain that TARP funds were not used for questionable purposes.

During these difficult economic times, we need to send a message to the American people that we are responsible stewards of public funds. We must try to help companies, but only if they operate in an appropriate and responsible manner which values the assistance of the American taxpayer. At a time when banks are not providing enough lending to small businesses and others, they should not be throwing lavish parties at taxpayer expense, and the claim that these ''parties'' came out of ''operating expenses'' rather than taxpayer funds does not pass the laugh test.

I urge my colleagues to review this important legislation.

By Mr. DODD (for himself, Mr. COCHRAN, Mr. KENNEDY, Ms. MIKULSKI, Mr. CASEY, Mrs. LINCOLN, Mr. CARDIN, Mr. ROCKEFELLER, and Mr. NELSON, of Florida):

S. 464. A bill to amend the National and Community Service Act of 1990 to improve the educational awards provided for national service, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise to introduce four bills today: The AmeriCorps: Together Improving Our Nation (ACTION) Act, the Semester of Service Act, the Summer of Service Act, and the Encore Service Act—legislation that would offer Americans the opportunity to serve their communities and work to improve their Nation.

As we have discussed time and time again, the challenges facing America are mounting—from a struggling economy, to a broken health care system, to challenges in our schools that put our children's futures at risk.

These are problems that countless Americans have lived and struggled with—that we here in this institution have debated for years, decade even. We can disagree amongst ourselves about how to solve them—and we certainly have.

But what we can all agree on is the impact citizens can make when it comes to facing some of our biggest challenges.

We know the extraordinary things ordinary citizens can accomplish for our communities when given the opportunity—the difference they can make in our schools and nursing homes, in veterans' hospitals and in helping those living on fixed incomes. With these four important pieces of legislation, we are offering citizens of all ages even more opportunities to be involved.

We already harness the enormous power of a dedicated group of individuals looking for ways to serve their communities is through the remarkably successful AmeriCorps program. Last year alone, 75,000 AmeriCorps members gave back to our communities, serving in over 4,000 schools, faith-based and community organizations, and nonprofits across the country. They also brought reinforcements—recruiting another 1.7 million community volunteers to work alongside them. Because of AmeriCorps, our communities have been strengthened, and our democracy fortified.

Unfortunately, as the hours AmeriCorps Members have contributed to our communities have increased, the Segal AmeriCorps Education Award created to help members pay for their college tuition has remained flat at $4,725. Meanwhile, the average college tuition has skyrocketed. The education award previously paid for two years of college, but currently it does not even cover the cost of single year. I am introducing the AmeriCorps: Together Improving Our Nation, ACTION, Act, in part, to update the education award to keep pace with 15 years of tuition increases.

The ACTION Act will raise the education award to $6,585 and increase the award annually to match the average tuition at a 4-year public university. That figure, $6,585 is the average cost of tuition at a four-year public university according to the College Board. The Act will also make the education award tax exempt to ensure that alumni are able to use their entire award to advance their education.

The Summer of Service bill would reach the youngest Americans interested in giving back to their communities, fostering a commitment to service that will last a lifetime. The Summer of Service Act would create a competitive grant program that would enable states and localities to offer middle school students an opportunity to participate in a structured community service program over the summer months. It would employ service-learning to teach civic participation skills, help young people see themselves as resources to their communities, expand educational opportunities and discourage ''summer academic slide.'' Providing tangible benefits to their communities, Summer of Service projects would direct grantees to work on unmet human, educational, environmental and public safety needs and encourage all youth, regardless of age, income, or disability, to engage in community service. The program would also grant participants with an educational award of up to $500 which can later be used to pay for college.

The Semester of Service Act also engages students in service-learning at the high school level. We talk so much about ways to improve academic performance in our schools. Well, when service is integrated into our students' curricula at school, young people make gains on achievement tests. Service-learning results in grade point averages going up, and feelings about high-school are that more positive.

And the benefits of service-learning go well beyond the classroom. When young people participate in service activities they feel better able to control their own lives in a positive way. They are less prone to engage in risky behavior, more likely to engage in their own education, and far more aware of the career opportunities before them.

Indeed, research shows that for every dollar we spend on a service-learning project, $4 worth of service is provided to the community involved. That means by authorizing $200 million for fiscal year 2009, as the Semester of Service Act does, our country will save more than half a billion dollars in service performed.

This legislation works by creating a competitive grant program that gives school districts, or nonprofits working in partnership with local school districts, the opportunity to have students participate in a semester of service in their junior or senior year for academic credit. These students are required to perform a minimum of 70 hours of service learning activities over 12 weeks, with at least 24 of those hours spent participating in field-based activities—outside of the classroom.

By engaging both the public and private sector, Semester of Service teaches civic participation skills and helps young people see themselves not merely as residents in their communities—but resources to them.

