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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, February 8, 2011, at 2 p.m.

Senate

MONDAY, FEBRUARY 7, 2011

The Senate met at 2 p.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

PRAYER

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

Let us pray.

Lord God, the center of joy, thank You for the privilege of prayer. In a world filled with change and decay, Lord, we are grateful that we can always call to You, the changeless one. Today we ask You to guide our lawmakers. Shine the light of Your wisdom and truth upon their path. Give them patience to wait for Your clear guidance and courage to follow where You lead. Remove pride from their hearts and replace it with a spirit of humility and unity. We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHRISTOPHER A. COONS led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
President pro tempore,
Washington, DC, February 7, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. COONS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the order of the votes scheduled at 5:30 be as follows, and that the remainder of the consent remain in effect: Calendar No. 6 would be first; Calendar No. 3 would be second.

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks there be a period of morning business until 3 p.m. At 3 p.m., the Senate will resume consideration of the Federal Aviation Administration bill. There will be a short recess around 4:20 p.m. in order to welcome the Prime Minister of Slovenia to the Senate floor. At 4:30 the Senate will turn to executive session to debate concurrently three district court nominations. Those nominations are Paul Holmes of Arkansas, Diana Saldana of Texas, and Marco Hernandez of Oregon. At 5:30 there will be two rollcall votes on confirmation of the Saldana and Holmes nominations in the order that was just entered.

100TH BIRTHDAY OF RONALD REAGAN

Mr. REID. Mr. President, Ronald Reagan's second inauguration was the first one I attended as a Member of Congress. It was bitterly cold that day. While the temperatures sank into the single digits, Reagan became the first and only President to take the oath of office in the Capitol Rotunda.

He said in an indoor inaugural address:

History is a ribbon, always unfurling. History is a journey. And as we continue our journey, we think of those that traveled before us.

Yesterday would have been President Reagan's 100th birthday. Today, we think of President Reagan and how he steered America's travels through history's journey. I first met President Reagan when he was Governor of California. I was the Lieutenant Governor of Nevada. We met in Heavenly Valley, on the Nevada side of Lake Tahoe, to watch the first annual ''hot-dogging'' skiing championship. As I said, I first

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

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met him and we had a wonderful visit. I enjoyed that day very much.

His own travels took him not only to Lake Tahoe in my State but through the entire State. California's Ronald Reagan was a close friend of Nevada's. In his earliest days as an actor, he entertained crowds at the Last Frontier on the Las Vegas strip. Decades later, the same week Ronald Reagan became Governor of California, Paul Laxalt became Governor next door in Nevada.

When Reagan first sought the Presidency, Laxalt managed his campaign, and when President Reagan worked down the street at the White House, Paul Laxalt worked here as Nevada's senior Senator. It was a special relationship, a unique relationship, one so close that some called Senator Laxalt the First Friend, and he was that.

I was fortunate enough to see firsthand President Reagan's appreciation for Nevada. After talking to Nevadans in Ely and across eastern Nevada, I came to the conclusion that I should drop some wilderness I was going to put in place and instead form a national park. Nevada did not have a national park, and we would call it the Great Basin National Park. After I introduced that legislation and it passed, President Reagan's Secretary of Agriculture recommended that he veto what would be Nevada's only national park. The Agriculture Secretary did not much like the idea of a young Member of Congress from the other political party putting such a bill on the President's desk.

I was worried about that. Word came to me that the President was going to veto this bill that was important to me. I asked for a meeting with his Superintendent of Parks, the National Parks Director. He had been the Superintendent of Parks for Ronald Reagan when Reagan was Governor of California. His name was Penn Mott. When he came to see me, he had been in the service of our country in many different ways. He was an elderly man when he came to see me. I explained to him what was happening and that I was told that President Reagan, upon recommendation of one of his Cabinet members, was going to veto my bill. That man looked at me and he said: President Reagan is not going to veto that bill. He said, when I was a young park ranger in 1928, Key Pittman, who was a famous Nevada Senator, very close to President Roosevelt, sent me to Nevada to find a place for a national park. He said: That is my park. I am the one who said it would go there. That is where it should go, and it never made it legislatively. But because of that meeting I had, and Ronald Reagan's understanding of what politics is all about, he did not veto my bill. He overruled his Secretary, and together, HARRY REID and Ronald Reagan created the Great Basin National Park.

It was not the last time President Reagan and I worked together to preserve our West. I introduced legislation that was important legislation. It involved two Indian tribes, two endangered species, it involved Lake Tahoe, and it involved two rivers, the Truckee and Carson Rivers—I think I mentioned the two Indian tribes—a huge wetlands that had gone from a couple of hundred thousand acres to maybe less than a thousand very putrid acres. Birds died eating and drinking there. The wetlands basically had dried up.

It was a very important piece of legislation, but I got it passed. I got it passed here. Then it went to the House and got passed. Again, President Reagan's advisers recommended he veto that bill. Part of it was because of who pushed the legislation through. But President Reagan knew how important it was to Lake Tahoe, and one of his assistants, Sig Rogich, talked to him. Sig is a long-time Nevadan, worked very closely with President Reagan and with President Bush, and he talked to him about this important legislation. It was not vetoed. He signed this bill in spite of people recommending that this not be signed.

President Reagan's help in ending this water war meant a lot to me because he knew that when Americans are all in this together, even local issues, even statewide issues, are all of our concern. I remember how he signed my bill to establish this park because his view of that national park embodied his vision of the Nation.

He never looked at the legislation as a map of red States and blue States and purple States but as a landscape of States colored by green forests and brown deserts and clear waters.

My legislation, entitled the Negotiated Settlement, has changed that part of the country. Lake Tahoe is better off. The Indian tribes are better off. We preserved a lake, Lake Pyramid. It was landmark legislation. It could not have been done without his signature.

He knew when the Sun breached the horizon each day, the morning that dawned in America was a morning for all Americans and for families of all backgrounds. He said in that second inaugural address, ''we have worked and acted together, not as members of political parties, but as Americans.''

Ronald Reagan was a Republican President from the West, who cherished a famously close friendship with Tip O'Neill, a Democratic Speaker of the House from the East. Ronald Reagan was a patriot who created a friendship with Mikhail Gorbachev, the leader of a nation he called an Evil Empire. He would make certain America could defend herself but quietly sent a diplomatic team to start negotiating with the Soviet Union the minute he took office.

Ronald Reagan knew politics has always been and always will be about compromise, and that compromise can only happen when politicians share personal relationships. He knew public servants worked better as partners rather than partisans. And as much as he criticized government, he knew it was not a faceless machine. He appreciated that government exists, as Lincoln said, of, for, and by the people.

That is why he was more beholden to simple pragmatism than stubborn principle. That is why he, a staunch conservative, raised taxes 11 times when the economy needed revenue. It is why he viewed the challenge of immigration through a practical lens. It is why he knew America could be strong and would be stronger still in a world without nuclear weapons.

He was not perfect. I did not agree with many of his politics or policies. But I always admired the way he captured our country's imagination. I always respected his honest assessment of his strengths and limitations alike. He was somebody who could look at himself and we would all smile a little bit.

One time he was running for Governor of California and someone asked him: Do you think you will be a good Governor? He said: I do not know. I have never acted the part.

That is who he was. He honestly assessed who he was, his strengths and limitations, and I admired the way he humbly surrounded himself with good, smart people.

A century after his birth Ronald Reagan's legacy remains as enduring as anyone who has ever unfurled the long ribbon of our Nation's history. That legacy lives not merely in his policies, and to honor it, it is not enough to try to apply his solutions of 30 years ago to the problems we confront today; rather, we should remember how he respected his colleagues and his constituents. We should try to emulate the confidence he communicated.

Ronald Reagan was a proud neighbor of Nevada, who united and motivated us by reminding us that all Americans live in the same neighborhood. That is a lesson I still remember today. That is a lesson I remember best about our 40th President, Ronald Reagan.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

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

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

The legislative clerk proceeded to call the roll.

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

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

RECOGNITION OF THE MINORITY LEADER

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

COLOMBIA FREE TRADE AGREEMENT

Mr. MCCONNELL. Mr. President, earlier today, the President spoke to the Chamber of Commerce in what some have described as an effort to make nice with the business community. I will leave others to analyze what the speech means politically. The first concern of the American people is what it will mean for the economy. As I have said before, what the President says matters a lot less than what he does.

So we will just have to wait and see whether the administration's actions support its rhetoric. And it is in that spirit that I would like to suggest one thing the President could do immediately, with Republican support, to show he is serious about jobs and the economy. He could work with us to pass free trade agreements with Colombia and Panama that have been languishing for years now.

We welcome the President's support for the South Korea Free Trade Agreement which has earned strong bipartisan support. But by failing to show the same commitment in passing these two other free trade agreements, the President is missing out on an important opportunity to do something good for the economy and for jobs.

The President says he wants to double U.S. exports in 5 years. Free trade agreements with Colombia and Panama would go a long way toward meeting that goal—and creating jobs here in America—by opening markets in Latin America.

In my view, the time for delay on these two agreements is over. The President needs to do more than promise to ''pursue'' these agreements, as he did today. He should work with Congress to pass these two agreements and sign them into law.

This should be an easy one. Colombia is a strong strategic ally in South America, and it has made great strides in addressing the concerns of labor union critics here in the U.S. It has come a long way. We should not walk away from Colombia now. As for Panama, our two nations have had strong strategic and economic ties for years. This agreement would only strengthen those bonds and build on them.

As America sits on the sidelines, our competitors around the world, including the EU and Canada, are moving forward to lower barriers to trade and increase access for their businesses and workers. This is unacceptable, particularly for an administration that is claiming as its top priority to ''win the future.''

It won't be enough for Republicans and it shouldn't be enough for the business community to allow the administration's trade agenda to start and end with South Korea. We should be passing all pending trade agreements and inking new ones on a bipartisan basis, even when it requires the President bringing his own party along.

We have heard Secretary Clinton, Senator BAUCUS, and Ambassador Kirk all express support for submitting a Colombia FTA to Congress. But the President's own pronouncements continue to fall short. It is not enough for the President to say good things about free trade while siding with labor bosses over job creators and the vast majority of American workers who do not belong to unions and who would largely benefit from opening markets overseas. We shouldn't allow labor union bosses to have veto power over economic policies that benefit us all.

So the question is: will the President allow our allies in South America to continue waiting for us to move forward, or will he send the message that America stands by her allies and is prepared to do something good for American workers, good for the American economy, and good for key allies. Congress is ready to pass these two deals today. It is time for the President to commit to the same.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. JOHANNS. Mr. President, I compliment the minority leader on his comments on trade. I wish to speak in morning business on the same topic. I will not have to speak long because I have talked about this many times since I joined the Senate over 2 years ago.

Today I will focus on the U.S.-Colombia trade agreement. This agreement was signed by both the United States and Colombia on November 22, 2006. It has been around many years. It is expected to create several thousand jobs. Yet for 5 years, to the detriment of U.S. exporters and job seekers, policymakers have punted on this important trade agreement. The Obama administration has been sitting on the sidelines watching other countries slowly chip away at U.S. competitiveness in the Colombian marketplace. Our friends to the north in Canada and to the south in Mexico wisely negotiated new agreements with Colombia. They saw the void U.S. companies and workers should have been filling and acted to fill that void themselves. I believe it is time we stop watching other countries make the moves that have been teed up for this country for about 5 years.

Implementing the agreement would increase U.S. exports by more than $½ billion annually and create almost 4,000 much needed jobs in the United States. Simply stated, passing this agreement would help to improve our economy.

In last year's State of the Union Address, we heard our President say:

> If America sits on the sidelines while other nations sign trade deals, we will lose the chance to create jobs on our shores.

I applauded his comments. I applauded his desire to increase exports. But, unfortunately, no action was taken on the President's words.

During this last year's State of the Union Address, the President again acknowledged the need for the Colombia trade agreement by saying:

> We will strengthen our trade relations with key partners like South Korea and Panama and Colombia.

Once again, these words will ring hollow with no action. Yet again today, in a much touted speech to the Chamber of Commerce, the President talked about pursuing the Colombia trade agreement. I must admit, I asked the question: What on Earth is left to pursue? The agreement was signed nearly 5 years ago. It is ready for approval. All the President needs to do is submit it for our action. If the President thinks there was more pursuing to do, what have we been waiting for the past couple of years? Why has not the administration pursued whatever it is they think needs pursuing for now over 2 years?

Americans who are out of work know this administration is missing an opportunity to say to thousands of Americans: You have a job. Our job creators are waiting. My hope is the President stands behind his remarks today.

This is a golden opportunity for the President to send a signal that his words do have meaning and to show that we can, in fact, work together in a bipartisan way. He could submit the Colombia trade agreement to Congress for approval today and send an enormously powerful message that when he says ''pursue,'' he means action, not stall.

Folks from my State are anxiously awaiting approval of this agreement as are folks from around the country. We should all be reminded that workers and businesses in our home States will benefit from the Colombia trade agreement. Our farmers and ranchers would benefit from the elimination of tariffs on more than 77 percent of agricultural goods. American workers will see more of their products sold as 76 percent of Colombian tariffs on our industrial goods are eliminated immediately. No doubt about it, this agreement will have a real impact on Nebraskans and other Americans who work hard every day to make a better life for their families.

Let me share a couple of examples of Nebraskans who want to see the U.S.-Colombia trade agreement ratified. Take Nebraska-based manufacturer Valmont Industries, for example. Valmont has loyal customers in Colombia who buy its irrigation pivots. Currently, Colombia imposes a 15-percent duty or tax on those pivot systems. This would be eliminated by the Colombia trade agreement. If the 15-percent duty is, in fact, eliminated, Valmont estimates they would gain market share against European competitors and add 10 to 15 new jobs in Nebraska alone.

Take Rick Larson of Potter, NE. He grows wheat and corn. He has a small livestock operation. Unfortunately, the market share of American farmers is declining rapidly in Colombia. When we signed the agreement, American farmers such as Rick Larson in Potter supplied 76 percent of the wheat to Colombia. Today they sell 22 percent. For Rick that means he has lost 15 cents per bushel of wheat. That impacts a real family.

It is a similar story with corn. He has lost 4 cents per bushel. In a place where we throw around the idea of trillions, that may not sound like much, but it means Rick's wheat and corn revenues were down $7,600 last year just because the administration had not submitted those trade agreements for our approval. Farmers such as Rick cannot believe we are sitting on our hands while our market share is evaporating right before our eyes. He shudders to think what will happen to his sales prices once Canada beats us to a free-trade agreement, even though it was signed 2 years after ours.

It is not easy to regain lost market share once it is gone. It worries exporters when they see their government standing between them and a promising marketplace. Nebraska farmers and ranchers and those across the country can compete with anyone. All they are asking for is a level playing field and a fair shot.

We have been giving exporters from Colombia more than a fair shot through the Andean Trade Preferences Act, which is set to expire on February 12. Under the agreement, a whopping 90 percent of goods and services coming into our country to compete with our citizens enters absolutely duty free.

I think we should extend the Andean Trade Preferences, but we should also knock down the barriers for our own exporters and level the playing field. We must give our workers that level playing field by approving the Colombia Free Trade Agreement.

American exporters have waited too long to realize the benefits of this trade agreement. Isn't it time to get serious about beating our global competitors in the Colombian market? Don't we all realize U.S. jobs depend upon this?

You see, we all represent people such as Valmont and farmers such as Rick. Let's pay tribute to their entrepreneurial spirit by tearing down Colombian trade barriers that inhibit economic growth in this great Nation.

I urge the President to transmit the signed U.S.-Colombia trade agreement to Congress immediately. This is one Senator who is going to stand behind the President and do everything I can to try to get that agreement ratified in the Senate. It is time for Speaker BOEHNER and Leader REID to call it up for consideration as soon as it reaches their desks. But, most important, it is time for the President to lay it on their desks.

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

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

The legislative clerk proceeded to call the roll.

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

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

ORPHANED EARMARKS ACT

Mr. BEGICH. Mr. President, I rise to join my friend from Oklahoma to talk about a commonsense piece of legislation. I come to the floor pretty often to talk about the deficit, and I wish to talk about something very specific we can do to address this matter. The Orphaned Earmarks Act would rescind earmarks that remain 90 percent or more unused 9 years after being appropriated.

In early January, USA Today published an article examining 20 years of earmarks that have not been spent. According to the analysis: ''In at least 3,649 of those earmarks, not a single dollar had gone toward its intended purpose'' and ''Many of the orphan earmarks also count against a state's share of federal highway funds and have taken billions of dollars away from state transportation departments across the nation.''

During the past 20 years, orphan earmarks reduced the amount of money States would have received in Federal highway funding by almost $7.5 billion. That is $7.5 billion that States could have used to replace obsolete bridges, repair aging roads, and bring jobs to rural areas.

As all of us know, when lawmakers earmark money, even if it is never spent for pet highway projects, that money still reduces what States receive from the Federal Government. In my own State of Alaska, $187 million in funding was lost out in the past 20 years because of orphaned earmarks.

I know some of my colleagues are concerned about States losing out on money we all could use, especially these days, but let's not worry. I don't want to take away your earmarks that help communities in need and help create jobs. We are talking about earmarks that have been abandoned for more than 10 years and are just sitting there like uncashed checks. Dr. COBURN and I have addressed this in our legislation. We have built in a 12-month period—I repeat, a 12-month period—for agency heads to make sure earmarks can be used before rescinding.

On that note, I wish to make something else clear. I do not personally support an earmark moratorium. I know my friend from Oklahoma and I disagree on this earmark funding, but I believe it is vital to my home State of Alaska. We have unique needs and have relied on this critical funding from day one to support health, safety, and jobs. What I have a problem with is wasteful spending that could have otherwise been used for a project or to cut the deficit.

Our legislation requires the Director of OMB to submit to Congress and publicly post on the OMB Web site an annual report that includes a listing and accounting for earmarks with unobligated balances summarized by agencies, including the amount of the original earmark, the amount of the unobligated balances, and the year the funding expires; the number of rescissions resulting from this section and the annual savings resulting from this section for the previous fiscal year; finally, a listing and an accounting for earmarks provided to Federal agencies scheduled to be rescinded at the end of the current fiscal year.

Senator Feingold offered an amendment last March to the FAA bill to rescind any DOT earmarks that remained 90 percent or more unobligated for 9 years after being appropriated, with the possibility of holding funds 1 more year for earmarks the agency head believed would be funded within 12 months. Because Senator Feingold had modified the legislation to reflect concerns by Senator BOXER and Senator MURRAY, the Senate voted 87 to 11 to pass this amendment. However, as we all know, the FAA bill did not pass last year.

The Coburn-Begich bill is modeled after a Bush administration proposal from 2008 and would have rescinded any highway and bridge earmark funds from the 1998 highway bill, TEA–21, that had less than 10 percent of the funds spent or obligated. That proposal would have saved about $626 million, including $389 million in 152 earmarks that had no funding obligated a decade after passing. The Coburn-Begich bill targets all orphaned earmarks, not just those in the highway bill.

Let me conclude. I know my friend from Oklahoma is here to speak as well. I will tell my colleagues that when I became mayor in 2003 in Anchorage, AK, we looked at what all of our bonds voters had voted on year-in and year-out, and we looked at all the projects. What we found was that sizable amounts were being spent on projects where they were intended, but there was another percentage that for years had just been lying there for a variety of reasons. Maybe the project didn't pan out, maybe they didn't get enough money from another source or the project just vanished from the books because of public opposition to it. But what we found was we were passing bonds for projects that never went forward. So we cleaned the bonds up when I was mayor.

Then we did one other thing which I think this legislation now on the Federal level really focuses on, not only to make sure we clean up the books but also, when you have money, to make it very clear that we need to spend the money on the project for which it was identified. We made sure those projects that were on that bond, that voters voted for, that they put their taxpayer

money toward, that 75 percent or more of those projects would be completed or substantially underway by the end of the year. That was important to make sure taxpayers knew their dollars were being used—not just forwarded or put away in an account somewhere and not having a project that they thought was happening.

So I think this is a good piece of legislation. It brings fiscal responsibility to the money that is out there. When we think about it, if we have a piece of legislation, an earmark, that has not been utilized—90 percent of it not utilized for 10 years or more—there is no reason we should have that money in some bank account in some agency somewhere hidden away. It should come back and go toward the deficit.

So I yield the floor at this time for my colleague from Oklahoma. I am honored to be able to join him in this effort to bring—I will use my words—fiscal sanity to this effort of trying to figure out how to manage this Federal Government's budget in a better way.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. First of all, let me thank my colleague from Alaska. As somebody who has been working on areas of fiscal management in our Federal Government for the last 6-plus years, this is one small step. Whether it saves $500 million or whether it saves $1 billion, it is important that America knows we need to do this 1,500 more times.

We hear a lot in the press now from the Republican appropriators, the Republican budgeteers, about the battle of how much to cut. It is the wrong language. The deficit is $1.5 trillion this year. It was $1.4 trillion last year. We have tons of areas, as my colleague knows full well, as does our former colleague, the Senator from Wisconsin, Russ Feingold, where we don't effectively utilize the money that has been given to us or that we are borrowing against our kids' future.

So this is a great start. We need to do this every day on every bill that comes before us. We can find it. We have identified 50 sets of duplication within the Federal Government, and they are not small duplications. There are 49 job-training programs across 9 different agencies. There are 105 science, technology, engineering, and math programs—something the President, in his State of the Union Address, said he wanted to enhance. We don't have a metric on any of them. We already have 105 programs. We are spending $18 billion on job training, and we don't know if it is working, and we don't know if the people we have trained have gotten jobs in the areas in which they were trained. So I am excited about my colleague joining with me. The hope is that we can set a trend so that with every bill that comes out, we will start looking.

By the way, we do have coming from the Government Accountability Office the first third of all of the government programs. When we inquired 2 years ago to the Congressional Research Service and to the Office of Management and Budget and the GAO, we said: Give us a list of all the programs. Do my colleagues realize that nowhere in the Federal Government do we have a list of all of the programs where we spend money? We are highly critical of the Defense Department because it can't pass an audit, and we rightly should be, but we can't pass an audit because we don't even know what we are doing.

So this should not be controversial at all. It should save us close to $1 billion when it is all said and done, and that is $1 billion we won't borrow from the Chinese. All we have to do is do that 1,500 more times. The fact is, we can. We are like that little engine. We can. We can get up that hill. But what it is going to take is reaching across the aisle, as the Senator from Alaska and I have done, and saying: Here is an area of common ground, it is based in common sense, and it is something that should be done and should be done now.

Just to show how silly this is, the data shows that in Atlanta there is still money for the 1996 Olympics. Fourteen years ago, there was $2.7 million sitting in a bank account. They can't spend it because the Olympics has already occurred, but we still have that money out there. That is the kind of silly stuff that happens when the Federal Government reaches into areas where it shouldn't be reaching.

What we can do—not to lay blame, not to say it is about earmarks or not about earmarks, but here is a common-sense solution that says: Here is a way to free up $1 billion or $500 million. If it is $500 million, great, but here is a way to do that.

I wish to also take some time on the floor now to elucidate that the President's fiscal commission outlined $4 trillion over the next 10 years we could eliminate that would go a long way toward starting to solve some of our problems.

So my hope is that with this amendment, we will start a trend where we can grab hold of and capture the things that make sense, that most Americans will never miss, and if they do miss it, it is because they are going to get something better instead and more efficient instead, and we start down this road. This is a great start.