Perhaps, the greatest untapped resource in our communities are older Americans. No one is more ready or more poised to make a difference—in our communities and throughout our country—than the gaining Baby Boomer generation.

In the next decade alone, the number of Americans 55 years and older is expected to grow another 22 percent. But for all the well-publicized challenges that growth presents, it is time we also recognize something else:

The opportunities it offers—if we seize them.

More than half of those considered a part of the Baby Boomer generation are interested in providing meaningful service to their communities. Countless older men and women who have given so much to their country throughout their lives want to serve as they enter their later years.

They are living longer, healthier lives than any generation in history. And they recognize something elemental:

Life doesn't end at retirement. For many, it is only beginning—leading perhaps to a second career in the public or nonprofit sector.

We have so much to learn. Indeed, there can be no greater gift passed on to future generations than the lessons of the past. But the truth is, we too often fail to draw upon the experience, knowledge and ideas of previous generations.

What is missing is the opportunity.

Giving older Americans those opportunities is what the Encore Service Act is all about. It creates an Encore Service Program that provides Americans 55 years and older with opportunities to serve communities with the greatest need—to volunteer in our nation's schools, to help keep our neighborhoods clean, safe and vibrant, and so much more. In return for their service, which may include extensive training and a significant commitment of time, they can receive a stipend and education award, much like AmeriCorps does for younger generations.

Best of all, that stipend can be transferred to children or grandchildren. Imagine what that means for a grandmother or a grandfather who could literally put thousands of dollars into their newborn grandchild's college savings fund as a result of this program—funds that can only be used after the child turns 18 and can be kept for up to 20 years. Of all the new ideas in this legislation, perhaps this one is the most exciting.

This legislation also creates an Encore Fellows program that places older Americans in one-year management or leadership positions in public or private not-for-profits. These year-long fellowships not only increase the capacity of public service organizations already doing tremendous work in our communities, they also promote those who have already had full, successful careers, perhaps in the private sector, to lend their expertise and experience to the cause of community or public service.

The Encore Service Act also creates a Silver Scholars program that awards older Americans with an education scholarship of up to $1,000 in exchange for volunteering with public agencies or private nonprofits between 250 and 500 hours a year. As with the Encore Service Program, they can use these awards for themselves or transfer them to children, grandchildren or other qualified designees.

Lastly, this legislation expands the capacity and builds on the success of current Senior Programs by raising the authorization funding levels for the Foster Grandparent, Senior Corps and RSVP programs. We all know that seniors and these programs have already made a remarkable difference in our communities. That is why our legislation raises program eligibility levels from 125 to 200 percent above poverty and ensures that all programs will be open to any individual 55 years and older.

Contrary to what some suggest, I believe the American people are starved for opportunities to serve—and stand at the ready not just in times of crisis, but every day.

Americans are simply waiting to be asked to serve something greater than themselves, as they originally were by President John F. Kennedy. In introducing this legislation today, we once again remind all Americans of that call to serve.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 53—AUTHORIZING A PLAQUE COMMEMORATING THE ROLE OF ENSLAVED AFRICAN AMERICANS IN THE CONSTRUCTION OF THE CAPITOL

Mrs. LINCOLN (for herself, Mr. SCHUMER, Mr. CHAMBLISS, and Mr. BENNETT) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 53

Whereas enslaved African Americans provided labor essential to the construction of the Capitol;

Whereas enslaved African Americans performed the backbreaking work of quarrying the stone which comprised many of the floors, walls, and columns of the Capitol;

Whereas enslaved African Americans toiled in the Aquia Creek sandstone quarry in Stafford County, Virginia and in a marble quarry in Montgomery County, Maryland to produce the stone that would be used in the Capitol;

Whereas the marble columns in the Old Senate Chamber and the sandstone walls of the East Front corridor remain as the lasting legacies of the enslaved African Americans who worked the quarries;

Whereas enslaved African Americans also participated in other facets of construction of the Capitol, including carpentry, masonry, carting, rafting, roofing, plastering, glazing, painting, and sawing;

Whereas enslaved African Americans labored on the Nation's Capitol while they, themselves, were not free;

Whereas the contributions of enslaved African Americans in the construction of the Capitol have not been acknowledged nor adequately represented in the Capitol;

Whereas no narrative on the construction of the Capitol that does not include the contributions of enslaved African Americans can fully and accurately reflect the history of the Capitol; and

Whereas recognition of the contributions of enslaved African Americans brings to all people of the United States an understanding of the continuing evolution of democracy: Now, therefore, be it

Resolved, That the Senate authorizes and directs—

(1) the Senate Commission on Art to procure an appropriate plaque acknowledging the role of enslaved African Americans in the construction of the Capitol; and

(2) that, under the direction of the Committee on Rules and Administration of the Senate, the plaque shall be placed near the original exterior wall that was constructed between 1793 and 1800 in the East Front corridor on the third floor of the Senate wing of the Capitol.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate, that the hearing scheduled before Senate Committee on Energy and Natural Resources, for Thursday, February 26, 2009, will begin at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to provide recommendations for reducing energy consumption in buildings through improved implementation of authorized DOE programs and through other innovative federal energy efficiency policies and programs.