I congratulate my colleague for his initiative in bringing this back up. What we need to do now is get on the phone and get our colleagues in the House to do the same thing and make sure, when this bill goes through and this amendment is adopted, it actually happens. Don't forget that the Bush administration wanted this to happen, and so does the Obama administration. Think about the amount of labor we are spending taking care of details on things that can't get spent or won't be spent and the amount of man-hours that goes into that.

I just thought I would finish with one of the recommendations of the fiscal commission, which is on the Federal workforce. There is a wonderful article that was published by Iain Murray on February 3 about how many Federal employees we have. It is easy for us to think about the fact that when we count true—just true—Federal employees, it is 2.8 million. But that doesn't come close to the actual number of employees the Federal Government has. When you add up what is actually there and you add in postal employees, you add in military, you add in contractors, we are at 11 million Federal employees.

We have a great Federal workforce. There are a lot of areas where we can be efficient and downsize. We don't have to lay anybody off; we can just not add. What we can do is, through attrition, markedly decrease the number of Federal employees we have, which will be that second, third, and fourth billion dollars.

The other thing the Commission recommended, which the Obama administration embraced, was a freeze on salaries, but most of us don't recognize that we have $3 billion owed right now to the IRS in back taxes by Federal employees that has already been adjudicated.

So there are all sorts of things we can do. We have lots of ideas. My pledge is to work across the aisle with our colleagues to try to find one of these every day or one of these every other day. If we do that together, we don't have to borrow 40 cents out of every dollar we spend in this country. We can take it down to 20 or 15 or down to zero so that we can, in fact, ensure the future for our children.

Again, I thank my colleague, and I yield the floor.

Mr. BEGICH. Mr. President, I wish to thank the Senator from Oklahoma for joining me. I will tell my colleague, whether you look at—you are right, this should not be controversial. It should be easy. I mean, it is like if you receive a check and it sits there for 10 years, I can guarantee my colleagues, if you are in private business, as I have been, you have written that off already. It is gone. In this situation, what we are saying is that there is $500 million—I think you are right; when it is all tallied up, it is probably closer to $1 billion—sitting out there. We did this once before. We had great support on a much more narrow focus. If we did this on a regular basis, the opportunity is unlimited.

I wish to thank the Senator. I have sat in the Presiding Officer's chair many times and listened to the presentations of the Senator from Oklahoma regarding the budget. We may not always agree, but when we find agreements, here is an opportunity. This is an easy one, by the way. There are others, as the Senator knows and I know, regarding surplus property the Federal Government has that is under incredible disrepair, not being realized. From my real estate experience, I have seen this, and there is an enormous amount

of resources there that could be turned back to the private sector for future development. That could actually grow this economy.

Mr. COBURN. Mr. President, the Federal Government has $950 billion worth of property it is not using right now. We are spending $9 billion a year taking care of it, and we have a budget gimmick that says an agency that needs a new building, because we are going to account for the cost of that building in the year in which they buy it and charge it all to the agency—what are we doing? We are leasing buildings. I guarantee we could own them much more cheaply than we could lease them. What we should be doing is changing that and getting rid of the excess property, lowering our cost to maintain it—there is 9 out of the 1,500 we have to do, right there, if we would just do that—and then change the way we purchase buildings for the Federal Government so the agency can own it instead of leasing it because it costs, over the life of the building, about twice the lease.

Mr. BEGICH. Mr. President, if the Senator will yield, as someone who has been in the real estate business for almost 30 years, there is enormous opportunity. I know that when I was mayor, we put more of the lands—we are not talking parks; we are talking about just surplus old buildings and sites that are no longer in use—we put them back into operation because not only will it save the Federal Government money in the sense of getting that surplus property off the books, but what we end up doing is turning that into economic development companies for those communities. The private sector will come in and revitalize it and use it. There are many ideas out there.

I thank the Senator for the opportunity to sponsor this with him. As the Senator said, $500 million is the minimum. I think it is close to $1 billion just on this one idea.

I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, morning business is closed.

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 223, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 223) to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

Pending:

Wicker amendment No. 14, to exclude employees of the Transportation Security Administration from the collective bargaining rights of Federal employees.

Blunt amendment No. 5, to require the Under Secretary of Transportation for Security to approve applications from airports to authorize passenger and property screening to be carried out by a qualified private screening company.

Nelson (Fl) amendment No. 34, to strike section 605.

Paul amendment No. 21, to reduce the total amount authorized to be appropriated for the Federal Aviation Administration for fiscal year 2011 to the total amount authorized to be appropriated for the Administration for fiscal year 2008.

Rockefeller (for Wyden) amendment No. 27, to increase the number of test sites in the National Airspace System used for unmanned aerial vehicles and to require one of those test sites to include a significant portion of public lands.

Inhofe amendment No. 6, to provide liability protection to volunteer pilot nonprofit organizations that fly for public benefit and to the pilots and staff of such nonprofit organizations.

Inhofe amendment No. 7, to require the Administrator of the Federal Aviation Administration to initiate a new rulemaking proceeding with respect to the flight time limitations and rest requirements for supplemental operations before any of such limitations or requirements be altered.

Rockefeller (for Ensign) amendment No. 32, to improve provisions relating to certification and flight standards for military remotely piloted aerial systems in the National Airspace System.

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

Mr. ROCKEFELLER. Mr. President, I have comments of my own, but I will yield to the Senator from Maryland. He has been down here waiting. He is interesting, provocative, thoughtful, and always right. I yield to him such time as he may feel comfortable with, provided it doesn't go past 5 o'clock.

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

Mr. CARDIN. Mr. President, I thank my colleague and congratulate him on the reauthorization of the Federal Aviation Administration. It is a bill that we can all be proud of. I thank him for his good work.

Mr. President, I rise to speak today on the legislation to reauthorize the Federal Aviation Administration.

Our Nation's economy is recovering from the worst economic recession in decades. Critical to getting our economy moving forward and getting Americans back to work is building an efficient and modern intermodal transportation system built to handle growing commerce in the 21st century.

I am pleased to see that this legislation, which is estimated to create 280,000 jobs in airports around the country, is one of the first orders of business for the Senate in the 112th Congress. It demonstrates this body's focus on job creation and helping get Americans back to work while updating the Nation's aviation infrastructure to ensure that America is ready for business.

The airline industry accounts for nearly 11 million U.S. jobs and $1.2 trillion in annual economic activity. This bill provides the airline industry the essential infrastructure it needs to succeed and remain strong and competitive in the global airline industry.

Every day, the Federal Aviation Administration faces the daunting task of marshalling thousands of airliners, and the air travelers on those planes, across the country from airports and airfields both large and small located in nearly every corner of the United States. These members of the Federal workforce safely guide thousands of airplanes, serving tens of thousands of air travelers, across America's skies every day.

I applaud Senator ROCKEFELLER's dedication to getting this much needed legislation to the floor of the Senate. I greatly appreciate his willingness in the last Congress to incorporate a provision of mine that is important to keeping small rural airports in Maryland and in other parts of the country in operation. I look forward to continue working to build upon the great work he has done to get this important bill moving forward.

This bill is not just important to our big airports; it's important to all airports in this country. There are many challenges facing the FAA and air travelers. This bill sets a clear path towards addressing these challenges, not the least of which is working to reduce the number of flight cancellations and the frequency of flight delays that can range anywhere from 10 minutes to 9 or more hours that air travelers experience.

This bill will reduce delays by more than 20 percent—save passenger time, money and reduce airline fuel consumption, making our country more energy secure and reducing harmful greenhouse gas emissions.

While air travel remains a safe and fast way to travel between distant destinations, the technology is readily available to make essential improvements to our Nation's aviation infrastructure to make it even safer and faster.

The bill's authorization of facility and equipment funding reinforces the FAA's commitment to overhauling the guidance systems used to direct flights across the country. The deployment of NextGen flight systems will cut travel times and save energy by directing flights to take shorter routes that use less fuel.

Domestic commercial flight routes follow the same terrestrial based guidance air traffic control system that was put in place more than half a century ago. The paths planes follow between airports is not based on the shortest most efficient routes, but instead based on the location of broadcasting points on the ground. That no longer makes any sense. We know that we now have a GPS system that could put our planes on a much more direct route, which is faster and will save time and energy.

For example, air travelers flying from National Airport, across the Potomac in Arlington, VA, to Boston's Logan International Airport currently follow a route north through central Pennsylvania, east across New York State and the entire State of Massachusetts to Boston located on the Atlantic coast.

This flight pattern goes 537 miles, takes an hour and 15 minutes to fly, and burns 7,376 pounds of fuel.

Alternatively, NextGen's satellite-based guidance system, using global positioning systems, would guide that same flight on a 367 mile, northeasterly route directly up the Atlantic coast, that takes less than an hour, and use 5,883 pounds of fuel.

That's a 1,493 pound savings of expensive, carbon emission intensive, jet fuel.

These are significant savings that benefit the environment and the consumer. The Air Transport Association estimates that ''even a 6% fleet-wide reduction in fuel burn results in fuel savings of 1.16 billion gallons of jet fuel and emissions savings of nearly 11 million metric tons or 24 billion pounds of CO_2.'' We would be saving fuel and costs and would be polluting much less.

NextGen is essential to achieving these types of greenhouse gas emissions reductions from the aviation sector.

NextGen is also critical to meeting future air travel demands and will go a long way to alleviating the actual ''air traffic'' that is responsible for much of the delays air passengers experience when travelling.

The research, engineering and development funding is set to advance undergraduate and technical school programs for aircraft maintenance focusing on new technology job training for pilots and air traffic controllers. This includes essential job training programs for the next generation of air traffic controllers that will use NextGen systems to guide America's airline fleets.

Job training and education are important for preparing America's workforce to advance into well paid and skilled jobs and are essential to the Nation's economic recovery.

The operations and maintenance, Airport Improvement Program and facilities and equipment funding authorizations give the green light to hundreds of airports across the Nation to advance pressing maintenance, facilities, security and new construction projects that will create thousands of jobs in the engineering, computer science, construction, and software development sectors and much more.

For example, at Baltimore Washington International-Thurgood Marshall Airport in Anne Arundel County, the Maryland Department of Transportation has nearly $400 million in Airport Improvement Program projects that are ready to go. These projects will help improve runway safety, tarmac capacity and terminal efficiency at Maryland's largest airport.

BWI-Thurgood Marshall served 21 million passengers in 2009 and was ranked first out of 140 international airports, worldwide, that serve 15–25 million passengers annually by the Airports Council International's Airport Service Quality survey. We are proud of that and want to maintain that service at BWI. The reauthorization of these programs is critical to our doing that.

I appreciate the opportunity this bill gives me to show my support for Maryland's flagship airport and the 35 other commercial, municipal, regional and general aviation airports across my State.

I mentioned earlier my colleague's willingness to work with me to incorporate an amendment to help small commercial airports. The program I am referring to is the Essential Air Service Program, which provides funding to keep the small yet critical commercial airports serving rural communities viable.

This program assures that rural communities are provided a minimal level of service to preserve their connection to the national air transportation system.

Western Maryland's Hagerstown Airport has benefitted greatly from this program and has allowed the airport to secure service contracts with Cape Air to fly four daily flights from Hagerstown to Baltimore. Without Hagerstown's daily flights to BWI, western Maryland residents, as well as people living in eastern West Virginia and southern Pennsylvania, would have to drive anywhere from 75 to more than 150 miles to get to the nearest airport with commercial service.

There are many other rural communities where major commercial air passenger service is located at even greater distances and the Essential Air Service helps alleviate the travel isolation of these communities. I am pleased that this bill addresses the needs of Hagerstown Airport and others like it.

Another issue critical to the success of Maryland's airports that will surely come up during the debate of this bill is changing the slot and perimeter rule at Reagan National Airport. This is an issue that I care deeply about because it has a specifically targeted effect on the economic success and job growth potential at BWI-Thurgood Marshall airport and the surrounding area.

In the 111th Congress, the proposed changes to operations at National Airport were made by Senators representing States well beyond the Greater Washington region. Changing the slot and perimeter rule in this fashion subverts the established process for altering these rules and undermines the authority of local transportation experts.

Restricted service at National Airport lends itself to the steady growth at the region's major hub airports, which has been at the heart of the region's business communities' economic development plans.

Companies such as Northrop Grumman, L3, General Dynamics, IBM, Deloitte, and other major employers in the Baltimore-Washington area strategically located themselves around BWI. The growth of that airport is critically important to our economic progress.

The steady growth in service at the region's large international airports helped create an attractive business climate for these major companies. This would not have been possible without Congress's agreement to maintain the status quo of service at National Airport that, in turn, made Dulles and BWI the region's growth airports.

Based on existing service and prior historical evidence of the impacts of increased slots at DCA, allowing flights to be converted from within the perimeter to beyond the perimeter would have a direct impact on the service offered out of BWI Marshall.

Under any slot-change scenario, service reductions at BWI Marshall will reduce the value and return on Federal and State infrastructure investments made at BWI. Maryland has invested more than $1.5 billion in the airport over the last 10 years and plans to invest $684 million in the next 6 years. I welcome a collaborative and open process should changes in the region's airport operations be necessary.

In regard to another important provision in this legislation, I support the passenger bill of rights. No one should ever be forced to stay aboard a plane on a tarmac for extended periods of time.

I also applaud the provisions within the bill that provide customers with better information about the wide range of fees airlines and airports place upon the flying public.

I understand that between high fuel costs and the current economy, travelers are flying less and this has hurt the airline industry. As a result, airlines have resorted to charging a variety of fees for services on each flight. Airlines have counted on air travelers adapting to each change of policy so much that today's frequent fliers rarely expect a free meal or to check their bags for free.

Air travelers often have no choice but to pay the airlines' fees. The problem is how these fees come at the customers, often by surprise. If the fees are explained in advance, there is less with which to take issue.

Surprise fees have consumers upset and weary of flying. By the time travelers reach the ticket counter, they are committed to getting on that plane. At that point, the airlines have the clear upper hand when it comes to levying additional charges for baggage based on size, weight or type or even fees for simple onboard amenities such as refreshments, headphones or blankets once passengers are in their seats. In some instances, particularly the at-the-counter baggage fees, travelers have no choice but to pay the fee.

In the 111th Congress, I introduced legislation to ensure air travelers were made well aware of the fees they were being charged to fly. I look forward to working with my colleagues to make sure this issue is adequately addressed in this bill.

I want the airlines to succeed. Working to improve access to information and require the honest disclosure of airline fees and improved passenger treatment help public confidence in the airline industry.

Currently, the airline industry can point at high fuel costs and a downturn in the economy as the top reasons for why less people are traveling by air. As the economy continues to improve and as more Americans find work, both business and leisure travel will begin to pick up. Whether the travelers look to the skies or the ground to get to their destination will largely depend on the users' experience.

The passenger bill of rights goes a long way to improving the users' experience for air travelers.

Before concluding on this legislation to reauthorize the Federal Aviation Administration, I think it is important that I comment on one amendment that may be brought up. I wish to express my opposition to an amendment that would exclude employees of the Transportation Security Administration, TSA, from collective bargaining rights of Federal employees. On June 23, 2010, more than 6 months ago, I spoke on the floor of the Senate about the need for collective bargaining for more than 60,000 TSA employees who work at BWI Marshall International Airport and airports around the Nation.

At that time, some Members of Congress opposed collective bargaining for TSA employees because of their concern that we need to be able to adapt quickly and effectively to specific aviation threats. The underlying premise of that argument is, we must choose between protecting the Nation from threats to aviation and collective bargaining. As I said in my June 23, 2010, speech, that choice is a false choice because national security and what I called smart collective bargaining are not mutually exclusive. Under a smart collective bargaining agreement, where a true emergency exists, TSA would be fully capable of deploying assets without there being any negative impact from collective bargaining.

At his confirmation hearing, Administrator Pistole stated that ''we have to be able to surge resources at any time . . . not only nationwide but worldwide.'' The smart collective bargaining agreement I called for would enable us to do exactly that. Moreover, I believed then and I believe now that a smart collective bargaining agreement would enhance national security because it would enable TSA to recruit and retain better employees.

Our Nation's history with labor unions clearly teaches us that collective bargaining boosts morale, it allows employees to have a voice in their workplace, and it allows them to increase stability and professionalism.

On the other hand, poor workforce management can lead directly to high attrition rates, job dissatisfaction, and increased costs, which lead to gaps in aviation security. In the past, there have been reports that the TSA has had low worker morale, which can undermine the agency's mission and our national security.

I am now pleased to learn that after he was confirmed by the Senate, Administrator Pistole did what he said he would do—he studied the issue and gathered all the facts and information he could from stakeholders, including TSA employees, TSA management, union presidents, and a variety of present and former leaders and experts in law enforcement agencies and organizations.

This past Friday, on February 4, Administrator Pistole decided that the more than 60,000 TSA employees working at BWI Marshall International Airport and at airports around the Nation could vote on whether they want or do not want representation for limited collective bargaining on nonsecurity employment issues.

Administrator Pistole's determination will provide a framework to protect TSA's ability to respond to evolving threats, while allowing TSA's employees the right to join a union under clear definitions.

This is a smart decision and can lead to the kind of solution I was talking about 6 months ago.

On issues of national security, we need to come together and reject the either/or. We need to be smart on national security, and this collective bargaining decision by Administrator Pistole is a smart decision. The fact is, the Department of Homeland Security's Customs and Border Patrol officers, some of whom work at the same airports as TSA employees, as well as DHS Federal Protective Service and the Capitol Police, all operate under collective bargaining agreements.

As our late colleague, Senator Kennedy, noted in August 2009 when he cosponsored a collective bargaining rights bill for public sector officers, tomorrow morning, thousands of State and local public safety officers, police officers, and firefighters will awake and go to work to protect us. They will put their lives on the line, responding to emergencies, policing our neighborhoods, and protecting us in Maryland and in communities all across the Nation. These dedicated public servants will patrol our streets and run into burning buildings to keep us safe. No one believes for a moment we are less safe because they have secured collective bargaining rights.

If opponents of Administrator Pistole's decision want to invoke 9/11 to support their views, they will soon discover that the legacy of 9/11 shows very clearly that national security will not be compromised by smart collective bargaining. Before 9/11, New York Port Authority police worked 8 hours a day, 4 days on and 2 days off. By the end of the day on 9/11, however, vacations and personal time were canceled and workers were switched to 12-hour tours, 7 days a week. Indeed, schedules did not return to normal for 3 years. The union did not file a grievance, and everyone recognized it was a real crisis.

Administrator Pistole's decision will enhance our ability to recruit and retain the best TSA employees to protect us.

It will also lead to conditions that will improve our ability to recruit and retain the best employees, such as the countless number of American heroes who work every day to protect us and keep us safe, under collective bargaining agreements.

In concluding, I wish to acknowledge in the reauthorization of the FAA bill the thousands of hard-working government workers, pilots, flight attendants, and other members of our Nation's flight crews. Without their service, air travel would not be possible. I am pleased several of the labor organizations that represent so many hard-working Americans in the aviation industry support this bill. I also note the important worker safety provisions this legislation provides workers in the aviation industry.

Congress has passed 17 short-term extensions of this authorization. It is time for a permanent fix. It is time to pass this bill. It will provide stability, safety, and jobs for both the airline industry and its passengers.

It promotes jobs, consumer travel protections, homegrown technological innovation, and reductions of fuel consumption and greenhouse gas emissions. This could not come at a more opportune time.

I congratulate the chairman for all the work he has done.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank the good Senator from Maryland for his remarks.

I am sure, as I call on my vice chairman, Senator HUTCHISON will have remarks she will want to make. I simply wish to catch us up to where we are.

This is the Federal aviation bill. It has been deemed to be only the Federal aviation bill, which is good, because that means extraneous amendments are not germane. We are trying to work our way through this aviation

policy issue business, which actually is turning out, so far, to be quite smooth. People commented it is being done in a bipartisan fashion. That is the way Senator HUTCHISON and I work always and it is the way the committee works and is probably why we put out more nominations and legislation than any other committee.

We have a number of pending amendments. I know my colleagues also have others. Some will come to the floor this afternoon to get into the queue and speak on those amendments. We are making progress resolving some of the pending amendments. Others, I believe, will require votes. If we can do something without a vote, that is great. If we have to have a vote, that is also fine.

In addition, Senator HUTCHISON and I continue to work to resolve the issue of slots at National Airport. I thank all our colleagues for engaging in a constructive conversation on this very difficult issue. It has been very heartening that people seem to understand that if we cannot work out this issue, the whole bill goes down and 11 million jobs and over $1 trillion of the economy are at risk.

We have played with fire with this now for 17 consecutive extensions of the bill. It is a horrible way to do business, to send out a 3-year contract for building an airport runway—it is awful. But we have not faced up to this bill. Senator HUTCHISON and I are doing that.

I suspect we will be on the bill this week. We hope to finish it the following week. I believe we can do that, but then again I am not sure. It is how the Senate wants to work its will.

Again, I urge my colleagues to speak with Senator HUTCHISON and myself if they have amendments they would like to offer. That is what we are here for.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I appreciate what the chairman has said. His message is the same as my message; that is, this is a very important bill. It is one—the authorization of the FAA—we have extended, since 2007, with 18 short-term extensions. Neither the chairman nor myself want a 19th short-term extension. That is, as he mentioned, not the way we ought to be doing business. We ought to be able to assure that a contract will be let for a new runway or a repair on a runway and that it will be finished. I hope we can get through some of the thornier issues, and there are several of those.

I ask my colleagues to come down and get their amendments pending because we want to close out amendments and then deal with the ones we have and move on.

Senator WICKER and Senator COLLINS are going to be here very shortly. They will be talking about the Wicker amendment. That is one I think they have now agreed to sponsor together. They have made some good changes. We have others that are also being worked on. It is time, if a colleague wants to offer an amendment, to come down and do it.

We are continuing to work on the perimeter slot rule from Washington National Airport, with the hope of coming to a consensus that will increase the number of opportunities for people from the Western half of the United States to come into Washington National Airport. I will say, I believe it is in everyone's interest to open Washington National on a limited basis. We do not want to add to the congestion. The proposals that are being put forward would not add to congestion. They would be mostly incumbent carriers already flying, just transferring to longer haul flights but not with bigger airplanes.

So you can't make the argument that it is going to add to ground congestion or air congestion because you are not going to add that many new flights. It certainly is not a noise issue anymore, because we have Stage III aircraft that have made a significant improvement in air traffic noise for people who live near airports. I think it is in the interest of the people who live around National to have that same convenience—to be able to go to the western part of the United States, just as people who live farther away from the airports. So I think we are working through this. We need to come up with something that everyone would say is a fair compromise, and I hope we can do that.

The underlying bill is important because it does increase the safety measures we need to have. It certainly will modernize the air traffic control system and put America in the forefront of putting our air traffic control on a satellite-based system, rather than a ground-based radar system. That is the key reason for needing to go forward on this bill so we can start that transformation. It will take time, and it is something that needs to be done, but with a longer term authorization, which we are trying to do.

It will improve rural small town access to our aviation system. There are also good consumer protections. We don't think anyone should have to sit on an airplane for more than 3 hours on the ground with the door closed, and that is provided for in this bill. If you are sitting on the ground in an enclosed aircraft for more than 3 hours, the airline must open the doors and let passengers get off.

There are a lot of things we need to put into law. We have made a good start, and I would ask my colleagues to give us their amendments, if they have them, and let us work through them to move this bill.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

AMENDMENT NO. 14, AS MODIFIED

Mr. WICKER. Mr. President, I ask unanimous consent that my amendment No. 14 be modified with the changes I have sent to the desk.

The ACTING PRESIDENT pro tempore. Is there objection?

Hearing no objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. EXCLUSION OF EMPLOYEES OF THE TRANSPORTATION SECURITY ADMINISTRATION FROM THE COLLECTIVE BARGAINING RIGHTS OF FEDERAL EMPLOYEES.

(a) SHORT TITLE.—This section may be cited as the ''Termination of Collective Bargaining for Transportation Security Administration Employees Act of 2011''.

(b) IN GENERAL.—Section 7103(a) of title 5, United States Code, is amended—

(1) in paragraph (2)—

(A) in clause (iv), by striking ''; or'' and inserting a semicolon;

(B) in clause (v), by striking the semicolon and inserting ''; or''; and

(C) by adding at the end the following:

''(vi) an officer or employee of the Transportation Security Administration of the Department of Homeland Security;''; and

(2) in paragraph (3)—

(A) in subparagraph (G), by striking ''; or'' and inserting a semicolon;

(B) in subparagraph (H), by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(I) the Transportation Security Administration of the Department of Homeland Security;''.

(c) AMENDMENTS TO TITLE 49.—

(1) TRANSPORTATION SECURITY ADMINISTRATION.—Section 114(n) of title 49, United States Code, is amended by adding ''This subsection shall be subject to the amendments made by the Termination of Collective Bargaining for Transportation Security Administration Employees Act of 2011.'' at the end.

(2) PERSONNEL MANAGEMENT SYSTEM.—Section 40122 of title 49, United States Code, is amended—

(A) by redesignating subsection (j) as subsection (k); and

(B) by inserting after subsection (i) the following:

''(j) TRANSPORTATION SECURITY ADMINISTRATION.—Notwithstanding any other provision of this section (including subsection (g)(2)(C)), this section shall be subject to the amendments made by the Termination of Collective Bargaining for Transportation Security Administration Employees Act of 2011.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and apply to any collective bargaining agreement (as defined under section 7103(a)(8) of title 5, United States Code) entered into on or after that date, including the renewal of any collective bargaining agreement in effect on that date.

SEC. _____. EMPLOYEE RIGHTS AND ENGAGEMENT MECHANISM FOR PASSENGER AND PROPERTY SCREENERS.

(a) LABOR ORGANIZATION MEMBERSHIP; APPEAL RIGHTS; ENGAGEMENT MECHANISM FOR WORKPLACE ISSUES.—

(1) IN GENERAL.—Section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note) is amended—

(A) by striking ''Notwithstanding'' and inserting the following:

''(1) IN GENERAL.—Except as provided in section 883 of the Homeland Security Act of 2002 (6 U.S.C. 463) and paragraphs (2) through (5), notwithstanding''; and

(B) by adding at the end the following:

''(2) LABOR ORGANIZATION MEMBERSHIP.—Nothing in this section shall be construed to

prohibit an individual described in paragraph (2) from joining a labor organization.

''(3) RIGHT TO APPEAL ADVERSE ACTION.—An individual employed or appointed to carry out the screening functions of the Administrator under section 44901 of title 49, United States Code, may submit an appeal of an adverse action covered by section 7512 of title 5, United States Code, and finalized after the date of the enactment of the FAA Air Transportation Modernization and Safety Improvement Act, to the Merit Systems Protection Board and may seek judicial review of any resulting orders or decisions of the Merit Systems Protection Board.

''(4) EMPLOYEE ENGAGEMENT MECHANISM FOR ADDRESSING WORKPLACE ISSUES.—At every airport at which the Transportation Security Administration screens passengers and property under section 44901 of title 49, United States Code, the Administrator shall provide a collaborative, integrated employee engagement mechanism to address workplace issues.''.

(2) CONFORMING AMENDMENTS.—Section 111(d)(1) of such Act, as redesignated by paragraph (1)(A), is amended—

(A) by striking ''Under Secretary of Transportation for Security'' and inserting ''Administrator of the Transportation Security Administration''; and

(B) by striking ''Under Secretary'' each place it appears and inserting ''Administrator''.

(b) WHISTLEBLOWER PROTECTIONS.—Section 883 of the Homeland Security Act of 2002 (6 U.S.C. 463) is amended, in the matter preceding paragraph (1), by inserting '', or section 111(d) of the Aviation and Transportation Security Act (49 U.S.C. 44935 note),'' after ''this Act''.

Mr. WICKER. Secondly, Mr. President, I ask unanimous consent that the following two Senators be added as cosponsors to my amendment: Senator COLLINS and Senator COBURN.

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

Mr. WICKER. Mr. President, I called up my amendment last week. This amendment would prohibit TSA employees from entering into collective bargaining agreements. A lot has happened since I called up my amendment. The Transportation Security Administrator announced his intent on Friday to proceed with allowing TSA security employees to collectively bargain. That would reverse a decade of policy—since the inception of TSA, actually. Currently, TSA employees are not allowed to collectively bargain. The 2001 law that created TSA gives this decision to the Administrator, and previous Administrators have understood that collective bargaining agreements for TSA could compromise our Nation's security. TSA employees have been treated like those of the FBI, the CIA, and the Secret Service for purposes of collective bargaining. These personnel are treated very well by our government and taken care of in other ways. But because of the security concerns, collective bargaining is prohibited for those security personnel.

Frankly, I think many observers would conclude that the current administration is intent on doling out rewards to campaign supporters and, therefore, is moving to reverse this decade-old decision and allow for collective bargaining among TSA employees. On November 12, 2010, the Federal Labor Relations Authority decided TSA employees will be allowed to vote on union representation, and then the decision came along on Friday to allow them to have collective bargaining rights.

I don't believe our country needs 50,000 TSA screeners to be part of a union. But the Obama administration does. Adding workers to union rolls has been a high priority of the administration since day one. As I pointed out, the FBI, the CIA, and the Secret Service do not have collective bargaining rights because burdensome union demands could limit the ability of those responsible for security at some of the most high-risk targets and hamper them in getting their job done.

Let me review a little bit of history. When a British airliner bombing plot was uncovered in 2006, the TSA overhauled security procedures in a matter of 12 hours to deal with the threat of liquid explosives. They had to act very quickly and flexibly. It is difficult to imagine that kind of flexibility under inflexible union rules.

In 2006, following a severe midwestern snow storm, local TSA employees were unable to get to the airport, but TSA was able to fly personnel in temporarily from other airports to cover these snowed-in personnel. This helped keep the airport open and the security lines moving. I wonder how injecting collective bargaining into this type of situation would have impacted TSA's ability to be flexible, to be quick on its feet, and to move personnel around.

There is also the issue of testing and rollout of software to protect the privacy of passengers utilizing advanced imaging technology. This should be done on the basis of national security and passenger safety and privacy concerns, and not delayed because of union concerns or intervention in the management of TSA employees.

I would reiterate, TSA has existed for almost 10 years without collective bargaining, and there is no legitimate policy reason to change this procedure at this time.

Working with Senator COLLINS, who I believe is prepared to also speak today, I have modified my amendment to make it clear that TSA employees have the baseline protections that almost all our Federal employees have, while preserving the flexibility needed to keep our Nation safe. The modified amendment would codify the 2003 TSA policy that prohibits collective bargaining agreements with security screeners. We do not need to limit the flexibility to respond immediately to emerging and evolving threats.

My amendment would also allow the Merit Systems Protection Board to hear adverse employment actions, such as demotions or firings, so TSA employees would have the same protections as other Federal security employees.

Also, if these modifications are accepted unanimously today, they would codify protections under the Whistleblowers Protection Act and would create an employee engagement process for workplace issues. My amendment simply adds these protections into the statute.

I would also point out that it is the public employees union contracts that States are grappling with today. Several of our States are literally facing bankruptcy because of the expensive and burdensome government union employee contracts—Illinois, New Jersey, California. The Governors, on a bipartisan basis, are struggling to get out from under these burdens and to free their States from these expensive public employee union contracts. They are causing the bankruptcy of States.

In the U.S. Government, we have the ability to deficit spend, and that is quite a problem. We will spend $1.5 trillion this fiscal year that we don't have, and the American public is demanding that we do something about it. It is unimaginable to me that under those circumstances the Obama administration is taking action which can only make TSA more expensive and make dealing with our employees there more costly and add to the debt. I don't see any way around it.

As States and localities are moving in one direction, here comes the Obama administration and, swimming upstream on this issue, proposing to add to the public employee union collective bargaining regime some 40,000 to 50,000 additional Americans. I don't see how we can afford that. I don't see how it helps security or helps our Nation to adopt some more burdensome requirements, and I don't see how it helps national security.

I would urge my colleagues to vote in favor of Wicker amendment No. 14. That vote may occur as early as tomorrow morning, but I would urge its adoption. This is an issue that is not going to go away. It is going to be taken up in the other body. We are going to be following this issue, and it is something I think Americans feel strongly about.

At this point I would urge the adoption of my amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, first, let me thank my colleague and friend from Mississippi for working with me over the past few days to modify the amendment he originally proposed. I very much appreciated his willingness to sit down and talk about the amendment, and I am pleased to cosponsor Senator WICKER's modified amendment, which provides additional workforce protections for transportation security officers while ensuring the management flexibility that is absolutely vital to the operational efficiency of the TSA and to the security of the American people. Our amendment would provide additional employment

protections to TSA employees while preserving the agency's ability to respond quickly and effectively to security and operational challenges.

Through our committee's work on homeland security, I have become convinced that the ability for TSA to respond quickly and effectively to changing conditions, to emerging threats, to new intelligence, to impending crises, even to dramatic weather such as blizzards and hurricanes, is essential. From the intelligence community to our first responders, the key to an effective response is flexibility—the ability to put assets and personnel where they are needed, when they are needed, with a minimum of bureaucracy.

The TSA is charged with a great responsibility. In order to accomplish its critical national security mission, the Aviation and Transportation Security Act provided the TSA Administrator with certain workforce flexibilities. These flexibilities allowed the Administrator to shift resources and to implement new procedures whenever needed—daily, even hourly, in some cases—in response to emergencies, canceled flights, changing circumstances, or threats to our security. This authority has enabled TSA to make the best and fullest use of its highly trained and dedicated workforce.

I want to point out that this debate is not just theoretical. We are not talking about having some theoretical flexibility. We have already seen the benefits of this flexibility. We have seen exactly why it is necessary.

Let me give a couple of examples. In the aftermath of the thwarted airline liquids bombing plot that emanated from Great Britain, TSA was able to move quickly to change the nature of its employees' work and even the location of that work. With the liquids bombing plot, TSA, overnight, had to retrain its employees, had to deploy them differently, and was able to do so precisely because of the flexibility of the current law.

Another example is the December 2006 blizzard that hit the Denver area. When many local TSA employees were unable to get to the airport, TSA was able to act quickly, flying in volunteer TSA employees from Las Vegas to cover the shifts, and covering the Las Vegas shifts with officers who were transferred temporarily from Salt Lake City. Without that ability to deploy personnel where they were needed on a moment's notice, the Denver airport would have been critically understaffed while hundreds, perhaps thousands of travelers were stranded. This flexibility is essential to maintain, and that is what the Wicker-Collins-Coburn amendment would do.

TSA also redeployed hundreds of screeners to Houston and New Orleans in response to hurricanes in 2008. These TSOs relieved local employees at those airports so that they could safely evacuate themselves and their families, and it helped to quickly resume screening operations after the storms had passed.

These were challenging times for TSA. Evacuations in these cities caused high volumes of airline passengers resulting in the TSOs in New Orleans screening more than 32,000 gulf coast residents within a 48-hour period.

TSA's announcement on Friday purports to preclude employees from bargaining over security policies and procedures. But if we look at precisely what it says, it does allow bargaining over the selection process for special assignments and on policies for transfers and shift trading—matters that could require very rapid resolution during an emergency. There will not be time for bargaining over those issues.

In addition, the very definition of what constitutes security policies and procedures could be the subject of dispute and litigation. That is exactly the point Secretary Chertoff made in a letter he sent to me in 2007 when the Senate was considering this very same issue. He wrote:

> Although the administrator of TSA purportedly would not be required to bargain over responses to emergencies or imminent threats, it is inevitable that protracted litigation would ensue over the meaning of these terms.

That is exactly what would happen if we allow to stand the decision of the Administrator of TSA. Instead of drastically changing the TSA personnel system in a way that would interfere with TSA's ability to carry out its mission, there is an alternative. We should make some targeted but critical reforms in the personnel system to ensure that TSA's employees are treated fairly.

My point is there is a middle ground that we can reach, and that is what the modified amendment does. First, we should bring TSA employees under the Whistleblower Protections Act, which safeguards the rights of whistleblowers throughout the Federal Government. There is simply no reason to deny TSA employees that protection. Indeed, I would argue it hurts us to deny that protection because if there is a whistleblower at this critical agency who does not feel fully protected and does not come forward, that could hurt our security. So our amendment would codify that coverage and make that protection clear.

Second, we should make clear that TSA members do have the right to join a union. That is a different issue from collective bargaining. Some of them have chosen to be represented by a union now. Many have not chosen to be. But they should have that choice. That allows, for example, for them to get representation by a union if there is an adverse employment action. Our amendment specifically provides that we are not depriving employees of that choice.

Third, we should give TSA employees the right to an independent appeal of adverse personnel actions such as removals, suspensions for more than 14 days, reductions in pay or grade, or certain furloughs. The amendment would give TSOs the right to have those appeals heard by the Merit Systems Protection Board. That is an independent board, separate from the agency, separate from the Department of Homeland Security, that sits in judgment of appeals filed by most other Federal employees. So I see no reason TSA screeners should not have that same right. That is an important protection because if a screener believes he or she is being treated unfairly by a supervisor, there is an independent arbitrator to whom that employee can appeal.

Here is the bottom line. We can provide TSA employees with important protections enjoyed by other Federal employees, such as the right to appeal adverse employment actions to the Merit Systems Protection Board and the statutory right to whistleblower protections without disrupting TSA's proven personnel system that has served the agency and this Nation well over the past decade. Previous Secretaries of Homeland Security and Administrators of TSA have described that personnel system in great detail to the Homeland Security Committee and to other entities, in the Senate in both classified briefings and open hearings, as necessary to accomplish the critical goals of TSA. Our amendment would preserve these flexible personnel systems while ensuring that TSA employees enjoy important legal protections available to other Federal employees.

I have been trying since 2007 to achieve a middle ground on this issue. Frankly, the previous administration was reluctant on some of the safeguards I have described. This administration has gone way overboard in the other direction, but a middle ground is exactly what this modified amendment strikes. It charts that middle ground, providing significant additional protections and rights to TSA employees without burdening a system that is working well now and that is essential to our security.

We simply have to allow the TSA Administrator to retain exactly the same kinds of flexibility to deploy personnel that he enjoys now and that have been used in the past. That is the important point. This debate is not theoretical. Those personnel flexibilities have proven absolutely essential to meet the threat of a terrorist attack and to deal with blizzards and hurricanes. I urge my colleagues to take a strong, close look at the modified amendment. I hope they will support it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

NOMINATION OF MARCO A. HERNANDEZ

Mr. WYDEN. Mr. President, I thank the chairman of the Commerce Committee dealing with an exceptionally

important bill. I appreciate his courtesy at this time.

Mr. President, later in the evening the Senate will confirm Judge Marco Hernandez, who has been nominated to serve as a U.S. district court judge for the District of Oregon. The vacancy that Judge Hernandez will fill is one that Chief Justice Roberts has designated a judicial emergency. Given that, I thank Chairman LEAHY, Ranking Member GRASSLEY, Majority Leader REID, and Minority Leader MCCONNELL for bringing this nomination to the floor today.

I also note Oregon has another opening and another outstanding nominee, Mr. Michael Simon, whom I expect to be reported out of committee this week. I hope he, too, will be brought to the Senate floor quickly.

It is no surprise that Judge Marco Hernandez was nominated to the Federal bench because his life could serve as a billboard for the American dream. At the age of 17, Marco Hernandez moved to Oregon by himself. Needing to support himself, he took a job as a dishwasher, later found a better job as a janitor, and eventually Marco became a teacher's aide. At that point, Judge Hernandez began taking night classes at a local community college with the hope of one day attending a 4-year college. Finally, he was able to enroll at Western Oregon State College, and he quickly demonstrated his ability to excel.

Judge Hernandez earned the Delmer Dewey Award as the most outstanding male student in his class. Following college, Marco went on to graduate from the University of Washington School of Law.

From the beginning of his legal career, Judge Hernandez demonstrated a strong commitment to public service. After law school, Judge Hernandez worked at Oregon Legal Services representing farm workers. He then served as a deputy district attorney and was later appointed as a State court judge, a position he has served in for the past 15 years.

Judge Hernandez is so well regarded across my home State and across the political spectrum that he has been nominated not by one but by two Presidents of different parties and at the recommendations of two Senators of different parties. Judge Hernandez was first nominated for the district court by President Bush in 2008 when my friend and former colleague, Senator Gordon Smith, led the nomination process. At that time I supported the recommendation of Judge Hernandez.

Unfortunately, the 110th Congress was unable to act upon his nomination before adjourning. In the 111th Congress I recommended Judge Hernandez's nomination to President Obama, and I am very pleased that Senator MERKLEY, who has joined me in the Senate, has been a strong supporter of Judge Hernandez as well. I was very pleased when President Obama announced that he, too, like President Bush, thought it important for Judge Hernandez to serve on the Federal bench.

One of the reasons leaders from both political parties support Judge Hernandez is that throughout his judicial career he has demonstrated a special affinity for creative solutions. He implemented an innovative domestic violence program to aggressively pursue offenders and created a new program for mentally ill defendants, which Judge Hernandez continues to oversee.

With a tremendous record of public service, innovation, and commitment to justice, no one was surprised when Judge Hernandez was reported out of the Judiciary Committee unanimously. He has had the support of both Republicans and Democrats and a broad range of legal organizations. He has received the strong backing of the Hispanic National Bar Association. In fact, Judge Hernandez would be the first Hispanic article III judge in my home State.

It is good news for the people of Oregon, and it is good news for the Federal bench that today the Senate is taking up the confirmation of Judge Hernandez. I strongly urge all my colleagues to join me in supporting an outstanding individual, Judge Marco Hernandez, for U.S. district court judge.

I thank, again, Chairman ROCKEFELLER, who is dealing with an extremely important bill for his courtesy for letting me make these remarks about Judge Hernandez.

I yield the floor.

The PRESIDING OFFICER (Mr. BLUMENTHAL.) The Senator from Arizona.

AMENDMENT NO. 4

Mr. MCCAIN. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 4.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 4.

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

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

The amendment is as follows:

(Purpose: To repeal the essential air service program)

Beginning on page 128, strike line 5 and all that follows through page 141, line 9, and insert the following:

SEC. 411. REPEAL OF ESSENTIAL AIR SERVICE PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 417 of title 49, United States Code, is repealed.

(b) CONFORMING AMENDMENTS.—Title 49, United State Code, is further amended—

(1) in section 329(b)(1), by striking ''except that'' and all the follows through the semicolon;

(2) in section 40109(f)(3)(B), by striking '', including the minimum'' and all that follows through ''this title'';

(3) in section 40117(e)(2), by striking subparagraph (B) and redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively;

(4) in section 41110—

(A) in subsection (a)(2)(B), by striking ''41712, and 41731–41742'' and inserting ''and 41712''; and

(B) in subsection (c)—

(i) in paragraph (1), by striking ''carrier—'' and all that follows through ''does not provide'' and inserting ''carrier does not provide''; and

(ii) in paragraph (2), by striking ''(1)(B)'' and inserting ''(1)''; and

(5) in section 47124(b)(3)(C), by striking clause (iv) and redesignating clauses (v) through (vii) as clauses (iv) through (vi), respectively.

Mr. MCCAIN. Mr. President, I know we celebrated President Reagan's 100th birthday this past weekend. I quote from him on many occasions. He inspired many of us in many ways. President Reagan once stated:

Government programs once launched never disappear. Actually a government bureau is the nearest thing to eternal life we will ever see on this earth.

I do not know if President Reagan ever observed the Essential Air Service program, but it certainly fits his description. This amendment, to repeal a $200 million government subsidy, may not be significant. And $200 million, in the light of a $1.5 trillion deficit this year, is probably not a lot of money. But a lot of Americans on November 2 said they wanted us to stop spending on things that are not absolutely essential. Although this program is called the Essential Air Service, in my view, it is far from ''essential.'' But the American people spoke on November 2. They said, stop the spending. Stop programs that are either unnecessary, have grown too much, are unwise, or even make some tough decisions.

In this bill, we are not cutting the Essential Air Service, we are actually increasing it to some $200 million. My colleagues may be a bit confused by this chart right here. But it shows—by this way, this chart came from the FAA—that 99.95 percent of all Americans—99.95 percent of all Americans—live within 120 miles of a public airport that has more than 10,000 takeoffs and landings annually.

So, yes, there are some parts of America that represent the .05 percent of all Americans who live outside of 120 miles from an airport that has 10,000 takeoffs and landings.

All the watchdog organizations—Citizens Against Government Waste, the National Taxpayers Union, all of those organizations that watch what we do support this amendment. Earlier this month Citizens Against Government Waste President Tom Schatz said: The nonessential air service has outlived its usefulness and is another reason why the country has a $14 trillion national debt.

A lot of Americans will be watching the vote on this amendment. It is not the first amendment to try to cut back on spending, but it certainly is, in my view, very symbolic of whether we are

serious. Last week, in the President's State of the Union speech, he said: The only way to tackle our deficit is to cut excessive spending wherever we find it, in domestic spending, defense spending, health care spending and spending through tax breaks and loopholes.

As House Budget Committee Chairman PAUL RYAN has told many, ''There are no sacred cows when it comes to spending cuts.'' To put it bluntly, the Essential Air Service is not ''essential.'' The program was created in 1978 when Congress deregulated the airline industry and allowed market forces to determine the price, quantity, and quality of service. Deregulation allowed most airline carriers to focus their resources on profitable, high-density markets. That is the way the market works. In response, Congress established the Essential Air Service to subsidize airline carriers that provide service to small communities at a loss, because, otherwise, no sane business would serve a market at a loss.

Again, as Ronald Reagan once eloquently stated, ''Government does not solve problems, it subsidizes them.'' That is exactly what we did in 1978 by creating the Essential Air Program.

As with so many programs we have created, as Congress initially enacted the program, it was supposed to last 10 years. It was only 10 years that we enacted this program while markets adjusted and communities adjusted. In 1996, of course, we removed the 10-year limit, and like so many programs the government has created, it started with a few airline carriers and a few communities, and now has grown to subsidize a dozen airline carriers and over 100 communities. You cover enough communities, you get enough votes, you keep the program going, and then you increase the spending on the program.

In this bill, it increased costs of $200 million. Again, not much in comparison to a $1.5 trillion debt, $14 trillion deficit—$1.5 trillion deficit, $14 trillion debt. But it might be nice to start somewhere. Like so many other government programs, the program was initially funded for several million dollars, now up to $200 million.

A July 2009 Government Accountability Office report questioned whether the AES program has outlived its usefulness, stating:

> Current conditions raise concerns about whether the program continues to operate as it has. The growth of the air service, especially by low-cost carriers, which today serve most U.S. hub airports, weighed against the relatively high fares and inconvenience of Essential Air Service flights can lead people to bypass Essential Air Service flights and drive to hub airports.