For further information, please contact Deborah Estes at (202) 224–5360 or Rosemarie Calabro at (202) 224–5039.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, March 3, 2009, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this oversight hearing is to examine the progress on smart grid initiatives authorized in the Energy Independence and Security Act of 2007, and funded in the stimulus bill, and to learn of opportunities and impediments to timely installation of smart grid technologies.

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 may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Gina_Weinstock@energy.senate.gov.

For further information, please contact Leon Lowery at (202) 224–2209 or Gina Weinstock at (202) 224–5684.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Thursday, March 5, 2009, at 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this oversight hearing is to review future directions of energy research and development and to identify key scientific and technological hurdles that must be overcome in order to pursue these new directions.

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 may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Rosemarie_Calabro@energy.senate.gov.

For further information, please contact Jonathan Epstein at (202) 224–4971 or Rosemarie Calabro at (202) 224–5039.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LEVIN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs has rescheduled its February 24th hearing, ''Tax Haven Banks and U.S. Tax Compliance—Obtaining the Names of U.S. Clients with Swiss Accounts,'' to Wednesday, March 4th. This hearing will continue the Subcommittee's examination of financial institutions which are located in offshore tax havens and which use practices that facilitate tax evasion and other misconduct by U.S. clients. One of the banks featured in a July 2008 hearing on this topic is UBS, a major financial institution headquartered in Switzerland. The hearing will examine issues related to a John Doe summons served by the IRS on UBS seeking the names of U.S. clients with UBS Swiss accounts that have not been disclosed to the IRS. In July, UBS representatives estimated that about 19,000 U.S. clients had about $18 billion in assets in such Swiss accounts. The hearing will examine a recent deferred prosecution agreement involving UBS, the status of the John Doe summons, the role of U.S.-Swiss tax and legal assistance treaties, and the effect of Swiss secrecy laws on U.S. information requests. A witness list will be available Friday, February 27, 2009.

The Subcommittee hearing has been rescheduled for March 4, 2009, at 2:30 p.m., in Room 342 of the Dirksen Senate Office Building. For further information, please contact Bob Roach of the Permanent Subcommittee on Investigations at 202–224–9505.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 24, 2009, at 10 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 24, 2009, at 2:30 p.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled ''Addressing Underinsurance in National Health Reform'' on Tuesday, February 24, 2009. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON VETERANS' AFFAIRS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, February 24, 2009, at 2 p.m., in a Joint Hearing with the House Veterans' Affairs Committee to receive testimony from the Disabled American Veterans. The Committee will meet in room 345 of the Cannon Building beginning at 2 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 24, 2009 at 2:30 p.m.

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

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY AND CONSUMER RIGHTS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy and Consumer Rights, be authorized to meet during the session of the Senate, to conduct a hearing entitled ''The Ticketmaster/Live Nation Merger: What Does it Mean for Consumers and the Future of the Concert Business?'' on Tuesday, February 24, 2009, at 2:30 p.m., in room SD–226 of the Dirksen Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. KYL. Madam President, I ask unanimous consent that Kim McIntier of my staff have floor privileges for the duration of the debate on S. 160.

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

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from North Dakota

ORDER FOR RECESS AND ORDERS FOR WEDNESDAY, FEBRUARY 25, 2009

Mr. DORGAN. Madam President, I ask unanimous consent that the Senate recess until 8:30 p.m., and that at 8:40 p.m., the Senate proceed as a body to the Hall of the House of Representatives to receive a message from the President of the United States; that upon disposition of the joint session, the Senate adjourn until 9:30 Wednesday, February 25; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 106, the District of Columbia House Voting Rights Act.

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

RECESS

Mr. DORGAN. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 5 p.m., recessed until 8:30 p.m. and reassembled when called to order by the Presiding Officer (Mr. BENNET).

The PRESIDING OFFICER. The Senator from Washington.

AUTHORIZATION TO APPOINT

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Presiding Officer of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the President of the United States into the House Chamber for the joint session to be held at 9 p.m. this evening.

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

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 111–1)

The PRESIDING OFFICER. Under the previous order, the Senate will proceed as a body to the Hall of the House of Representatives to receive a message from the President of the United States.

Thereupon, the Senate, preceded by the Deputy Sergeant at Arms, Drew Willison, the Secretary of the Senate, Nancy Erickson, and the Vice President of the United States, Joseph R. Biden, Jr., proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, Barack H. Obama.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.)

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

At the conclusion of the joint session of the two Houses and in accordance with the order previously entered, at 10:18 p.m., the Senate adjourned until Wednesday, February 25, 2009, at 9:30 a.m.