As I mentioned, 99.95 percent of all Americans live within 120 miles of public airports with more than 10,000 takeoffs and landings—in other words, fairly large airports. Let me give you a good example of the kind of great expenditure of the taxpayers dollar this is.

Last year the Wall Street Journal published an article entitled, ''John Murtha's Airport for No One,'' which reported on an airport in Pennsylvania that has received more than $1.3 million over the past few years under the Essential Air Service program. The article states:

> The airport sees an average of fewer than 30 people per day. There is never a wait for security, you can park for free right outside the gate. And you are almost guaranteed a row to yourself on any flight.

The article continues:

> Tickets to fly to Johnstown are expensive, even though every passenger flying out of John Murtha Airport has a $100 subsidy behind the ticket, courtesy of the Federal Essential Air Service Program, which provides support to struggling airports. So far it has gotten $150 million of payments to what is called the Airport for No One. There are a total of 18 flights per week, all of which go to Dulles Airport in Washington, D.C.

The author goes on to say:

> I was visiting the airport from Washington but because flights cost a pricy $400, I drove. The drive took less than three and a half hours and cost about $35 in gas—not to mention that it was arguably faster than flying. And this isn't a remote area of the state. Murtha airport is less than two hours from the Pittsburgh airport. The airport has an $8.5 million taxpayer-funded radar system that has never been used. The runway was paved with reinforced concrete at a cost of more than $17 million. The latest investment was $800,000 from the $787 billion American Recovery and Reinvestment Act to repave half of the secondary runway. (Never mind that the first one is hardly ever in use.)

Well, the list goes on and on. That is just an example.

I ask unanimous consent to have printed in the RECORD the article from the Wall Street Journal entitled ''John Murtha's Airport for No One,'' and the Los Angeles Times article entitled, ''Planes to nowhere? Congress plans to increase small-town airline subsidies,'' and the Seattle Times article entitled, ''Rural air subsidies test resolve to cut spending.''

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

[From the Wall Street Journal, Sept. 3, 2009]

JOHN MURTHA'S AIRPORT FOR NO ONE

A MONUMENT TO EARMARKS IN JOHNSTOWN, PA.

(By Tyler Grimm)

If you hate the hubbub of crowded airports, you might want to consider flying out of Johnstown, Pa. The airport sees an average of fewer than 30 people per day, there is never a wait for security, you can park for free right outside the gate, and you are almost guaranteed a row to yourself on any flight.

You might wonder how the region ever had the air traffic demand to justify such a facility. It didn't. But it is located in the district of one of Congress's most unapologetic earmarkers: Democrat John Murtha.

In 20 years, Mr. Murtha has successfully doled out more than $150 million of federal payments to what is now being called the airport for no one. I took a trip to southwestern Pennsylvania to explore how this small town received so much money and whether the John Murtha Airport is a legitimate federal investment.

There are many in Johnstown who see the airport as crucial. Johnstown Chamber of Commerce President Bob Layo tells me: ''If the airport isn't paying dividends now, it will in the future.'' But those dividends appear to be a mirage.

There are a total of 18 flights per week, all of which go to Dulles Airport in Washington, D.C. I was visiting the airport from Washington, but because flights cost a pricey $400, I drove. The drive took less than three and a half hours and cost about $35 in gas—not to mention that it was arguably faster than flying. And this isn't a remote area of the state: Murtha airport is less than two hours from the Pittsburgh airport.

The airport has an $8.5 million, taxpayer-funded radar system that has never been used. The runway was paved with reinforced concrete at a cost of more than $17 million. The latest investment was $800,000 from the $787 billion American Recovery and Reinvestment Act to repave half of the secondary runway. (Never mind that the first one is hardly ever in use.)

Airport Director Scott Voelker admitted in an interview that having a never-used unmanned radar system is ''dumber than dirt.'' But he says the airport is necessary and blames its current shortcomings on the economy. ''To get more passengers, we need more flights. To get more flights, we need more passengers,'' he says. Mr. Voelker believes the ''economy has dictated to the airlines to cut back on flights.'' In other words: The airport was not built in response to passenger or airline needs.

The usually barren airport—there were several times during the day I paced the building for 15 minutes and did not see another human being—has a lot of unused advertising space. But you can't miss the large picture of John Murtha among a collage of Lockheed Martin workers at the airport's center. It's a monument to earmarks: ''Partnerships Make a World of Difference,'' the ad reads.

Tickets to fly to Johnstown are expensive, even though every passenger flying out of John Murth Airport has a $100 subsidy behind the ticket courtesy of the federal Essential Air Service program, which provides support to struggling rural airports. A woman who had just gotten off a flight told me that there were only four people on her plane. ''The plane could have held at least 30 passengers,'' she said.

In addition to the airport, Mr. Murtha's ability to corral federal funds is apparent in the local medical research center (named after his wife), the John P. Murtha Technology Center, the area's thriving defense contracting industry, and numerous other local landmarks. The unemployment rate in Johnstown is currently below the national average of 9.4% thanks to federal largess and the fact that so many have moved away from the area.

Bill Polacek, a local businessman and a member of the airport's board of directors, told me that the citizens of Johnstown need Mr. Murtha's earmarks. ''Quite frankly, if he didn't do that, we wouldn't elect him,'' he said.

I asked Mr. Layo of the Chamber of Commerce if he thinks Mr. Murtha's earmarks should stop now that Johnstown has emerged from the economic crisis it faced two decades ago. ''I don't think you're ever finished,'' he replied. As long as Mr. Murtha is in Congress, they never will be.

[From the Los Angeles Times, Sept. 19, 2009]

PLANES TO NOWHERE? CONGRESS PLANS TO INCREASE SMALL-TOWN AIRLINE SUBSIDIES

(By Alexander C. Hart)

WASHINGTON.—Ely is a Nevada mining town with a population of 4,000. Located about a four-hour drive north of Las Vegas, it is perhaps most famous as the birthplace of former First Lady Pat Nixon.

Ely also is a beneficiary of Essential Air Service, a federal program established in the 1970s after airline deregulation to prevent small communities from losing access to air travel. But opponents call the program wasteful spending, noting that much of the money provides service to areas with fewer than 30 passengers a day.

This week, the Senate passed a transportation bill that includes a $38-million funding increase for the program, which now stands to receive $175 million.

In 2008, according to Senate Appropriations Committee data, Great Lakes Airlines received a subsidy of about $1.8 million for the 414 passengers it flew to and from Ely—about $4,500 per person.

Since the program requires companies to offer at least two round trips most days, some subsidized flights were almost certainly empty. Service contracts usually last two years.

Ely is just one of many communities receiving heavily subsidized flights; in June 2009, 152 towns and cities participated, according to the Department of Transportation.

Costs vary widely in part because of differences in ridership. Glendive, Mont., saw a per-passenger subsidy of more than $2,500 for each of the 418 people who flew last year. The 23,581 passengers using the airport in Manhattan, Kan., only cost the government $50.82 each.

Steve Ellis, vice president of the watchdog group Taxpayers for Common Sense, said that the program ''was supposed to go away over a period of time as we made the transition [from deregulation]. . . . Congress made sure it hasn't.''

But residents of small towns defend the program.

''We are very isolated,'' said Karen Rajala, coordinator for the White Pine County Economic Diversification Council, which covers Ely. ''The subsidy provides us a link to the urban areas of our state and the West.''

But in a time of soaring deficits, Congress must be careful with how it spends money, Ellis said. ''I'm not saying there aren't people who benefit from this program,'' he said. ''But the real question is, are the taxpayers as a whole getting their money's worth?''

Attempting to scale back the program, however, is difficult, as President George W. Bush learned when he proposed cutting funding to $50 million in his 2006 budget. His push, which also included a cost-sharing requirement for cities receiving service, collapsed in the face of congressional opposition.

The House's transportation bill also contains $175 million for the program. The two bills will be sent to a conference committee before President Obama signs a final version into law.

[From the Seattle Times, Feb. 3, 2011]

RURAL AIR SUBSIDIES TEST RESOLVE TO CUT SPENDING

(By Joan Lowy)

WASHINGTON.—A program that subsidizes air service to small airports, often in remote communities, is shaping up as an early test in the new Congress of conservatives' zeal for shrinking the federal government.

Sen. John McCain, R–Ariz., has proposed an amendment to an aviation bill pending before the Senate in order to eliminate the $200 million annual essential air service program. The program pays airlines to provide scheduled service to about 150 communities, from Muscle Shoals, Ala., to Pelican, Alaska.

In the House, the Republican Study Committee—a group of conservative lawmakers—has also proposed killing the program.

Subsidies per airline passenger as of June 1, 2010, ranged as high as $5,223 in Ely, Nev., to as low as $9.21 in Thief River Falls, Minn., according to Transportation Department data for the lower 48 states.

The program was created to ensure that less-profitable routes to small airports wouldn't be eliminated when airline service was deregulated in 1978. But critics say the airports often serve too few people to merit the amount of money spent in subsidies. Urban growth over the past three decades has also placed transportation alternatives—other airports, trains and bus service—within a reasonable distance of some communities receiving subsidies.

Studies show that in a lot of those communities people drive to larger airports to get better service at a lower cost than they can get at the smaller airport, even with subsidized air service, said Severin Borenstein, a University of California-Berkeley business professor who is an expert on airline competition.

''Some communities can make a credible claim they need the service, particularly in Alaska, but I think those are a relatively small part of the program,'' he said.

The program has been remarkably resilient, partly due to the protection it receives from lawmakers from rural states and districts. It has been proposed for cuts or elimination many times over the years, but continues to grow.

''It's exactly in the political sweet spot,'' Borenstein said. Lawmakers don't feel it's worth upsetting the few people the program serves to achieve what amounts to a modest savings in federal budget terms, he said.

Supporters say the small airports and their air service are important to the communities' ability to attract investment and jobs.

Four Democratic senators—Mark Begich of Alaska, Ben Nelson of Nebraska, Robert Casey of Pennsylvania and Joe Manchin of West Virginia—are circulating a letter among their colleagues for signature. It urges McCain to give up his attempt to kill the program, citing potential economic consequences.

''Eliminating the program will have a devastating impact on the economies of rural communities,'' their letter says.

''At a moment when the nation's economic recovery is starting to gain momentum, it makes little sense to reduce personal and business travel volume by cutting off residents of rural areas,'' the letter says. ''And at a time when jobs are already so hard to come by in our rural communities, it makes even less sense to enact cuts that will only make the problem worse.''

One of the program's biggest supporters is Sen. Jay Rockefeller, D–W.Va., chairman of the Senate Commerce, Science and Transportation Committee and the main sponsor of the pending aviation bill. It would increase rather than decrease funding for the program and give the Transportation Department more flexibility in structuring contracts with airlines to improve it. Rockefeller would also let the department adjust contracts to take into account rising fuel costs. There are five communities in West Virginia with subsidized service.

Several conservative senators from rural states declined to discuss McCain's amendment when approached by The Associated Press.

''I'll have to see it first. I haven't seen the amendment,'' said Sen. John Barrasso, R–Wyo. Two communities in Wyoming—Laramie and Worland—receive subsidized service, according to the Transportation Department.

''I just don't know about that,'' echoed Sen. Orrin Hatch, R–Utah. Three communities in Utah—Moab, Vernal and Cedar City—receive subsidized service.

Mr. McCAIN. The Los Angeles Times article entitled ''planes to nowhere,'' stated:

In 2008, according to Senate Appropriations Committee data, Great Lakes Airlines received a subsidy of about $1.8 million for the 414 passengers it flew to and from Ely Nevada, which is about a 4-hour drive to Las Vegas. This amounts to a $4,500 per-person subsidy. Since the program requires companies to offer at least two round trips most days, some subsidized flights were almost certainly empty.

The article says: Ely is a beneficiary of the Essential Air Service program established in the 1970s after airline deregulation, et cetera. Costs vary widely in part because of differences in ridership. Glendive, MT saw a per-passenger subsidy of more than $2,000 for each of the 418 who flew last year. The 23,581 passengers using the airport in Manhattan, KS, only cost the government $50.82 each.

Steve Ellis, vice president of the watchdog group Taxpayers for Common Sense, said: The program ''was supposed to go away over a period of time as we made the transition [from deregulation]. . . . Congress made sure it hasn't.''

Then, of course, I mentioned the Seattle Times article entitled, ''Rural air subsidies test resolve to cut spending.''

A program that subsidizes air service to small airports, often in remote communities, is shaping up as an early test in the new Congress of conservative zeal for shrinking the federal government.

It goes on to say:

A program that subsidizes air services to small airports, often in remote communities, is shaping up as an early test in the new Congress of conservative zeal for shrinking the Federal Government.

Subsidies per airline passenger as of June 1, 2010, ranged as high as $5,223 in Ely, NV, to as low as $9.21 in Thief River Falls, MN, according to Transportation Department data for the lower 48 States.

But critics say the airports often serve too few people to merit the amount of money spent in subsidies. Urban growth over the past three decades has also placed transportation alternatives—other airports, trains and bus service—within a reasonable distance of some communities receiving subsidies.

Studies show that in a lot of those communities people drive to larger airports to get better service at a lower cost than they can get at the smaller airport, even with subsidized air service, said Severin Borenstein, a University of California-Berkeley business professor who is an expert on airline competition.

''Some communities can make a credible claim they need the service, particularly in Alaska, but I think these are a relatively small part of the program,'' he said.

The program has been remarkably resilient, partly due to the protection it receives from lawmakers from rural states and districts. It has been proposed for cuts or elimination many times over the years, but continues to grow.

''It's exactly in the political sweet spot,'' Borenstein said. Lawmakers don't feel it's worth upsetting the few people the program serves to achieve what amounts to a modest savings in federal budget terms, he said.

I received a letter from four Senators that stated:

Eliminating the program will have a devastating impact on the economies of rural communities.

I believe the real devastation to rural communities—big communities, small communities, and medium-size communities—is if we don't stop mortgaging our children and grandchildren's futures, if we don't stop doing things that are unnecessary. This program was put into being in 1978. It was supposed to be there for 10 years. It was a few million dollars. Now, according to this bill, it will be $200 million.

It is about time we match our rhetoric with our votes. I believe this will be a very interesting vote we will be taking on this amendment.

All of these red dots represent people served by large and major airports. There are some areas of the country that are not. Most of these are very sparsely populated areas.

I hope my colleagues will vote in favor of eliminating this program that was designed for 10 years of life and now has continued on for some 30 years. And, as Ronald Reagan said, they are the hardest thing in the world to either reduce or eliminate.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be. There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 50

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to set aside the pending amendment so I may call up, on behalf of Senator LEAHY, amendment No. 50, which is at the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for Mr. LEAHY, proposes an amendment numbered 50.

Mr. ROCKEFELLER. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 to include nonprofit and volunteer ground and air ambulance crew members and first responders for certain benefits, and to clarify the liability protection for volunteer pilots that fly for public benefit)

At the appropriate place, insert the following:

TITLE ____—EMERGENCY MEDICAL SERVICE PROVIDERS PROTECTION AND LIABILITY PROTECTION FOR CERTAIN VOLUNTEER PILOTS

Subtitle A—Emergency Medical Service Providers Protection

SEC. __01. DALE LONG EMERGENCY MEDICAL SERVICE PROVIDERS PROTECTION ACT.

(a) SHORT TITLE.—This subtitle may be cited as the ''Dale Long Emergency Medical Service Providers Protection Act''.

(b) ELIGIBILITY.—Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) in paragraph (7), by striking ''public employee member of a rescue squad or ambulance crew;'' and inserting ''employee or volunteer member of a rescue squad or ambulance crew (including a ground or air ambulance service) that—

''(A) is a public agency; or

''(B) is (or is a part of) a nonprofit entity serving the public that—

''(i) is officially authorized or licensed to engage in rescue activity or to provide emergency medical services; and

''(ii) is officially designated as a pre-hospital emergency medical response agency;''; and

(2) in paragraph (9)—

(A) in subparagraph (A), by striking ''as a chaplain'' and all that follows through the semicolon, and inserting ''or as a chaplain;'';

(B) in subparagraph (B)(ii), by striking ''or'' after the semicolon;

(C) in subparagraph (C)(ii), by striking the period and inserting ''; or''; and

(D) by adding at the end the following:

''(D) a member of a rescue squad or ambulance crew who, as authorized or licensed by law and by the applicable agency or entity (and as designated by such agency or entity), is engaging in rescue activity or in the provision of emergency medical services.''.

(c) OFFSET.—Of the unobligated balances available under the Department of Justice Assets Forfeiture Fund, $13,000,000 are permanently cancelled.

(d) EFFECTIVE DATE.—The amendments made by subsection (b) shall apply only to injuries sustained on or after June 1, 2009.

Subtitle B—Liability Protection

SEC. __11. SHORT TITLE.

This subtitle may be cited as the ''Volunteer Pilot Protection Act of 2011''.

SEC. __12. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Many volunteer pilots fly for public benefit and provide valuable services to communities and individuals.

(2) In calendar year 2006, volunteer pilots provided long-distance, no-cost transportation for more than 58,000 people during times of special need.

(b) PURPOSE.—The purpose of this title is to promote the activities of volunteer pilots that fly for public benefit and to sustain the availability of the services that such volunteers provide, including the following:

(1) Transportation at no cost to financially needy medical patients for medical treatment, evaluation, and diagnosis.

(2) Flights for humanitarian and charitable purposes.

(3) Other flights of compassion.

SEC. __13. LIABILITY PROTECTION FOR VOLUNTEER PILOTS THAT FLY FOR PUBLIC BENEFIT.

Section 4 of the Volunteer Protection Act of 1997 (42 U.S.C. 14503) is amended in subsection (a)(4)—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking ''the harm'' and inserting ''(A) except in the case of subparagraph (B), the harm'';

(3) in subparagraph (A)(ii), as redesignated by this paragraph, by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(B) the volunteer—

''(i) was operating an aircraft to promote the activities of volunteer pilots that fly for public benefit and to sustain the availability of the services that such volunteers provide, including transportation at no cost to financially needy medical patients for medical treatment, evaluation, and diagnosis, and for humanitarian and charitable purposes; and

''(ii) was properly licensed and insured for the operation of such aircraft.''.

Mr. ROCKEFELLER. Mr. President, I wish to respond to the most interesting facts pointed out by the Senator from Arizona and also the collective bargaining matter. Senator NELSON is here with a particularly good amendment. Before we get to the 4:30 hour, at which time we will be debating judges, I wish to give him a chance to talk.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I thank my colleague, the chairman, for this opportunity to discuss an amendment to the FAA reauthorization bill which I will be offering shortly. We are currently working with the minority on some language changes. This amendment will be proposed before long. When it is, I will be seeking a rollcall vote.

The amendment, which I propose along with Senators SCHUMER, AKAKA, MENENDEZ, WHITEHOUSE, TESTER, and SHAHEEN, would make it a crime to photograph, record, or distribute a body scan image taken by a body scan imaging machine at either an airport or any Federal building without express authorization to do so either by law or regulation. I have heard from many Nebraskans who are concerned that the use of body scan imaging machines is overly invasive and their privacy is being ignored. I, too, share these concerns. This isn't an abstract concern. According to news reports, the U.S. Marshals Service acknowledged last year that some 35,000 images from a body scanner at a security checkpoint at a Florida courthouse had been saved. That is despite promises from Federal agencies that these images would not be stored. One hundred of the saved images were leaked, and some are now online for anyone to view. So an invasion of privacy has already occurred.

Nebraskans and the American people understand that every step needs to be taken and every resource needs to be used to ensure the safety of our citizenry. Using technology to scan individuals for hidden weapons is a necessary, albeit sometimes unpleasant, aspect of making sure our airways and public buildings are safe. However, in the scope of doing such things, safeguards can and must be put in place to help deter individuals from collecting and using those images inappropriately. This is the goal of the amendment I and my colleagues are offering.

I am well aware Transportation Security Agency officials have said the agency will not keep, store, or transmit images, but that has not and doesn't ensure compliance. If passing laws or directives ensured compliance, there would be no speeders in America. What is needed is additional consequences to make anyone considering keeping, storing, or transmitting these scanned images think twice about the

fact that they will be committing a felony. If the consequence is enough of a deterrent, we will have better compliance and the privacy of every American will be better protected.

Let me explain specifically what the amendment does. One, it makes it illegal to photograph, record, and subsequently distribute the images taken by body scan machines in an airport or any Federal building.

Two, it imposes a penalty of up to 1 year in prison and up to a $100,000 fine for those who inappropriately collect and distribute these images.

Three, it says that any individual who is acting within the course and scope of their employment is not breaking the law by saving these images or sending them if the purpose for doing so is to use these images in a criminal investigation or prosecution.

By adopting this amendment, we will be telling the American people and my constituents that we are not going to ignore or compromise their privacy in the process of making sure we have safe airports and Federal buildings. Our amendment takes a commonsense approach to addressing this issue and why I am seeking its inclusion in the FAA authorization.

I thank the chairman and yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, in that we have a short reception at 4:30 and then we are going to judges, 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. HARKIN. I ask unanimous consent that the order for the quorum call be rescinded.

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

VISIT TO THE SENATE BY THE PRIME MINISTER OF THE REPUBLIC OF SLOVENIA, THE HONORABLE BORUT PAHOR

Mr. HARKIN. Mr. President, today we are honored to have as our guest the Prime Minister of the Republic of Slovenia, the Honorable Borut Pahor. He is the sixth Prime Minister since Slovenia won independence in 1991.

As many of my colleagues know, the Republic of Slovenia holds a very special place in my heart. My mother came to America from the village of Siha in what is now Slovenia nearly 90 years ago, and I have been tremendously impressed with the great strides Slovenia has made since breaking away from the former Yugoslavia. For the last 2 years, Prime Minister Pahor with great skill has continued to lead his nation on a successful course of democratic and free market economics. So make no mistake, the success of independent Slovenia, like the success of the young American Republic two centuries ago, was no accident. It was secured by visionary leaders and by a determined people. Nine decades ago, my mother left Slovenia—a Slovenia that was impoverished, ruled by autocrats, and dominated by foreign powers; a nation that sent forth immigrants desperate to find a better life. Today, a free, prosperous, and democratic Slovenia sends forth statesmen, diplomats, and humanitarians helping to build a better world.

Again, on behalf of the Senate, I welcome our honored guest, Prime Minister Pahor.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. HARKIN. I ask unanimous consent that the Senate stand in recess subject to the call of the Chair so that we may welcome the Prime Minister of Slovenia and guests on the Senate floor.

There being no objection, the Senate, at 4:29 p.m., recessed subject to the call of the Chair and reassembled at 4:40 p.m. when called to order by the Presiding Officer.

EXECUTIVE SESSION

NOMINATION OF DIANA SALDANA TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS

NOMINATION OF PAUL KINLOCH HOLMES III TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS

NOMINATION OF MARCO A. HERNANDEZ TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF OREGON

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

The legislative clerk read the nominations of Diana Saldana, of Texas, to be United States District Judge for the Southern District of Texas, Paul Kinloch Holmes III, of Arkansas, to be United States District Judge for the Western District of Arkansas, and Marco A. Hernandez, of Oregon, to be United States District Judge for the District of Oregon.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate equally divided in the usual form.

The Senator from Vermont.

Mr. LEAHY. Mr. President, today, the Senate will consider, and I anticipate confirm, 3 of President Obama's nominations to fill judicial vacancies on Federal district courts in Arkansas, Oregon, and Texas. All 3 of the nominations—P.K. Holmes to the Western District of Arkansas, Judge Diana Saldana to the Southern District of Texas, and Judge Marco Hernandez to the District of Oregon—will fill judicial emergency vacancies. Given the serious need on those courts, and the qualifications of these nominees, there is no reason they could not have been confirmed when they were nominated and reported unanimously by the Judiciary Committee last Congress. There is every reason for the Senate to act promptly now that President Obama has renominated them, the Judiciary Committee has reconsidered them, and they have again been reported to the Senate unanimously.

I am hopeful that our actions today signal a return to regular order in the consideration of nominations without unexplained and damaging delays. I am hopeful that this signals a return to cooperation to confront a judicial vacancies crisis that has put at serious risk the ability of all Americans to find equal access to a fair hearing in court. Chief Justice Roberts commented on this in his most recent statement on the judiciary. The White House counsel recently spoke to the crisis. The President wrote us last year urging action. The real costs of these unnecessary partisan delays fall on Americans who depend on the courts. Last September, President Obama wrote that these delays in Senate consideration of judicial nominees are ''undermining the ability of our courts to deliver justice to those in need . . . from working mothers seeking timely compensation for their employment discrimination claims to communities hoping for swift punishment for perpetrators of crimes to small business owners seeking protection from unfair and anticompetitive practices.'' The President was, and still is, right.

The Attorney General warned us last year that ''the system on which we all depend for a prompt and fair hearing of our cases when we need to call on the law—is stressed to the breaking point.'' The National Association of Assistant United States Attorneys, a group of career Federal prosecutors likewise wrote to us, stating that, ''Our federal courts cannot function effectively when judicial vacancies restrain the ability to render swift and sure justice.''

As we consider these nominations today, there are still more than 100 vacancies in the Federal judiciary. Unlike the progress we made during President Bush's first 2 years in office when the Senate confirmed 100 judges and sharply reduced judicial vacancies, during the first 2 years of President Obama's term, we were only allowed to consider 60 judicial nominations. Despite vacancies for nearly 1 out of every 8 Federal judgeships, last year the Senate adjourned without voting on 19 judicial nominations favorably reported by the Judiciary Committee. The 3 judges we will confirm today were among those 19. They could and should have been confirmed last year.

The Senate must do better. We can consider and confirm this President's

nominations to the Federal bench in a timely manner. This President has reached across the aisle to work with home State Republican Senators. His nominees, like the nominees from Texas and Arkansas before us today, are supported by their home State Republican Senators. They are not controversial. They tend to be superbly qualified nominees with a strong commitment to the rule of law and a demonstrated faithfulness to the Constitution. The 3 nominees before us today, the 11 judicial nominees voted out of the Judiciary Committee unanimously last week, and the 4 other judicial nominations that will be considered on February 17 are all nominees who were nominated last Congress and considered and approved by the Judiciary Committee with strong bipartisan support.

With judicial vacancies now at 104, nearly half of them judicial emergency vacancies, the Nation cannot afford further delays by the Senate in taking action on the nominations pending before it. Judicial vacancies on courts throughout the country hinder the Federal judiciary's ability to fulfill its constitutional role. They create a backlog of cases that prevents people from having their day in court. This is unacceptable. In order for the Senate to ensure that the courts are functioning at full capacity, we must restore regular order.

A return to regular order would mean that nominations sent by the Judiciary Committee to the Senate should be considered expeditiously, not stalled interminably. Noncontroversial nominations should be taken up and approved on a regular basis. They should not be stalled for weeks and months for no good reason. We must return to the Senate's longstanding practice of quickly considering well-qualified consensus judicial nominations reported by the Judiciary Committee. Senators should not stall noncontroversial nominees. We should not have months and months of damaging delays for no good reason on virtually every judicial nomination.

If Senators want to debate a nomination, we should have one. But then we should vote. Nominations that do have opposition should be taken up on a regular basis for debate, with cloture votes if necessary, so that all nominations can be acted upon in a reasonable amount of time. The Senate must move beyond the petty partisanship that has resulted in this vacancy crisis.

I thank Senator GRASSLEY, the Judiciary Committee's new ranking member, for his cooperation in helping us to report 11 of the previously reported judicial nominations last week, and for working with me to schedule our first confirmation hearing of the new Congress. I look forward to continuing to work with him, with Majority Leader REID and with Republican Leader MCCONNELL to schedule votes on the many other nominees reported favorably by the Judiciary Committee so that we can ensure that the Federal judiciary has the judges and resources it needs to provide justice to Americans in courts throughout the country.

When I was chairman of the Judiciary Committee during 17 months of President Bush's first 2 years in office with a Democratic majority, we favorably reported 100 of his Federal circuit and district court nominees. All 100 were confirmed. I continued to work hard to make progress considering President Bush's circuit and district court nominations as ranking member during the President Bush's 3rd and 4th years in office when Senator HATCH was the committee chairman, and the Senate confirmed another 105. That should be our benchmark. By the end of this Congress, we should consider and confirm 205 Federal judges, just as we did during President Bush's first term. That is how we can reduce vacancies from the historically high levels at which they have remained throughout these first 2 years of the Obama administration to the historically low level we reached toward the end of the Bush administration. With the three confirmations today our total will stand at 63.

Overall, judicial vacancies were reduced during the Bush administration from more than 10 percent to less than 4 percent. During the Bush administration, the Federal court vacancies were reduced from 110 to 34 and Federal circuit court vacancies were reduced from a high of 32 down to single digits. Regrettably, this progress has not continued with a Democratic President in office. Instead, the minority has allowed votes on only 60 of President Obama's Federal circuit and district court nominees, judicial vacancies have skyrocketed and remain over 100 and over 10 percent.

Today the Senate considers 3 of President Obama's qualified nominees. President Obama nominated Paul K. Holmes, III, last April to fill an emergency vacancy on the U.S. District Court for the Western District of Arkansas. Mr. Holmes is currently Of Counsel at the Fort Smith, AR, law firm where he formerly worked for more than two decades as an associate and a partner. Previously, he was the U.S. attorney for the Western District of Arkansas. As U.S. Attorney, Holmes served for 2 years on the Attorney General's Advisory Committee. Mr. Holmes earned the highest possible rating—unanimously well qualified—from the American Bar Association's Standing Committee on the Federal Judiciary, and his nomination has now garnered the support of 3 Arkansas Senators, Senators PRYOR and Lincoln last Congress, and also Senator BOOZMAN. I thank the Senators from Arkansas for working with us. I am pleased that Mr. Holmes will be confirmed without further delay.

President Obama nominated Diana Saldana last July to fill an emergency vacancy in the Southern District of Texas, the district she has served as a magistrate judge since 2006. Before taking the bench, Judge Saldana served the Southern District for 5 years as a Federal prosecutor, and she previously was a lawyer in private practice and a trial attorney in the Civil Rights Division of the U.S. Department of Justice. The child of migrant farmworkers, Judge Saldana began working alongside her family in the sugar beet fields at age 10, and she continued to do so for more than a decade. After graduating from law school, she served as a law clerk to then-Chief Judge George P. Kazen. If confirmed, Judge Saldana will fill the vacancy created by Judge Kazen's retirement. Judge Saldana earned the highest possible rating—unanimously well qualified—from the ABA's Standing Committee on the Federal Judiciary. She has the support of her two Republican home State Senators. Senator CORNYN called her ''one of the toughest law enforcers in South Texas,'' and Senator HUTCHISON added that Judge Saldana ''has some of the finest qualities we expect in our judges.'' Her nomination has twice been reported unanimously by the Judiciary Committee. I am pleased she will be confirmed without further delay.

Marco A. Hernandez was nominated last July to fill an emergency vacancy on the U.S. District Court for the District of Oregon. He has served as a State judge in Oregon for the last 15 years, first on the district court and now as a circuit court judge. Previously, Judge Hernandez was a deputy district attorney in Washington County, OR, and a lawyer for Oregon Legal Services. Judge Hernandez has the support of his two home State Senators, and he has now been nominated to this position by Presidents of both parties. If confirmed, he will become the first Latino to serve as a Federal judge in Oregon. His nomination was reported unanimously by the Judiciary Committee last Congress and again this Congress. It was ironic that after Senator SESSIONS made quite a fuss that Judge Hernandez had not been considered and confirmed when nominated at the very end of the Bush administration, the Senator then proceeded to delay committee consideration of his nomination last year and then Republican objections prevented Senate action last year. I thank Senator WYDEN and Senator MERKLEY for their consistent support for Judge Hernandez's nomination and am pleased that he will be confirmed without further delay.

I have often said that the 100 of us in the Senate stand in the shoes of over 300 million Americans. We owe it to them to do our constitutional duty of voting on the President's nominations to be Federal judges. We owe it to them to make sure that hard-working Americans are able to have their cases heard in our Federal courts.

All three branches of the Federal Government come together when the Senate considers a President's nomination to a lifetime appointment on the

Federal bench. The Senate has a constitutional duty to act responsibly to consider the President's nominees and to confirm members of the Judiciary. Most importantly, the Senate has a responsibility to the American people to help ensure that Federal judges are there to protect their rights and administer justice.

I mentioned that one of the nominees is Judge Diana Saldana to the Southern District of Texas. I see my good friends, both the Senators from Texas, are here, one of whom I have the privilege to serve with on the Senate Judiciary Committee and one of whom I have the privilege to serve with in the Senate.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman of the Judiciary Committee. I rise today to speak in support of the Diana Saldana confirmation to serve as a Federal judge for the Southern District of Texas in Laredo.

Judge Saldana's career has given her a breadth of experience that I believe will serve her well on the Federal bench. She received her B.A. in history and government from the University of Texas and then went on to receive a J.D. from the University of Texas School of Law.

She was born in Carrizo Springs, TX, only a stone's throw from where she is currently serving as a U.S. magistrate judge in Laredo, TX. Prior to that, Judge Saldana served 4 years as an assistant U.S. attorney. She handled as many as 350 active Federal criminal cases a year, ranging from immigration to narcotics to health care. It was in this capacity that she was selected coordinator for Chief Judge George Kazen. Before her work in the U.S. Attorney's Office, Judge Saldana spent time as a lawyer for the U.S. Department of Justice in the Civil Rights Division and the U.S. Department of Agriculture in the General Counsel's Office. She also served as a law clerk to Judge Kazen in the Southern District of Texas.

Judge Saldana has been admitted to practice before the U.S. Southern District of Texas Fifth Circuit Court of Appeals and the U.S. Supreme Court. Judge Saldana has good professional experience, and she is well respected in the South Texas community. The American Bar Association gave her a unanimous ''well qualified'' rating, and I believe she will be an effective Federal judge in South Texas.

In September, I introduced Judge Saldana before the Judiciary Committee, and today I urge my colleagues in the Senate to support her nomination and confirm her as a Federal judge for the Southern District in Laredo, TX.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I wish to join my colleague, Senator HUTCHISON, in commending to our colleagues the nomination of Judge Diana Saldana of Laredo, TX, who has been nominated, as we have heard, to be a U.S. district judge in the Southern District of Texas. This is a busy docket, as one can imagine, being right on the U.S.-Mexico border, with the unfortunate drug-trafficking and immigration-related cases and the like. So this is a very important nomination. I hope my colleagues will join us in confirming her nomination.

Senator HUTCHISON and I, as do many Senators, have a bipartisan committee of lawyers in the State—people who are very respected in the legal community who screen the people who apply for these positions, recognizing the importance of them and that they are lifetime appointments. We do our very best to make this a depoliticized process, believing that whether one is a good judge doesn't depend on whether one is a Republican or an Independent or Democrat as long as one is always willing to enforce the law and not impose one's own personal beliefs or any other type of agenda.

Diana Saldana really represents the manifestation of the American dream. I had the opportunity to introduce her at the hearing she had before the Judiciary Committee, along with her wonderful family. Throughout the process, the more I learned about Diana's personal story, the more I grew to admire not only all she has accomplished but what she stands for in terms of our national guarantee that if you come to America, if you work hard, if you make the most of your God-given gifts, you can achieve anything. Judge Saldana represents that dream.

At the age of 10, she began traveling with her parents and siblings from her home in Carrizo Springs to Minnesota and North Dakota to work as migrant farmers in the soybean, sugar beet, and potato fields. Because of the seasonal nature of migrant farm work, Diana and her siblings would often leave South Texas before the school year ended and return after the next school year had begun. Of course, one can imagine how tough that is on a young student. She traveled 1,500 miles north and worked with her family in the fields every summer through high school and college, and she even worked in the fields during her first year of law school as well.

Despite these challenges, Diana rose to the occasion, and she succeeded in becoming the first person in her family to get a college degree. She recalls that while working as a migrant farmer, her mother told her that an education was the only way out of doing manual labor, and indeed she learned that lesson very well.

She was once asked what person had the greatest impact on her, and she said, as many of us might answer, her mother. She said:

> My mother has a third grade education, but she was able to raise six children by working hard and having a deep faith in God . . . I remember her working up to three jobs at a time, taking naps in the family car, when our finances were especially tight, to make ends meet . . . My mother instilled in us a strong work ethic and encouraged us to dream for a better life.

Today, Judge Saldana doesn't just receive the gifts she has gotten as being the child of a hard-working and dedicated and sacrificing mother, she has turned it around and become a mentor to young people herself, using her own story as an inspiration to others and saying: If I worked hard and I was successful, you can, too, even as improbable as that may seem at the time.

I could go on and on about Judge Saldana because her life story is truly remarkable and quite an inspiration, but I will conclude with this: Diana Saldana has been nominated to fill the vacancy left by her own mentor, Judge George Kazen, who is taking senior status. Judge Kazen knows Diana better than just about anybody, other than her family. She served as his law clerk, appeared before him as a Federal prosecutor, and presided over many cases as a Federal magistrate judge. Judge Kazen described Diana as ''one of the finest law clerks'' he ever had and a ''tough, no-nonsense prosecutor.'' He called her the ''quintessential judge—intelligent, hard-working, fair, honest, and decisive.'' Finally, Judge Kazen told us it would be his ''personal honor'' if Judge Saldana was confirmed as his successor. I can't think of any higher praise.

In just a few minutes, the Senate will confirm Diana Saldana as a U.S. district judge for the Southern District of Texas. I know I speak for many Texans when I say we could not be more proud.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, on the floor tonight we have three very distinguished individuals whom President Obama has nominated to be Federal judges. I commend the committee for bringing them forward and Senator LEAHY for his tremendous ongoing leadership on the Judiciary Committee. I know, as my colleagues from Texas have indicated, these are extremely competent individuals. All three of them were reported out of the Judiciary Committee with unanimous approval. In light of the current judicial emergencies, I urge my colleagues to confirm them this evening.

Mr. President, I ask unanimous consent that the time used during the quorum call be charged equally to both sides.

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

Ms. STABENOW. 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. GRASSLEY. 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. GRASSLEY. Mr. President, in addition to my support for Judge Saldana and Mr. Holmes, I rise in support of Marco A. Hernandez to be U.S. district judge for the District of Oregon.

I am pleased the Senate is finally turning to this nomination. This is the third Congress to consider Mr. Hernandez's nomination. President Bush nominated Judge Hernandez to this seat in the 110th Congress. Unfortunately, his nomination stalled in the Judiciary Committee, although he had the full support of every Republican on the committee. After pending for over 5 months with no action, his nomination, at that time, was returned to the President.

This vacancy has been designated a judicial emergency. Therefore, I would have expected his nomination to have been made very early in the 111th Congress. However, it was not sent to the Senate until July of last year. Because of that delayed nomination, the Senate was unable to complete action on the nomination in that Congress. At the close of the 111th Congress, the nomination was again returned to the President.

Mr. Hernandez has been rated ''qualified'' by the American Bar Association. He received his B.A. from Western Oregon State College and his J.D. from the University of Washington School of Law.

After graduating from law school, he served as an attorney for Oregon Legal Services, where he represented migrant farmworkers. He later joined the Washington County district attorney's office as a deputy district attorney.

Mr. Hernandez is a fine nominee under President Bush's standards but also a fine nominee under President Obama's standards. I am pleased this nomination is finally before the Senate. I am, however, disappointed that we have a vacancy that could have been filled over 2 years ago. With our vote today, the President can fill this judicial emergency seat with a qualified nominee.

Mr. President, I also support the nomination of Diana Saldana to be a U.S. district judge for the Southern District of Texas. She has the support of both home State Senators who spoke very highly of her at her September 29, 2010, nomination hearing.

Judge Saldana received a BA in history and in government from the University of Texas. She received her JD from the University of Texas School of Law. Upon graduation, she clerked for the Honorable George Kazen.

She has had a very successful career. Judge Saldana has been a staff attorney in the Civil Rights Division at the U.S. Department of Agriculture, a trial attorney with the Department of Justice, and served as an assistant U.S. attorney in the Southern District of Texas. She was appointed to be a U.S. magistrate judge in 2006.

Judge Saldana was nominated by the President on July 14, 2010. She was rated unanimously well qualified by the American Bar Association.

I am pleased to support Judge Saldana's nomination to this very important seat. Not only has it been deemed to be a judicial emergency but it is also the seat to which her mentor, Judge Kazen, previously occupied.

Mr. President, I also support Paul Kinloch Holmes III, a nominee to be a U.S. district judge for the Western District of Arkansas. A graduate of Westminster College and the University of Arkansas School of Law, Mr. Holmes has been rated unanimously well qualified by the American Bar Association.

After graduating from law school, Mr. Holmes became an associate at the law firm of Warner & Smith, a firm that focused on general civil practice. On August 6, 1993, President Clinton nominated him to be the U.S. attorney for the Western District of Arkansas. The Senate confirmed his nomination shortly after, and he served his role with distinction until 2001. Since then, Mr. Holmes has been in private practice handling both criminal and civil litigation.

Again, I am pleased to support the nomination of Mr. Holmes to this seat that has been deemed a judicial emergency.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I rise to also support the nomination of Judge Marco Hernandez of Oregon to the U.S. district court. Judge Hernandez is unquestionably qualified to serve on this court. He has built his career through hard work and determination.

As a young man, he attended night classes at a local community college before enrolling at Western Oregon State College. He then proceeded to get a law degree at the University of Washington School of Law.

As a young man, he picked crops. After he graduated from law school at the University of Washington, he returned to Oregon to join Legal Aid Services and represent farm workers. He went on to serve as deputy district attorney in Washington County and was later appointed to be a State court judge, a position he has held since 1995.

As a State court judge, he established an innovative domestic violence program designed to aggressively pursue offenders. He also established a new program to assist mentally ill defendants, a program he continues to oversee.

Judge Hernandez was first nominated to the district court by President Bush in 2008. Although Congress did not act on his nomination, he has again been nominated by President Obama and has the support of Republicans, Democrats, and organizations representing the spectrum of the legal community.

He also has strong support from the Hispanic National Bar Association and, if confirmed, will be the first Hispanic article III judge in the State of Oregon.

I urge my colleagues to support Judge Hernandez's confirmation. I look forward to his contributions, based on the depth and breadth of his life experience, to the U.S. district court.

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. ROCKEFELLER. 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. ROCKEFELLER. Mr. President, I ask unanimous consent that all time be yielded back so we can proceed to our votes.

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

Under the previous order, all time having been yielded back, the nomination of Marco A. Hernandez is confirmed.

The Senate will proceed to vote on the nomination of Diana Saldana to be U.S. district judge for the Southern District of Texas.

Mr. ROCKEFELLER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Diana Saldana, of Texas, to be United States District Judge for the Southern District of Texas?

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. KOHL), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from New Jersey (Mr. MENENDEZ) are necessarily absent.

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

Mr. KYL. The following Senator is necessarily absent: the Senator from Tennessee (Mr. ALEXANDER).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted ''yea.''

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

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 12 Ex.]

YEAS—94

Akaka	Boozman	Chambliss
Ayotte	Boxer	Coats
Barrasso	Brown (MA)	Coburn
Baucus	Brown (OH)	Cochran
Begich	Burr	Collins
Bennet	Cantwell	Conrad
Bingaman	Cardin	Coons
Blumenthal	Carper	Corker
Blunt	Casey	Cornyn

Crapo	Kyl	Roberts
DeMint	Landrieu	Rockefeller
Durbin	Leahy	Rubio
Ensign	Lee	Sanders
Enzi	Levin	Schumer
Feinstein	Lugar	Sessions
Franken	Manchin	Shaheen
Gillibrand	McCain	Shelby
Graham	McCaskill	Snowe
Grassley	McConnell	Stabenow
Hagan	Merkley	Tester
Harkin	Mikulski	Thune
Hatch	Moran	Toomey
Hoeven	Murkowski	Udall (CO)
Hutchison	Murray	Udall (NM)
Inhofe	Nelson (NE)	Vitter
Inouye	Nelson (FL)	Warner
Isakson	Paul	Webb
Johanns	Portman	Whitehouse
Johnson (SD)	Pryor	Wicker
Johnson (WI)	Reed	Wyden
Kirk	Reid	
Klobuchar	Risch	

NOT VOTING—6

Alexander	Kohl	Lieberman
Kerry	Lautenberg	Menendez

The nomination was confirmed.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, we are going to have one more vote tonight. Senator MCCONNELL and I have spoken earlier today. We will have one or two votes in the morning. We will terminate before 11 o'clock, so we will have a vote around 10 o'clock, 10:15 in the morning—maybe two—on the FAA bill.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, is there time for the Senator form Arkansas if he wants it? I request 2 minutes equally divided on the Arkansas nomination, and I yield my time to the senior Senator from Arkansas.

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

Mr. PRYOR. Mr. President, I rise today to support the nomination of Paul K. Holmes—in Arkansas we call him P.K. Holmes—for the district court judgeship in western Arkansas. A lot of times when you stand here at this moment in a nomination, it is like making a closing argument. But in this particular case there is no argument; everybody is for him. The American Bar Association, Democrats, Republicans, plaintiffs, defendants, everybody in Arkansas is for him.

He has been an Arkansas Lawyer of the Year. He has been the Western District U.S. Attorney. He is a partner in Warner, Smith and Harris. P. K. Holmes has an outstanding record and outstanding reputation. He likes to talk about the fact that he has a small town general practice, and that is true. He has handled a little bit of everything, but he has always done it with integrity. He has an outstanding reputation in Arkansas as a lawyer and a great member of the community.

I would hope all of my colleagues support this nomination.

I yield the floor.

The PRESIDING OFFICER (Mr. MANCHIN). All time is yielded back.

The question is, Will the Senate advise and consent to the nomination of Paul Kinloch Holmes III, of Arkansas, to be U.S. district judge for the Western District of Arkansas?

Mr. INOUYE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. KOHL), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from New Jersey (Mr. MENENDEZ) are necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Tennessee (Mr. ALEXANDER).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted ''yea.''

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

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 13 Ex.]

YEAS—95

Akaka	Feinstein	Murkowski
Ayotte	Franken	Murray
Barrasso	Gillibrand	Nelson (NE)
Baucus	Graham	Nelson (FL)
Begich	Grassley	Paul
Bennet	Hagan	Portman
Bingaman	Harkin	Pryor
Blumenthal	Hatch	Reed
Blunt	Hoeven	Reid
Boozman	Hutchison	Risch
Boxer	Inhofe	Roberts
Brown (MA)	Inouye	Rockefeller
Brown (OH)	Isakson	Rubio
Burr	Johanns	Sanders
Cantwell	Johnson (SD)	Schumer
Cardin	Johnson (WI)	Sessions
Carper	Kirk	Shaheen
Casey	Klobuchar	Shelby
Chambliss	Kyl	Snowe
Coats	Landrieu	Stabenow
Coburn	Lautenberg	Tester
Cochran	Leahy	Thune
Collins	Lee	Toomey
Conrad	Levin	Udall (CO)
Coons	Lugar	Udall (NM)
Corker	Manchin	Vitter
Cornyn	McCain	Warner
Crapo	McCaskill	Webb
DeMint	McConnell	Whitehouse
Durbin	Merkley	Wicker
Ensign	Mikulski	Wyden
Enzi	Moran	

NOT VOTING—5

Alexander	Kohl	Menendez
Kerry	Lieberman	

The nomination was confirmed.

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

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

VOTE EXPLANATION

• Mr. KERRY. Mr. President, I was necessarily absent for the votes on the nomination of Paul Holmes to be United States District Judge for the Western District of Arkansas and Diana Saldana to be United States District Judge for the Southern District of Texas. If I were able to attend today's session, I would have supported both nominees.•

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The Senator from Iowa.

FOR-PROFIT ONLINE COLLEGES AND UNIVERSITIES

Mr. HARKIN. Mr. President, last December I came to the floor to discuss the Health, Education, Labor, and Pensions Committee investigation into for-profit online colleges and universities. It is an investigation that has now been going on for almost a year, and it is an investigation with profound consequences for taxpayers.

For-profit colleges, mostly online, receive more than $26 billion in Federal student aid each year. While some of these schools may be doing a good job, taxpayers deserve to know that their education dollars are being well spent. It is also an investigation with profound consequences for students.

According to data released last week by the Department of Education, 25 percent of for-profit college student loan borrowers default within 3 years of leaving school. One out of every four student loan borrowers who go to these for-profit schools defaults within 3 years of leaving school.

For-profit colleges have correctly pointed out that they educate a disproportionate number of low-income and minority students. They argue that if they were not doing a good job, students would not continue to enroll. How, then, is it possible that schools with very high rates of withdrawal, high rates of loan debt, and high rates of default continue to enroll more and more students each year? The answer, according to my committee's investigation, lies in the enormous expenditure of money and effort that the for-profit colleges put into their recruitment process.

There have been many stories about abusive recruitment practices in newspapers and television programs across the country. Last August, the Government Accountability Office documented many of those abuses in undercover videos presented at a HELP Committee hearing. The industry argued that these misleading and deceptive practices were the work of a few rogue actors, but the overwhelming evidence of misleading, deceptive, and even fraudulent conduct documented by GAO cannot be attributed to anything but a systemic effort to enroll students at any cost.

For anyone who questions that this is a systemic effort to pressure, deceive, and mislead, I wish to take a few minutes to explore the details of the training practices that led directly to the GAO findings. I hope my colleagues on both sides of the aisle and on both sides of the Capitol find this a useful window into the training tactics used by these companies.

One of the most common words in the proprietary school industry's recruiting documents is the word ''pain.'' It is not the first word that might come to one's mind if they think about enrolling in college. You might think of your son or daughter enrolling in college. You wouldn't think of ''pain'' as the first word. However, perhaps nothing worthwhile was ever accomplished without effort, so you might be thinking that schools are talking about preparing students for the hard work and the pain of excelling in college. The reality is quite the opposite. Proprietary higher education companies want to make college seem easy. The reason they are focusing on pain is to try to get students to enroll.

Consider this quote from a memo written by the director of recruitment at a campus of ITT, one of the largest of the for-profit schools. After falling short of the required quota of ''starts''—that is the industry term for new students—the recruiter writes:

> The department needs to focus on the selling of the appointment by digging in and getting to the pain of each and every prospective student. By getting to the pain, the representatives will be able to solidify the appointments and have a better show rate for the actual conducts.

Another example from an ITT document about what recruiters should do to keep students in class, reading now from one which I will include for the record, says:

> Remind them of what things will be like if they don't continue forward and earn their degrees. Poke the pain a bit and remind them who else is depending on them and their commitment to a better future.

In their training, ITT went beyond rhetoric and created what they called a ''pain fund.'' It is probably hard to see this piece of paper. I will try to get this included in the RECORD. It is a picture of a funnel, and it is called the ''pain funnel and pain puzzle.'' It illustrates four levels of pain, with questions that are supposed to get progressively more hurtful to the prospective student.

Level one starts off with questions such as, tell me more about that; can you be more specific; how long has it been a problem? Level two: What have you tried to do about that? What have you done to fix it? Level three pain: How do you feel about that? Then it gets down to level four. The recruiter is asking questions such as, have you given up trying to deal with the problem?

A different document from ITT goes to the same levels of pain. The level four question is, once again, what are you willing to change now or have you given up trying to deal with the problem?

What is the problem? The problem is, this young person is out of work. They have no future. They probably have a high school degree, maybe a D average in high school, C average at the most. They have answered an ad. The recruiter is talking to them, and they are stoking the pain.

The last thing they say is, OK, what are you willing to do to change it or are you just going to give up on it? That is a question I would like to ask the executives who believe that preying on past failures is a sound method for enrolling students or a reasonable way to run a college.

According to the Department of Education, 30 percent of student loan borrowers at ITT, the one I just quoted, default within 3 years of leaving school, and most of them leave before they ever get any kind of degree. They are there for a few weeks, maybe a few months, but when they drop out and when they default, ITT keeps the money.

Kaplan University also encourages its recruiters to focus on pain and fear. In a page from a manual dated July 8, 2009, with side notes about ''advisor call control'' and maintaining ''rapport with PROSPECT,'' the document is similar to ITT's, with questions to ''uncover the pain and fear''—''uncover the pain and fear.'' At the bottom: ''It is all about uncovering their pain and fears,'' underlined. ''Once they are reminded of how bad things are, this will create a sense of urgency to make this change.'' Sixteen pages of sales tactics later the recruiter is taught to ''restate back word for word, the better you restate the brighter the dream.''

Another Kaplan document says, ''Keep digging until you uncover their pain, fears and dreams. . . . '' If you get the prospect to think about how tough their situation is right now and if they discuss the life they can't give their family because they don't have a degree, you will dramatically increase your chances of gaining a commitment from the student. ''Get to their emotions and you will create the urgency!'' ''Get to their emotions and you will create the urgency!'' Is that the way we ought to be enticing young people to go to school? Stoke the pain, stoke the fear?

Again, according to the Department of Education, 30 percent of student loan borrowers at Kaplan default within 3 years of leaving school. And, guess what, Kaplan keeps the money.

Let me cite just one more example—Corinthian Colleges. At Corinthian, recruiters are taught to convince students that their lives are bad and can be improved only by enrolling in the school. As a former recruiter, Mr. Shayler White testified in a lawsuit filed against Corinthian by ex-students: ''The ultimate goal was to essentially make [prospective students] wallow in their grief, feel that pain of having accomplished nothing in life, and then use that pain'' to pressure them to enroll.

I have focused on the blatant exploitation of pain to demonstrate the terrible cynicism that pervades these companies, but the schools' recruiting documents also are ripe with misrepresentations.

From a brochure for Ashford University, owned by Bridgepoint, it says it was ''established in 1918,'' a ''traditional 4-year campus with sports teams, dormitories, regionally accredited since 1950—what this means to you is that your degree will be recognized both professionally and academically.'' That is from Bridgepoint, Ashford University. Well, what it does not tell you is that up until 2005, Ashford was a small religious school with 350 students. They were purchased by Bridgepoint and renamed ''Ashford.'' So 350 students at the end of 2005, and today they have 70,000 online students, with astronomical dropout rates. And 67 percent of Bridgepoint is owned by investment bank and private equity fund Warburg Pincus. Think about that—a private equity firm owns Bridgepoint. They buy a small religious school, with 350 students. They put out these things: You can go to this school, with a great campus and all that, but you are going to school online. Now they have 70,000 students.

According to the Department of Education, 21 percent of student loan borrowers at Ashford's parent company Bridgepoint default within 3 years of leaving school. That is a 17-percent increase in just 1 year.

The HELP Committee has heard testimony from experts in college counseling. This testimony details the detrimental effects such overly aggressive and misleading recruitment can have on the lives of students. When students are enrolled through deception or fear, they are less prepared to meet the challenges of college. Rather than offering students a better life, these types of strong-arm, emotionally abusive tactics are all too typical of schools that have little or no interest in providing students the academic help and support they need for the students to succeed.

Perhaps the attitude of these schools toward students is best exposed in a document provided by Vatterott, a privately held for-profit school. Under the heading of ''Emotion,'' it notes that:

> We deal with people that live in the moment and for the moment.

That is whom they are going after.

> Their decision to start, stay in school or quit school is based more on emotion than logic.
>
> Pain is the greater motivator in the short term.

Think about the schools you are familiar with in your own States, your private, nonprofit schools, some religious based, then your public schools and your universities. Are they recruiting students like this? You will not find this in any of them. They are not going after pain and fear; they are going after students to help and support them when they go through school so they can have a better life.

Well, if this is the attitude—to stoke the fear and to stoke the pain—if that is the attitude of these for-profit colleges, what does it say about its students' chances for success? Is it any wonder that outcomes are appalling and defaults are skyrocketing, accounting for nearly 47 percent of all student defaults?

Once again, I have to point out that the for-profit schools enroll about 10 percent of higher education students in America, but they account for 47 percent of the defaults—10 percent of the students, 47 percent of the defaults.

The bottom-line finding of my committee's investigation is that, No. 1, these schools are very expensive; No. 2, they are exploitative; and No. 3, these documents show they are focused on their own success—paying their shareholders if they are publicly held or paying back their equity investors if they are equity owned. They are not focused on the success of their students.

The bottom line is that what we are confronting today with this tremendous explosion in for-profit schools, this tremendous explosion in their enrollment of students—as I said, Ashford in 2005, 350 students; today, 70,000 students—their tremendous churning of students that is going on every year—this has a striking resemblance to the subprime crisis that confronted America, a striking resemblance to the subprime crisis.

Mr. President, I ask unanimous consent that the documents I referred to be printed in the RECORD.

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

Recruiting Documents – Senate HELP Oversight Request

Vatterott-Nation

UNDERSTANDING OUR MARKET...
Who Are Our Students? Sales Begins With...
AWARENESS, UNDERSTANDING, ACCEPTANCE Of THE MARKET WE SERVE!
Student Profiles: Welfare Mom w/Kids; Recent High School Graduates; College Freshmen dropout; Pregnant Ladies; Recent Divorce; Military - Active & Retired; Low Self-Esteem;Low Income Jobs; Vocational Rehabilitation; Experienced a Recent Death; Experienced a Recent Birth; Empty Nest Syndrome; Recent Marriage; Relocation; Career Change; Upgrade Skills; Physically/Mentally Abused;Recent Incarceration; Drug Rehabilitation; Dead End Jobs-No Future; College Credits – 2 Years+; Living w/multitude of Families; Living with Parents; Living with Significant Other; Fired / Lay off; Self Employed w/ No Benefits
Emotion
We deal with people that live in the moment and for the moment.Their decision to start, stay in school or quit school is based more on emotion than logic. Pain is the greater motivator in the short term.
DIRECT QUOTES
Lately it seems admissions has been putting in some really troubled people... could this be a trend?" This last batch of students you guys dumped in here are about the worst I've seen in years" "I just walked by orientation—WOW-SCARRRRY!" "Do your ads say, LOSERS! ENROLL HERE!" "You need to target a better demographic it would make all of our jobs a lot easier!"

We Serve The UN-DER World UNEMPLOYED UNDERPAID UNSATISFIED UNSKILLED UNPREPARED UNSUPPORTED UNMOTIVATED UNHAPPY UNDERSERVED!

Examples of Buying Motivation: Low Pay; Dependent upon others; Higher income; Job Security; Self-Esteem; Recognition; Daily Activity
EXPECTATIONS:Outbound Calls-50 MINIMUM Appointments Set-5 Appointments Held-3 3 Packaged per week Referrals-2 per week

Pain Funnel and Pain Puzzle

Eight Questions
Level 1 Pain 1. Tell me more about that...? 2. Can you be more specific? Give me an.example. 3. How long has it been a problem? Level 2 Pain 4. What have you tried to do about that? (What have you done to fix it?)
And did that work?
What results did you get?)
6. What has it cost you?
Level 3 Pain 7. How do you feel about that?
Level 4 Pain 8. Have you given up trying to deal with the problem?
Does the prospect have enough pain to qualify for the next step?
Does the prospect recognize the problem?
Is the problem one that you can fix?
Do they acknowledge it is a problem?
Consequences, Problem, Reasons
Are they committed to fixing it?.
Are they willing to do something about it now?

High school/GED questions How would you describe your high experience?
Did you feel successful in high school?
Level I Pain Tell me more about that; Can you be more specific; Give me an example
How did that make you feel?
How did your parents feel?
What could you do differently?
What subjects did you feel most successful?
What do you think was attributable to your success?
What subjects did you feel least successful?
What do you think attributed to that?
Level 2 Pain What have/had you tried to do about it? And did that work?
What has it cost you?
Level 3 Pain How do you feel about that?
Level 4 Pain What are you willing to change now or have you given up trying to deal with the problem?

additional education How long have you been going to xxx college?
Have you worked while attending?
Have you wanted to work while attending?
Why did you put off attending college after high school?
How would you describe your college experience?
Did you feel successful at xxx college?
Level I Pain Tell me more about that; Can you be more specific; Give me an example
How did that make you feel? How does your family feel?
What have you tried to do about that? And did that work?
What subjects did you feel most successful?
What do you think was attributable to your success?
What subjects did you feel least successful?
What do you think attributed to that?
Level 2 Pain What have/had you tried to do about it? And did that work?
Do you feel that spending x amount of time at xxx college has held you back from where you want to be?
What has it cost you?
Level 3 Pain How do you feel about that?
Level 4 Pain What are you willing to change now or have you given up trying to deal with the problem?

employment How well would you say you have been able to support your family in this position?
How well would your family say you have been willing to support them?
Level 1 Pain Tell me more about that; Can you be more specific; Give me an example
How did that make you feel?
Level 2 Pain What have you tried to do about that?
And did that work?
What has not having a college education cost you?
In self worth?
Financially?
Level 3 Pain How do you feel about that?
Level 4 Pain What are you willing to change now or have you given up trying to deal with the problem?

Ways to combat "drops" in Marketing during the class building period.
Communication
Remain centered, focused and calm. Remember, most of the time drops late in the quarter are due to FEAR!
Don't take things personally
Stay in constant contact through phone calls, emails, etc. Remember nothing can replace voice to voice contact.
Remind them of their motivation often. Use this to keep them motivated.
Remind them of what things will be like if they don't continue forward and earn their degrees.
Poke the pain a bit and remind them (if applicable) who else is depending on them and their commitment to a better future.
Use visuals and analogies. Remember most humans are visual learners.
Avoid words such as "concerns" or "issues". Many times these words imply there are not solutions. Instead talk about "obstacles"...obstacles can generally be moved in order to continue going down a specific path.
Watch the stress tone in YOUR voice when communicating with them. Remember, they are NOT numbers...they are students.
Use positive speak. Example "When you come to classes next week."

Invite the obstacles
Do not fear obstacles; embrace them. The better you are at inviting them, being patient to work on them, and taking on the role of "solutions provider" the stronger you will be as a Rep. AND the better your students will feel as you became their advocate to success.
In the initial (or future) phone calls listen for things which may give you some insight on potential obstacles. Things dealing with kids (potential time, money and transportation obstacles?), things dealing with transportation (shuttle passes?), spouses (are they supportive? Co-signer potential?), parents (are they supportive? Co-signer potential?), grandparents (supportive? Co-signer potential?), etc. Ask about their current employment situation. Are there potential work schedule

conflicts? If so, how supportive is the employer? Can we assist the student through Career Services seeking more "education friendly" employers allowing an appropriate work schedule for your student to attend class?

Remember, if cost is an obstacle...it is also part of their motivation! (If they don't make a change, where do they see their finances in 2 years, 5 years, 10 years? If they DO have a degree, where do they see their finances?)

- Remember EVERYONE wants to graduate, but NO ONE wants to start. AVOID statements in your initial conversations such as "when do you see yourself starting classes?" Instead use phrases such as "How soon do you see yourself GRADUATING?"

FA Process

Do your best to always get the "buying influence/buying committee" to attend the initial conducted interview. If they don't attend then, have them attend the actual FA Conduct. Have them show up about 15 minutes before their FA Conduct and pull the questionnaire back out and review the students motivation and what they liked about the school. Take another walk through the campus (with the buying influence/buying committee) and invite their questions. Get them in a positive state of mind before they meet with their FAA so they feel motivated again to embrace the next step.

- Do your best to ensure SmartForms is completed prior to the FA Conduct.
- Get your student in for the FA Conduct as soon as possible (72 hours or less) following the initial application interview. The sooner the better. Any scheduling over 7 calendar days must be approved by either the DOR or DOF.
- During your initial conducted interviews provide your FAA (prior to testing and the Pre-Req.) the students social security #, name and birthdate for them to look them up on NSLDS.
- Re-educate the student on the FA process. Ensure they (and any buying influences/buying committees) understand WHAT a co-signer is, and what it is NOT.
- Encourage activity in the initial FA Pre-Req. Have taxes faxed over right then from the IRS. Contact any potential co-signers and introduce yourself and ask if they have any questions for you or the FAA (while the student is sitting there with you).

Other ways to maintain the commitment

- Before a student signs the back of the questionnaire to apply have them hand-write their thoughts on "Why ITT" at the bottom right hand side of the inside of the questionnaire where it states "What Is Important To You Notes". Let the student know the Manager of Recruitment AND the Director of Recruitment review these to ensure the students we enroll are committed to success in their classroom and their futures.
- Be 100% sure when the students do this you enter this information in to IRIS. You will be able to refer back to it and use the information to help keep them motivated along the way.
- After they fill in their statement(s) ask them, "Teddy, this is great.t What role can I play in helping you stay on track and being a supporter of your goals?"
- Have other Rep's call and confirm attendance for classes, conducts, FA Conducts, etc. Some times students will share other insight with someone other than you. Many students do not call us if they are scared, or if they change their minds, because they feel as though they are letting you down.
- If a student is getting cold feet, have them sit down (even if it's over the phone) and write out a "Pro's and Con's" list regarding their future if they do NOT start. Get them to verbalize things. Remember ASK DON'T TELL! You can not convince anyone to go to school by what you say. You CAN convince them to go to school by asking questions and allowing THEM to hear things in THEIR words why going to school will benefit their futures.
- Do NOT give up on finding a solution until you have exhausted your efforts in speaking with peers, managers, people in other departments, etc. Remember; b._.~.e THE solutions provider for their future. They will thank you at graduation for your persistency and your tough love.

Reiterating the Objective of the Call:

As I stated a moment ago, our objective today is to become better acquainted. First, I want to know more about you - your hopes, dreams, goals and perhaps even fears. Does that sound fair?

TRANSITION: The best way for me to assist you today is to find out a bit more about you and your goals,

together we'll determine the right next steps.

UNCOVERING THE PAIN AND THE FEAR – CREATING URGENCY

• How long has this been a goal of yours? When did you first realize this is the direction you wanted to move in?

• What has stopped you in the past? What is different today?

• Whose life would this impact, besides you? What would it mean for them to see you finally take this step to a better life? (SLIENCE.. THIS STIRS UP EMOTION)

• Who will be the most of you for making this change? In addition to your biggest supporter, who else would you invite to graduation? (PDL opportunity) I am assuming your friends and family have been thinking about making a positive change as well correct? GREAT! Once we get you started on this path to success, I will reach out to them and see if we can help make a positive change in their life just like you. Sound like a plan? Awesome!

• Lastly, what are something's you would LOVE to provide for your family but unfortunately due to your current situation you are unable to? Tell me more about that. (Keep digging until you get to their REAL DREAM- a house, taking family to Disney World. DO NOT ANSWER FOR THEM. LET THEM PAINT THEIR OWN PICTURE

Rubric Attribute – Objective of the call

Affected Rubric Attributes –

• Asks probing questions to explore student motivation

• Empower the student to respond/ Advisor Call Control

• Active Listening

• Advisor picks up on buying signals

• Build/ Maintain Rapport w/Prospect

KEEP DIGGING UNTIL YOU UNCOVER THEIR PAIN, FEARS AND DREAMS. DO NOT ANSWER FOR THEM. LET THEM PAINT THEIR OWN PICTURE. IF YOU CAN HELP THEM UNCOVER THEIR TRUE PAIN AND FEAR. IF YOU GET THE PROSPECT TO THINK ABOUT HOW TOUGH THEIR SITUATION IS RIGHT NOW, IF YOU TALK ABOUT THE LIFE THEY CAN'T GIVE THEIR FAMILY RIGHT NOW BECAUSE THEY DON'T HAVE A DEGREE...YOU DRAMATICALLY INCREASE YOUR CHANCES OF ENROLLING THIS PROSPECTIVE STUDENT. GET TO THEIR EMOTIONS, AND YOU WILL CREATE THE URGENCY!

IF YOU CAN STIR UP THEIR EMOTIONS, YOU WILL CREATE URGENCY!

Overcoming Objections

The following are some common objections & tips on how to overcome them:

Concern: Not enough time

Response:

How much time do you believe this will take?

How much time can you invest in yourself?.

Is there ever a good time to go back to school?

Why did you call or request the information? (Don't sound condescending)

Walk me through a day in the life of you. When do you get up/home from work, etc?

Do you see yourself having more time for school in the future?

How would having your degree afford you more time?

How long have you been thinking about finishing your degree?

Concern:

Response:

Money/Cost

Investing in yourself... You're worth it right?

Education is an asset that never depreciates.

How much did you plan for?

Compare cost vs. new car ($20-30,000)

Ashford is more affordable than most private schools offering online programs.

How much more will you make once you have your degree?

What costs more, having your degree or not having it?

Are you aware of the financing options available for those who qualify?

- Student loans not income or credit based
- Loans deferred while in school
- Have up to 10 years to pay back

Concern:

Response:

Credibility/Reputability

What do you know about accreditation or AU?

- Established in 1918
- Traditional 4-year campus with sports teams, dormitories
- Regionally accredited since 1950

98% of students surveyed said they would recommend AU to a family member or friend
Concern: Fear
Response:
What concerns do you have?
Explain the benefit of having a personal advisement team (EA, AA FSA)
What makes you feel more anxious? Obtaining your degree or not having it?
Tell me about another time in your life you felt afraid and how you overcame that fear?
Students just like you that have been out of school, working adults, etc...
Many resources: online library, tech support, writing consultant, etc
Concern: Procrastination
Response:
What significant advantage is there in waiting to begin?
There will always be a reason for putting off finishing your degree. What is yours?
You could have completed __ classes by now.
It doesn't get better later, it just gets later.
Why are you waiting to begin?
How long have you wanted to finish this goal?
If you get laid off, it would be better to have a degree to fall back on, right?
Two years is going to pass. Wouldn't you be better off with a degree in that time?
There is a way around every obstacle.
If you want your degree, you can have it, and I will show you how to make it possible.
What is going to change in __ months/years when you plan to start?
If you procrastinate you'll never graduate! (Said with a big smile!)

Concern: Just Shopping
Response:
What research have you done so far?
What will be your determining factors in selecting a school?
What schools are you looking into?
How much does it cost to earn your degree there?
What do you know about AU?
What do you like at AU?
Would you like me to help you with your research? (Send AU Advantage)
Concern: Unsupportive Person in the Student's Life
Response:
What concerns does he/she have?
Is he/she available to speak to me/with us on the phone?
Let's discuss how you are going to present the information to him/her.
Concern: No computer or limited technology skills
Response:
Who is supporting your decision to go back to school?
Does he/she have a computer you can use?
Is he/she willing to help you with understanding how to use the computer?
Is your employer ok with you using the computer at work for school purposes?
Are you willing to go to a library?
If I made myself available to show you some tips on the computer, would this help?
Did you know that you will have access to a Writing Mentor in your 1st course?

Mr. HARKIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. It is the Presiding Officer's pleasure to recognize the Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENT—S. 223

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that at 10:20 a.m., the Senate proceed to the consideration of the pending Nelson of Florida amendment No. 34; that there be 10 minutes of debate equally divided between Senator NELSON of Florida and Senator HUTCHISON or their designees; that upon the use or yielding back of time, the Senate proceed to a vote in relation to the amendment, with no intervening action or debate; that there be no amendments, motions, or points of order to the amendment prior to the vote; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. ROCKEFELLER. Yes, from me. Yes, it is at 10:20 a.m. on Tuesday. I ask unanimous consent that it be at 10:20 a.m. on Tuesday, February 8, that the Senate proceed to it and then the rest of the request be the order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MORNING BUSINESS

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

The Senator from Wyoming.

ORDER OF PROCEDURE

Mr. BARRASSO. Mr. President, I ask unanimous consent to enter into a colloquy with my colleague, the Senator from South Carolina, Mr. GRAHAM.

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

A SECOND OPINION

Mr. BARRASSO. Mr. President, I come today to the Senate floor as a physician who has practiced medicine in Wyoming for a quarter of a century, taking care of the families of Wyoming, and to do what I have done throughout the past year—provide a doctor's second opinion on this health care law people across the country are now coming to grips with as they finally are realizing what is in the bill or, as the former Speaker of the House, NANCY PELOSI, once said: First you have to pass it before you get to find out what is in it.

People are finding out what is in it, and people all across the country are not happy. We know what the American people want. I know what the people of Wyoming want in terms of health care. They want the care they need from the doctor they want at a cost they can afford. That was the goal many of us had over a year ago when we started this discussion and debate on the Senate floor. What ultimately got passed—and many people believe crammed down the throats of the American people—is now a health care law where people are at risk of losing what they want and what they have.

The promises made by the President are such that they have turned to be, in many ways, unfulfilled. The President said this would actually drive down the cost of care—the health care law—that insurance rates would go down $2,500 per family. What people have seen all across the country is the cost of their health care insurance rates going up instead of down. The President said: If you like the care you have, you can keep it. Now we know that a majority of people who get their health insurance through their work are not going to be able to keep the coverage they have liked.

So I come to the floor with my colleague, Senator GRAHAM, because we have introduced a bill, S. 244, the State Health Care Choice Act, which allows States to make a decision to say: Is this something we want in our State?

I will turn to my colleague from South Carolina before getting into the specifics. I know the Senator has visited with his Governor about the concerns his Governor has, a newly elected Governor who has concerns and actually addressed those concerns with the President about the health care law and the mandates on the people of South Carolina.

So I would ask my friend and colleague, are there things we as a body ought to be considering to make life easier for the people of his home State of South Carolina? And I can talk about things for Wyoming as well.

Mr. GRAHAM. Yes. If I may, Mr. President.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. No. 1, Senator BARRASSO, who is an orthopedic surgeon, has been a great addition to the Republican conference and to the Senate as a whole. He is a doctor and has practiced medicine longer than he has been in politics, I am sure, and he sees this problem from the physician's point of view, from the patient's point of view. And our Presiding Officer was recently a Governor.

Here is what my Governor is telling me: that Medicaid is a program that needs to be reformed, not expanded the way we are doing it. The second largest expense to the State budget in South Carolina is Medicaid matching money.

For those who are home who may be watching, Medicaid is a program for low-income Americans. It is a Federal program and a State program, but it is a Federal Government mandate that if you reach a certain income level, you are eligible for Medicaid services to be administered by the States. But, quite frankly, the flexibility the States have is very limited, and this bill, the Obama health care bill, expands Medicaid eligibility to the point that 29 percent of the people in South Carolina would be Medicaid eligible.

Our State has an $850 million shortfall in our budget. I think Wyoming is in pretty good shape, but I think we are probably closer to the average State. We have had a dramatic decrease in revenues, and the cost of complying with the Medicaid expansion in this bill would be $1 billion to a State that cannot afford it. I am sure West Virginia is very similar.

So here is my commitment to the body. I would like to give the States an opportunity to speak as to whether they want the individual mandate, the Medicaid expansion, and employer mandate that I think adds a lot of cost to businesses that will decrease job opportunities at a time when South Carolina needs every job it can get.

But one thing we could do by passing this legislation is get this debate out of Washington, where everybody has kind of dug in their heels, and listen to the people. That is the one thing we have not been able to do.

This bill passed under the cover of darkness on Christmas Eve in a process that is not reflective of the hope and change we all would like to have. It was the worst of Washington. It is not as if the Republican Party has never, behind closed doors, passed bills on a party line. But we are all trying to break that formula. And this bill passed on a party-line vote on Christmas Eve. To get the 60th vote, quite frankly, was unseemly.

So what I am hearing from my Governor is, please give me some relief from a Medicaid Program that is drowning my State.

So after this opportunity comes to take the debate to the State level, I would like to join with Senator BARRASSO and the Presiding Officer and anyone else in this body who wants to come up with a way to fix Medicaid before it bankrupts all the States.

So this opt-out approach I think would make the debate more meaningful. It is not just about what people in Washington think; it is about what America wants and what Americans think. The best way to get their opinion is to allow them to speak at the State level.

So if my colleagues on the other side believe this is a great bill, then give other people a chance to validate what you think. We may be wrong. Senator BARRASSO and I may be wrong. We may be hearing criticism from this bill that is very limited and unique to Wyoming and South Carolina. I don't think so, but we will never know if we don't give people the chance to speak.

That is what this bill does. It allows States, if they choose, to opt out of the individual mandate and the employer mandate of Medicaid expansion.

What is my colleague from Wyoming hearing about the effect of this bill on the State of Wyoming, and where do you think we should go as a nation?

Mr. BARRASSO. The people of Wyoming overwhelmingly want the opportunity to remove themselves from the heavy burden of the Obama-passed and supported health care law. There are huge expenses. The Medicaid mandate is huge.

Mr. GRAHAM. Mr. President, if I could interrupt and ask the Senator from Wyoming about waivers that have been given. Can the Senator tell us a little bit about the waivers that have been granted? Aren't we basically allowing a State to request a waiver by our bill?

Mr. BARRASSO. We are doing exactly that. As of last week, the Secretary of Health and Human Services has given—just last week—500 new waivers to allow individuals who get their insurance through work, and now a total of 729 waivers affecting 2.2 million people to opt out—individuals to opt out—of the specific requirement.

I think States ought to have the right to make decisions about the Medicaid mandate, about the individual mandate that requires everyone to buy government-approved health insurance. It is a mandate. Congress is telling people they have to buy government-approved health insurance. I think it is unconstitutional. The Supreme Court will ultimately decide. People will get penalized. There are going to be IRS agents checking to make sure people have this government-mandated and government-approved health insurance. I think people ought to be able to—the State ought to decide if they are going to make every employer in the State—the business creators, the entities that hire people, the small businesses, the job creators—I think the State ought to have the right to make the decision to say, Are we going to make those employers—force them—to provide government-approved health insurance.

It is a big cost for businesses that are trying to hire people. I think States ought to be able to opt out of the benefit mandate which defines how much insurance somebody has to have. Also, in many cases it is overinsurance—more than they need, more than they want, and more than they can afford.

Mr. GRAHAM. Mr. President, I ask the Senator, what percentage of the waivers involve union plans?

Mr. BARRASSO. Well, of the 2.2 million people who have gotten waivers by the Secretary of Health and Human Services—and, as I say, you need to have friends in high places if you want a waiver, because I know the small business owners in my State, and probably in the State of the Senator from South Carolina as well, couldn't get to the Secretary of Health and Human Services to get these waivers. But 860,000 waivers have gone to members of 166 different unions' benefit programs. It is interesting, because across the country unions have received 40 percent of the waivers, yet union members are only 7 percent of the workforce. So it seems a disproportionate number of these waivers have been given to members of the unions.

What I find so intriguing is that these are the same people from the same unions that lobbied so hard to get this health care law passed. Now that they know what is in it, they don't want it to apply to them. That is a concern about which I think the American people will say, Well, if all of these different union members can get a waiver, why can't I? Why can't States be able to opt out as well?

In a national poll last Friday, February 4, the majority of Americans said States ought to have the right to opt out of the health care law. A majority of Americans believe their State ought to have a right to opt out. We now know that seven states—Arizona, Georgia, Idaho, Louisiana, Missouri, Oklahoma, and Virginia—have already passed laws or constitutional amendments making it illegal to force anyone to buy health insurance. Their State legislatures—to me, that is how I am reading it—say, we are going to opt out whether this law passes or not.

Mr. GRAHAM. Mr. President, along that line, if I could pose a question to my colleague: How many States have joined the lawsuit saying the individual mandate is unconstitutional, if the Senator knows that number? The Senator just indicated how many States have passed State laws saying we shouldn't be required to comply with individual mandates.

Mr. BARRASSO. Seven States have already passed laws or constitutional amendments making it illegal to force someone to buy health insurance.

Mr. GRAHAM. How many States have joined the lawsuit?

Mr. BARRASSO. Twenty-six States have joined the lawsuit, including my home State of Wyoming which recently joined. New Governors have been elected and sworn into office in January, so five new States have joined the lawsuit, saying, This law isn't constitutional. People from Congress shouldn't be able to go into your home and make you buy a government-approved product if you don't want to buy it. The background of the Senator from South Carolina is superior to mine in the legal field or the courts, but it sure sounds to me as if rulings from Virginia and Florida uphold my firm belief that Congress can't make people buy products.

Mr. GRAHAM. If I may, I think the Senator is going to find this case going to the Supreme Court in a year or two—the sooner the better, as far as I am concerned. I don't know how the Court will rule, but I can understand why attorneys general would be arguing that requiring someone to do something to create activity is probably a real stretch of the commerce clause. Where does it end? There are two sides to that legal coin.

My point is, I doubt if the attorneys general of these States, who are mostly elected—or I am sure all of them are elected—would be bringing a lawsuit to challenge the constitutionality if they believed their constituents were really for the bill. Does that make sense to my colleague, that 26 attorneys general would be suing the Federal Government in court if they believed their own citizens felt as though this were the right way to go?

Mr. BARRASSO. I think the attorneys general are making decisions based on what they believe is in the best interests of the citizens of their State, and they are saying, People of our State have rights, and we have a Constitution, and that Constitution should trump the 2,700-page health care law.

Mr. GRAHAM. Mr. President, if I could make this point to my colleague: No judge is going to ask the average person what they think, nor should they. This is a legal question. I don't know how it is going to come out. I think it is probably 50–50.

What we are doing differently, I say to my friend from Wyoming, is we are not saying we need to pass it all from Washington or repeal it all from Washington. We are saying: Allow people to comment on the product that was created on a party-line vote on Christmas Eve, in an unseemly fashion, by allowing people at the State level, through their elected representative, to have a say. That is different than a court challenge. That is different than a Washington debate. Quite frankly, if we are going to turn one-fifth of the economy upside down, I think it would be very helpful to this country to involve our fellow citizens.

This will be a constitutional academic decision made on the law. What we are trying to do, I say to my good friend from Wyoming, is to take the debate on health care to the State level so people can speak up before we lock the country into a plan that I think is going to ruin the viability of the States' budgets by expanding Medicaid to 150 percent above poverty. Is that not the purpose, to give people the chance to speak as they have never had to this point?

Mr. BARRASSO. What do people want? What do the States want? Flexibility, freedom, and choice. I know that is what people in Wyoming want. We are rugged individuals who want flexibility, freedom, and choice. I think every State ought to have the opportunity to make that decision, and that is why this bill is on the floor of the Senate.

Last week I did vote to repeal the entire Obama health care law because I think it is bad for patients and providers—the nurses and the doctors who take care of those patients—and I think it is bad for the taxpayers. I think it will bankrupt the Nation. I think what is now happening is it is also bankrupting the States. Governors, having to deal with this Medicaid mandate, are realizing that to listen to Washington, they are going to

have to take money away from education. They are going to have to take money away from public services. They ought to have a right to make a decision at the State level as to what they want to do, what laws ought to apply.

One size doesn't fit all. I know what works in Wyoming is not necessarily what works in South Carolina or West Virginia and certainly may not work in California or New York. That is why States ought to make a decision about ways to help people in their own State get the care they need from the doctors they want at prices they can afford. This massive health care law does not accomplish that.

Mr. GRAHAM. One final question, and I do appreciate the Chair's indulgence. The whole idea of the status quo being acceptable is not what we are talking about. None of us believes the current health care situation is sustainable. Medicare and Medicaid need to be reformed, but so do private health care cost increases. There are monopolies out there by insurance companies. To be able to buy across State lines makes a lot of sense to me.

Briefly, if my colleague could, what does he see—I want to repeal the bill, not just to maintain the status quo, but to replace it with a bipartisan product that does improve quality and lowers costs. Is that the Senator's position, and how can we do that?

Mr. BARRASSO. There are things we mutually must do to make it easier and cheaper for people to get the health care they need, the doctors they want, at the price they can afford. Number 1, as my colleague mentioned, make it legal for people to shop around and buy across State lines. We can't do that right now in this country. That in itself, as studies show, would result in over 10 million Americans who don't have insurance today getting insurance.

Most people get their insurance through work for the simple reason that it is a tax deduction to the company they get their insurance through, but if they buy insurance personally, individually, they have to pay taxes on that money before they pay for the insurance. So I think people who end up buying their health insurance individually ought to get the same tax benefits as those who get it through work do. That would make a big difference in bringing down the specific costs to those folks.

I think we need to have incentives that help people actually stay healthy. I ran a program in Wyoming. I was a volunteer at a program called the Wyoming Health Fairs, bringing low-cost health screenings to people. I did health reports on television called ''Helping You Care For Yourself,'' giving people information they could use to stay healthy.

This health care law has money in it aimed at prevention, but it basically has money for jungle gyms and street lamps and pathways, but actually no incentive to get somebody to get up and exercise and get their weight down and their cholesterol under control, their blood pressure under control.

Then I think we have to do something about the lawsuit abuse out there, which drives up the cost of care as doctors order tests not necessarily to help the patient but to make sure they are not missing some very rare condition, and that significantly adds to the cost of care, in the billions and billions of dollars every year.

Mr. GRAHAM. On that note, I would say to the Presiding Officer and to my friend from Wyoming, there seems to be a lot of ways to lower costs. The status quo is not acceptable. The solution we have chosen in a very partisan way I think is going to drive up the budget deficit and eventually lead to more people being in government-run health care at a time when the government is broke and is, quite frankly, going to take the State budget problems and make them unsustainable just by expanding Medicaid.

Our bill is pretty simple. If you think this is a very good idea, let it be tested by your Federal citizens through an opt-out provision. If you think this is a bill that most people would opt out of if they could on our side, give them a chance. The lawsuit is important, but this is a decision the Nation needs to make, and the lawsuit is one way to approach this. But the best way to come up with health care solutions is not going to court but having the Congress and the States and the people of America work together in a partnership. That is what we have not been able to achieve—a partnership where we listen to the States and the people, and from their input we pass laws in a bipartisan fashion.

That is what I hope will happen.

Mr. BARRASSO. That is why we come to the floor to discuss S. 244. The title is State Health Care Choice Act. That is what it truly is—State health care, and choice. It is a choice to be made by the States about health care because if the American people want anything, it is flexibility, freedom, and choice.

Mr. GRAHAM. I thank my colleague. I have enjoyed the discussion.

I yield the floor.

Mr. BARRASSO. I yield the floor.

TRIBUTE TO MAJOR GENERAL THOMAS CUTLER

Mr. LEVIN. Mr. President, for the past 8 years, MG Thomas Cutler has been the leader of the Michigan National Guard. It has been my privilege to work closely with him in his efforts to keep the Guard prepared for its missions at home and abroad. The people of Michigan have benefitted greatly from his tireless efforts, and Americans and people around the world have enjoyed the benefits of his leadership of the men and women of the Michigan Guard who have served far from home.

General Cutler came to his position with extensive knowledge of the full spectrum of the National Guard's operations, having served in command positions in Battle Creek, Alpena and at Selfridge Air National Guard Base, working not only with Air National Guard personnel but in joint operations as well.

Over his 8 years, he was an extraordinary advocate for improvements to the State's military infrastructure, improvements that made Michigan's people safer, served units from other States that use Michigan facilities for training, and contributed greatly to the welfare of Guard members and their families. The list of ribbons we have cut and of ground we have broken to modernize Michigan Guard facilities is extensive, and the result is some of the most modern facilities in the nation.

He also skillfully led Michigan through the implementation of the 2005 round of base realignments and closures, helping to ensure that Michigan would maintain flying missions at two Air Guard bases and that the Michigan Guard could continue to effectively fulfill its missions.

General Cutler has continually sought new opportunities for the men and women under his command. Most notably among these is the Michigan National Guard's engagement with the armed forces of Latvia and now Liberia through the State Partnership Program. This program uses the civil and military skills of the National Guard to aid the development of partner nation militaries while providing Guard personnel with unique opportunities to interact and build relationships with other militaries. Most important, General Cutler has focused on the people of the Michigan National Guard—on its servicemembers and their families. He has brought to his job a keen understanding of the challenges our citizen-soldiers and airmen face, and the sacrifices of their families and communities.

On January 8, General Cutler left his position as adjutant general of the Michigan National Guard. I salute General Cutler for his service to Michigan and the Nation. The men and women of the Michigan National Guard, who have so benefitted from his passion for the Guard, will long remember his service, and I shall look back on the many times we have been together as some of my best memories.

HONORING OUR ARMED FORCES

SPECIALIST SHAWN A. MUHR

Mr. GRASSLEY. Mr. President, I have the sad task today of paying tribute to Specialist Shawn A. Muhr of Coon Rapids, IA, who has fallen in the line of duty in Afghanistan. Specialist Muhr was serving with the 546th Transportation Company, 264th Combat Sustainment Support Battalion, 82nd Sustainment Brigade out of Fort Bragg, NC. He was 26 years old.

Shawn's family described him as ''a gentle person with an adventurous

spirit.'' He is remembered fondly as a happy and generous individual, and I know his loss will be felt very keenly by all who knew him. My thoughts and prayers will be with his family at this time, including his wife Winifred, his father David, and his mother Shirley as well as his brother and sisters.

By all accounts, Specialist Muhr liked being in the Army and loved serving his country. He had previously served in Operation Iraqi Freedom as well as in South Korea and was serving his first tour in Afghanistan. What would we do without individuals like Shawn Muhr? Those young people who gladly serve their country, knowing the sacrifices they will be asked to make and the tremendous risk they take, are the ultimate bulwark in defense of our freedom. Shawn Muhr truly lived and died by the motto of the great State of Iowa, ''Our Liberties We Prize, Our Rights We Will Maintain.''

SUSQUEHANNA RIVER BASIN COMMISSION

Ms. MIKULSKI. Mr. President, I rise today to commend and congratulate the Susquehanna River Basin Commission, SRBC, in honor of their 40th anniversary. The Susquehanna River Basin Compact, which went into effect on January 23, 1971, brought together the Federal Government and the States of New York, Pennsylvania, and Maryland to form the SRBC, one of only two such Federal-interstate compact agencies in the Nation. The mission of SRBC is to manage the water resources of the Susquehanna basin under comprehensive planning principles, and to protect the Chesapeake Bay, one of the world's most productive ecosystems. The Susquehanna is America's largest eastern river and supplies over half the fresh water entering the Chesapeake Bay.

This unique partnership has resulted in numerous benefits for the people of the basin, including the establishment of a basin-wide flood forecasting and warning system in one of America's most flood prone river systems; the storage and release of water during low flow periods from federally operated reservoirs; the management of large scale withdrawals and consumptive uses of water; and the monitoring of basin water quality. Furthermore, SRBC's involvement in hydroelectric relicensing has restored migratory fish runs, minimum flows, and improved recreational facilities.

The Susquehanna Flood Forecast and Warning System, administered by the National Weather Service, in cooperation with the U.S. Geological Survey and the SRBC, provides timely warnings to residents of the Susquehanna River basin to reduce loss of life and property damage during flood events. The funding I've helped to secure over the years supports the flood warning infrastructure—a network of gauges, radar and computer technology—to provide advanced flood warning information to communities along the river.

The Susquehanna System is about saving lives and saving communities. I have seen firsthand not only what the warning system accomplishes, but also its ongoing and compelling needs. This system has been critical in protecting families and businesses during flooding that has devastated communities along the east coast.

I extend my congratulations to the Susquehanna River Basin Commission for its 40 years of water resources management excellence, and I will continue to work closely with the Commission on important water resource issues in the future.

REMEMBERING PRESIDENT RONALD REAGAN

Mr. CHAMBLISS. Mr. President, I rise to join my colleagues from both sides of the aisle today to mark the 100th birthday of former President Ronald Reagan.

It is fitting that this is a bipartisan tribute. After all, Reagan had been a Democrat, then a Republican, in his political career, and he transformed the political landscape for both parties by appealing to a broad cross-section of Americans.

Much has been written about President Reagan's life. His story is well-known, and is a classic tale of the American dream—a boy from the Nation's heartland makes good.

And Ronald Reagan was a surprising man, a man of paradoxes: An actor affectionately remembered by a generation of Americans for his authenticity, a former union leader who fired striking union members, and the oldest president who was most popular among young Americans, many of whom are in leadership positions today, and some of whom are in this very Chamber.

But what I would like to focus on in my time here today is the part of Reagan that is still with us today: his legacy.

One of the most frequently cited achievements of Ronald Reagan is ending the Cold War.

Behind his eloquence and warmth was a steeliness that sent a clear message to Moscow: You cannot hope to compete with us. We will beat you.

And so we did. Thanks to Reagan's steadfastness and the rise of a Soviet leader who recognized America's toughness under Reagan's leadership, the Iron Curtain ultimately clanged into a pile of rubble.

Reagan also gave birth to the Republican Party that those of us on this side of the aisle belong to today.

Thanks to Reagan's efforts to broaden the tent of the Republican Party, for the first time in many years, scores of religious, socially conservative Americans finally found a political home.

His became a party of pro-military, pro-business, pro-small-government, anti-tax, anti-Communist Americans. And while communism worldwide has been largely designated to oblivion, Reagan's legacy of tax-cutting, smaller government, personal responsibility and fewer onerous regulations from Washington have stood the test of time and approval from the American people.

Reagan's most lasting legacy, however, may be his innate optimism.

When he took office, America had suffered the indignity of Watergate, high gas prices and long lines at the pumps, a 21-percent inflation rate and the taking of 52 of our citizens from America's own embassy in Tehran, Iran. We were a deflated Nation.

But Reagan, in many ways through the sheer force of his personality, gave Americans hope, gave us the urge to dare to dream, and the confidence to be great again. When he told us it was morning again in America, we believed him. And it was.

When Reagan was born on February 6, 1911, the airplane had only been invented 8 years earlier. The horrors of World War I, the Great War that helped spawn the modern Soviet Union, were still several years away and Teddy Roosevelt had been out of the White House for just 2 years.

How fitting that Reagan's lifetime and legacy would book-end such advances in technology, foreign policy and even his own Republican Party.

That includes the space flight that helped America surpass its Soviet rivals and his words of consolation to a grieving Nation when the Space Shuttle *Challenger* disintegrated. And outlasting the Soviet Union after a lifetime of opposition. And becoming a worthy successor to Roosevelt as an optimistic Republican leader who left a lasting imprint on a changing Nation.

As usual, Reagan put it best when he told us, ''America's best days lie ahead. You ain't seen nothing yet.''

BLACK HISTORY MONTH

Mr. BEGICH. Mr. President, to commemorate February 2011 as Black History Month, I would like to acknowledge the contributions of African Americans to the cultural, technological, and social evolution of our Nation and American democracy.

Each year, the Association for the Study of African American Life and History sponsors Black History Month in February because two great men of historical significance were born in this month: Abraham Lincoln, the 16th President of the United States, and Frederick Douglass, a noted Black social reformer and abolitionist. Their actions greatly forwarded the cause of equality for all African Americans.

Given the association has chosen ''African Americans and the Civil War'' as their 2011 theme, it seems fitting to briefly contemplate initiatives of these two reformers who are from that era.

President Lincoln is forever linked to the momentous Emancipation Proclamation in 1863 which 3.1 million slaves

living in States that were in rebellion against the Union were declared ''forever free'' and also allowed to join the military. The year before, Mr. Lincoln abetted the cause of freedom by forbidding Army officers from returning fugitive slaves and signed a law declaring the Federal Government would compensate slave owners who freed their slaves.

Frederick Douglass escaped slavery and became a leader of the abolitionist movement. He was a great orator and writer and after the war he was involved in Reconstruction efforts. His energies were devoted to helping America truly become a place where all citizens enjoyed liberty. Mr. Douglass once said, ''I would unite with anybody to do right and with nobody to do wrong.''

In observing Black History month, it would be impossible to author an exhaustive list of all influential African Americans. Yet one such individual in recent history stands out: Dr. Martin Luther King, Jr. In January, we celebrated his achievement of peaceful protest in furthering civil rights for minorities. Dr. King's accomplishments represent but a fraction of the positive impact African Americans have had on our society.

I also note the United Nations has proclaimed 2011 the International Year for People of African Descent. Their resolution calls for worldwide cooperation to further their full enjoyment of economic, cultural, social, civil and political rights, participation in political, economic, social and cultural aspects of society and promotion of a greater knowledge of and respect for their diverse heritage and culture.

I agree with these sentiments and urge Americans to continue to fulfill the potential of promise that our Nation offers everyone.

ADDITIONAL STATEMENTS

CLACKAMAS COMMUNITY COLLEGE

• Mr. WYDEN. Mr. President, I am proud that my home State of Oregon has so many citizen soldiers and even prouder of the way we take care of them. In the world of veterans' services, one real shining light is Clackamas Community College. I am delighted today to take this opportunity to recognize Clackamas Community College for being selected to receive the Patriotic Employer Award from the National Committee for Employer Support of the Guard and Reserve, ESGR. Clackamas Community College sets an extraordinary example in its care of our nation's veterans that I would hope every institution of higher learning could follow. Clackamas Community College doesn't just stop at educating its students. It serves every member of its community, especially its veterans.

When servicemembers come back from the war zone, it takes some adjusting to get back to the routine of life they left behind when they went to serve. As anyone who has gone to college knows, just signing up for classes or applying for student aid can be a confusing experience let alone when you have been out of the university atmosphere for a while, fighting in battle. Clackamas Community College knows that. That is why it created a Veterans Education and Training—VET—Center to serve as a one-stop shop for students who are veterans. The VET Center's staff knows the ins and outs of veterans' education benefits, financial aid and every other veterans' resource and program.

The VET Center is also there for student veterans who have a hard time adjusting to being back in school after they have been deployed. The center serves as a safe haven for the veterans to talk things out and get help with problems only another veteran can understand. A veterans' club regularly meets at the VET Center to provide support and camaraderie for the folks they see as family—other vets.

Clackamas Community College also pays the VET Center staff to train college staff and faculty about issues that confront student veterans so they are ready when called upon to help. This helps create a tremendously supportive environment campuswide.

Through the VET Center, Clackamas Community College works to eliminate obstacles in the admissions process while making every effort to help veterans earn education credit for their military service and experience.

Clackamas Community College also recently joined with the Army Reserves to open an Army Strong Community Center—ASCC—on campus. This center, which connects military members and their families with support resources in the community, is the first ASCC west of the Mississippi River.

But Clackamas Community College does even more. As a leader in its community, it continues its veterans' outreach outside the campus boundaries. When nearly 1,500 Oregon National Guard soldiers were deployed to Iraq, the college sponsored two Oregon National Guard family reunions to support the families of deployed 41st Brigade soldiers. The college also hosted two yellow-ribbon reintegration events that touched the lives of more than 3,800 soldiers and their families.

When the college hosted a veterans job fair last year, they went above and beyond the call of duty to host the largest single veterans' job fair in the State. The college found room for 104 employers that were eager to hire veterans, 106 veterans' services providers and more than 3,100 veterans. The logistics were incredible, and they handled them with ease, even providing lunch and entertainment for the veterans' families while the veterans job-hunted.

In recognition of their ongoing efforts, Clackamas Community College was one of 20 colleges and universities to receive a $100,000 grant to serve military veterans from the Wal-Mart Foundation and the American Council on Education. Clackamas Community College used the funds to further their efforts to help veterans transition from military service to college.

As an Oregonian and as their Senator, I could not be more proud of Clackamas Community College, its president, Joanne Truesdell, and the heroes they serve. Our citizen soldiers answer the call of our country every day, and Clackamas Community College returns the favor when they come home. It is my honor to thank them for their support of Oregon's veterans.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES DISCHARGED

The following bill was discharged from the Committee on Health, Education, Labor, and Pensions, and referred as indicated:

S. 248. A bill to allow an earlier start for State health care coverage innovation waivers under the Patient Protection and Affordable Care Act; to the Committee on Finance.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–449. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Sodium and Potassium salts of N-alkyl (C8–C18)-beta-iminodipropionic acid; Exemption from the Requirement of a Tolerance'' (FRL No. 8861–9) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–450. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fludioxonil; Pesticide Tolerances for Emergency Exemptions'' (FRL No. 8859–6) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–451. A communication from the Director of the Regulatory Management Division,

Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''n-Octyl alcohol and n-Decyl alcohol; Exemption from the Requirement of a Tolerance'' (FRL No. 8860–7) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–452. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''(S,S)-Ethylenediamine Disuccinic Acid Trisodium Salt; Exemption from the Requirement of a Tolerance'' (FRL No. 8860–6) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–453. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cyprodinil; Pesticide Tolerances'' (FRL No. 8860–3) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–454. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Isobutane; Exemption from the Requirement of a Tolerance'' (FRL No. 8860–4) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–455. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bispyribac-sodium; Pesticide Tolerances'' (FRL No. 8860–2) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–456. A communication from the Director of the Regulatory Review Group, Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Loan Servicing; Farm Loan Programs'' (RIN0560–AI05) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–457. A communication from the Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Shareholder Approval of Executive Compensation and Golden Parachute Compensation'' (RIN3235–AK68) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–458. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota Transfer'' (RIN0648–XA084) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Commerce, Science, and Transportation.

EC–459. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2011 Bering Sea and Aleutian Islands Atka Mackerel Total Allowable Catch Amount'' (RIN0648–XA129) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Commerce, Science, and Transportation.

EC–460. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications'' (RIN0648–XY51) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Commerce, Science, and Transportation.

EC–461. A communication from the Assistant General Counsel for Regulatory Affairs, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled ''Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs; Final Rule'' (16 CFR Parts 1219, 1220, and 1500) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Commerce, Science, and Transportation.

EC–462. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; DASSAULT AVIATION Model Falcon 10 Airplanes; Model FAN JET FALCON, FAN JET FALCON SERIES C,D,E,F, and G Airplanes; Model MYSTERE-FALCON 200 Airplanes; Model MYSTERE-FALCON 20–C5, 20–D5, 20–E5, and 20–F5 Airplanes; Model FALCON 2000 and FALCON 2000EX Airplanes; and Model MYSTERE-FALCON 50 and MYSTERE-FALCON 900 Airplanes, and FALCON 900EX Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0864)) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Commerce, Science, and Transportation.

EC–463. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Diamond Aircraft Industries GmbH Models DA 40 and DA 40F Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0845)) received during adjournment of the Senate in the Office of the President of the Senate on February 3, 2011; to the Committee on Commerce, Science, and Transportation.

EC–464. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Farmington, MO'' ((RIN2120–AA66)(Docket No. FAA–2010–0769)) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Commerce, Science, and Transportation.

EC–465. A communication from the Attorney Advisor of the Policy Division, Public Safety and Homeland Security Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Wireless E911 Location Accuracy Requirements'' (FCC 10–176) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Commerce, Science, and Transportation.

EC–466. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's 2010 report to Congress on the Transportation Infrastructure Finance and Innovation Act of 1998; to the Committee on Commerce, Science, and Transportation.

EC–467. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled, ''Fundamental Properties of Asphalts and Modified Asphalts—III''; to the Committee on Commerce, Science, and Transportation.

EC–468. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Additional Air Quality Designations for the 2006 24-Hour Fine Particle National Ambient Air Quality Standards, 110(k)(6) Correction and Technical Correction Related to Prior Designation, and Decisions Related to the 1997 Air Quality Designations and Classifications for the Annual Fine Particles National Ambient Air Quality Standards'' (FRL No. 9261–3) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Environment and Public Works.

EC–469. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determination of Attainment for PM10; Columbia Falls and Libby Nonattainment Areas, Montana'' (FRL No. 9260–6) received in the Office of the President of the Senate on February 2, 2011; to the Committee on Environment and Public Works.

EC–470. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Qualified Zone Academy Bond Allocations for 2011'' (Rev. Proc. 2011–19) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Finance.

EC–471. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Biodiesel and Alternative Fuels; Claims for 2010; Excise Tax'' (Rev. Proc. 2011–10) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Finance.

EC–472. A communication from the Deputy Assistant Secretary for Import Administration, International Trade Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings: Interim Final Rule'' (RIN0625–AA66) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Finance.

EC–473. A communication from the Chief of the Border Security Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Land Border Carrier Initiative Program'' (RIN1651–AA68) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–474. A communication from the Director of Regulation Policy and Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Loan Guaranty Revised Loan Modification Procedures'' (RIN2900–AN78) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Veterans' Affairs.

EC–475. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; 2002 Base Year Emissions Inventory,

Reasonable Further Progress Plan, Contingency Measures, Reasonably Available Control Measures, and Transportation Conformity Budgets for the Pennsylvania Portion of the Philadelphia-Wilmington-Atlantic City 1997 8-Hour Moderate Ozone Nonattainment Area'' (FRL No. 9262–7) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Environment and Public Works.

EC–476. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Authorization of State Hazardous Waste Management Program Revisions'' (FRL No. 9261–9) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Environment and Public Works.

EC–477. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Authorization of State Hazardous Waste Management Program Revisions'' (FRL No. 9262–2) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Environment and Public Works.

EC–478. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Alaska: Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule Revision'' (FRL No. 9257–1) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Environment and Public Works.

EC–479. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Disapproval and Promulgation of Air Quality Implementation Plans; Colorado; Revision to Definitions; Construction Permit Program; Regulation 3'' (FRL No. 9251–1) received in the Office of the President of the Senate on February 3, 2011; to the Committee on Environment and Public Works.

EC–480. A communication from the Regulatory and Policy Specialist, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Indian Trust Management Reform—Implementation of Statutory Changes'' (RIN1076–AF07) received in the Office of the President of the Senate on February 4, 2011; to the Committee on Indian Affairs.

EC–481. A communication from the Assistant Chief Counsel for General Law, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Pipeline Safety: Update of Regulatory References to Technical Standards'' (RIN2137–AD68) received in the Office of the President of the Senate on February 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–482. A communication from the Assistant Chief Counsel for General Law, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Pipeline Safety: Integrity Management Program Modifications and Clarifications'' (RIN2137–AE07) received in the Office of the President of the Senate on February 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–483. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''List of Nonconforming Vehicles Decided to be Eligible for Importation'' (Docket No. NHTSA–2006–25686) received in the Office of the President of the Senate on February 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–484. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Disadvantaged Business Enterprise; Potential Program Improvements'' (RIN2105–AD75) received in the Office of the President of the Senate on February 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–485. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Transportation for Individuals with Disabilities; Adoption of New Accessibility Standards'' (RIN2105–AC86) received in the Office of the President of the Senate on February 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–486. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Canadian Charter Air Taxis—Technical Changes'' (RIN2105–AD58) received in the Office of the President of the Senate on February 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–487. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Debarment and Suspension (Nonprocurement) Requirements'' (RIN2105–AD46) received in the Office of the President of the Senate on February 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC–488. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Petition of the National Air Carrier Association for Rulemaking'' (RIN2105–AD38) received in the Office of the President of the Senate on February 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–489. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Review of Data Filed by Certificated or Commuter Air Carriers to Support Continuing Fitness Determinations Involving Citizenship Issues'' (RIN2105–AD25) received in the Office of the President of the Senate on February 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–490. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Procedures for Non-Evidential Alcohol Screening Devices'' (RIN2105–AD64) received in the Office of the President of the Senate on February 4, 2011; to the Committee on Commerce, Science, and Transportation.

EC–491. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Procedures for Transportation Workplace Drug and Alcohol Testing Programs: State Laws Requiring Drug and Alcohol Rule Violation Information'' (RIN2105–AD67) received in the Office of the President of the Senate on February 4, 2011; to the Committee on Commerce, Science, and Transportation.

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. LUGAR:

S. 293. A bill to modify the authority to use Cooperative Threat Reduction funds for proliferation threat reduction projects and activities outside the states of the former Soviet Union; to the Committee on Armed Services.

By Mr. SANDERS:

S. 294. A bill to enhance early care and education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. AKAKA:

S. 295. A bill for the relief of Vichai Sae Tung (also known as Chai Chaowasaree); to the Committee on the Judiciary.

By Ms. KLOBUCHAR (for herself and Mr. CASEY):

S. 296. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with improved capacity to prevent drug shortages; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 297. A bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act; to the Committee on Commerce, Science, and Transportation.

By Ms. STABENOW:

S. 298. A bill to drive American innovation and advanced vehicle manufacturing, to reduce costs for consumers, and for other purposes; to the Committee on Finance.

By Mr. PAUL (for himself, Mr. DEMINT, Mr. ENSIGN, Mr. GRASSLEY, Mr. COBURN, Mr. BLUNT, Mr. THUNE, Mr. ENZI, Mr. CORNYN, Mr. HATCH, Mr. CHAMBLISS, Mr. JOHNSON of Wisconsin, Mr. ISAKSON, Mr. BARRASSO, Mr. WICKER, Ms. AYOTTE, Mr. SESSIONS, Mr. PORTMAN, Mr. JOHANNS, Mr. BOOZMAN, Mr. VITTER, Mr. LEE, Mr. INHOFE, Mrs. HUTCHISON, and Mr. RUBIO):

S. 299. A bill to amend chapter 8 of title 5, United States Code, to provide that major rules of the executive branch shall have no force or effect unless a joint resolution of approval is enacted into law; to the Committee on Homeland Security and Governmental Affairs.

ADDITIONAL COSPONSORS

S. 17

At the request of Mr. HATCH, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 17, a bill to repeal the job-killing tax on medical devices to ensure continued access to life-saving medical devices for patients and maintain the

standing of United States as the world leader in medical device innovation.

S. 44

At the request of Ms. KLOBUCHAR, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 44, a bill to amend part D of title XVIII of the Social Security Act to require the Secretary of Health and Human Services to negotiate covered part D drug prices on behalf of Medicare beneficiaries.

S. 45

At the request of Mr. WHITEHOUSE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 45, a bill to amend the Internal Revenue Code of 1986 to provide for the taxation of income of controlled foreign corporations attributable for imported property.

S. 81

At the request of Mr. ISAKSON, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 81, a bill to direct unused appropriations for Senate Official Personnel and Office Expense Accounts to be deposited in the Treasury and used for deficit reduction or to reduce the Federal debt.

S. 82

At the request of Mr. JOHANNS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 82, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs, to repeal the sunset of the Patient Protection and Affordable Care Act with respect to increased dollar limitations for such credit and programs, and to allow the adoption credit to be claimed in the year expenses are incurred, regardless of when the adoption becomes final.

S. 102

At the request of Mr. MCCAIN, the names of the Senator from Illinois (Mr. KIRK), the Senator from South Carolina (Mr. GRAHAM), the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Missouri (Mr. BLUNT) were added as cosponsors of S. 102, a bill to provide an optional fast-track procedure the President may use when submitting rescission requests, and for other purposes.

S. 136

At the request of Mrs. FEINSTEIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 136, a bill to establish requirements with respect to bisphenol A.

S. 185

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 185, a bill to provide United States assistance for the purpose of eradicating severe forms of trafficking in children in eligible countries through the implementation of Child Protection Compacts, and for other purposes.

S. 211

At the request of Mr. ISAKSON, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 211, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and performance of the Federal Government.

S. 228

At the request of Mr. BARRASSO, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Arkansas (Mr. BOOZMAN) were added as cosponsors of S. 228, a bill to preempt regulation of, action relating to, or consideration of greenhouse gases under Federal and common law on enactment of a Federal policy to mitigate climate change.

S. 239

At the request of Ms. KLOBUCHAR, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 239, a bill to support innovation, and for other purposes.

S. 260

At the request of Ms. MIKULSKI, her name was added as a cosponsor of S. 260, a bill to amend title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation.

S. 277

At the request of Mr. BURR, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 277, a bill to amend title 38, United States Code, to furnish hospital care, medical services, and nursing home care to veterans who were stationed at Camp Lejeune, North Carolina, while the water was contaminated at Camp Lejeune, and for other purposes.

S. 281

At the request of Mrs. HUTCHISON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 281, a bill to delay the implementation of the health reform law in the United States until there is a final resolution in pending lawsuits.

S.J. RES. 1

At the request of Mr. VITTER, the name of the Senator from Kentucky (Mr. PAUL) was added as a cosponsor of S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States relative to limiting the number of terms that a Member of Congress may serve.

S.J. RES. 3

At the request of Mr. HATCH, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Florida (Mr. RUBIO) were added as cosponsors of S.J. Res. 3, a joint resolution proposing an amendment to the Constitution of the United States relative to balancing the budget.

S. RES. 27

At the request of Mr. WEBB, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. Res. 27, a resolution designating January 26, 2011, as ''National Kawasaki Disease Awareness Day''.

AMENDMENT NO. 11

At the request of Mr. LAUTENBERG, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of amendment No. 11 intended to be proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

AMENDMENT NO. 14

At the request of Mr. WICKER, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of amendment No. 14 proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

AMENDMENT NO. 32

At the request of Mr. ENSIGN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of amendment No. 32 proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR:

S. 293. A bill to modify the authority to use Cooperative Threat Reduction funds for proliferation threat reduction projects and activities outside the states of the former Soviet Union; to the Committee on Armed Services.

Mr. LUGAR. Mr. President, today I introduce the Nunn-Lugar Global Cooperative Threat Reduction Improvement Act of 2011.

For many years, I have labored to ensure that the global Nunn-Lugar program has the flexibility it needs. Now that the global Nunn-Lugar program has begun to undertake important biological threat reduction campaigns in Africa and other regions, I believe the need has arisen to reexamine the authorities we have provided to the program to ensure that it can effectively implement projects around the globe. These projects protect the American people from nuclear, chemical and biological proliferation.

The record of the global Nunn-Lugar program has been impressive. The results now total: 7,599 strategic nuclear warheads deactivated; 791 intercontinental ballistic missiles, ICBMs, destroyed; 498 ICBM silos eliminated; 180

ICBM mobile launchers destroyed; 669 submarine launched ballistic missiles, SLBMs, eliminated; 492 SLBM launchers eliminated; 32 nuclear submarines capable of launching ballistic missiles destroyed; 155 bombers eliminated; 906 nuclear air-to-surface missiles, ASMs, destroyed; 194 nuclear test tunnels eliminated; and 507 nuclear weapons transport train shipments secured. We have also upgraded security at 24 nuclear weapons storage sites; built and equipped 20 biological monitoring stations; and neutralized 1,742 metric tons of Russian and Albanian chemical weapons agent.

In addition to authorities to operate worldwide, the global Nunn-Lugar program has been granted much needed flexibility in carrying out its mission. The global Nunn-Lugar program has been granted notwithstanding authority to spend up to 10 percent of annual program funds notwithstanding any other provision of law. The Secretary of Defense has the authority to accept funds from foreign governments and other entities to contribute to activities carried out under the global Nunn-Lugar program.

This flexibility came after more than a decade of work to eliminate annual certifications on global Nunn-Lugar assistance that hampered the ability of the United States to use the global Nunn-Lugar program quickly and effectively. The certification and waiver processes consumed hundreds of man-hours of work by the State Department, the Intelligence Community, the Pentagon, as well as other departments and agencies. I argued that this time could be better spent tackling the proliferation threats facing our country. Former Under Secretary of State Bob Joseph noted during his confirmation process that, at the time, more than a dozen individual steps were required in the State Department alone to complete these annual certifications and waivers. After a strong vote in the Senate, Congress eliminated these annual certifications.

In 2003, I sought authority to use Nunn-Lugar funds outside states of the former Soviet Union. This was favored by the Bush administration. The National Defense Authorization Act for fiscal year 2004, as amended by the National Defense Authorization Act for fiscal year 2008, provides that the Secretary of Defense may spend Nunn-Lugar/Cooperative Threat Reduction funds for a proliferation threat reduction project or activity outside the states of the former Soviet Union if the Secretary of Defense, with the concurrence of the Secretary of State, determines that such projects or activities will assist the United States in the resolution of a critical emerging proliferation threat or permit the United States to take advantage of opportunities to achieve long-standing nonproliferation goals. The law specifies that the Secretary of Defense may not obligate funds for projects or activities until the Secretary of State concurs in a determination regarding these projects and activities and in notifying Congress. The Secretary of State is also involved in subsequent steps before the global Nunn-Lugar program can put boots on the ground.

Unfortunately, the State Department has not been efficient in carrying out concurrences required by existing law. It is troubling that, after eliminating the lengthy certification processes of the 1990s, equally burdensome and ultimately un-executable interagency concurrence, determination and notification processes for the global Nunn-Lugar program are limiting accomplishments.

The bill I introduce today remedies this situation by providing that the Secretary of Defense be given sole authority regarding global Nunn-Lugar funds—to include making all relevant determinations and notifications to Congress. Originally, this authority had been given to the President. I worked to delegate it to the Secretary of Defense. When it was given by Congress to the Secretary of Defense, State Department officials insisted they had a role in the process. We have now had time to observe how this works in practice, and the result is clear: it does not function in a manner consistent with the intent of law. Congress clearly intended that efficiency and immediacy accompany this authority.

I do not believe that reserving this authority to the Secretary of Defense means that the State Department does not play a role in other efforts; however, in the reorganized non-proliferation and arms control bureaus who oversee these matters within the State Department, as well as in its regional bureaus, it is the case that simply adding bureaucratic boxes to check has had little positive result. Too often, bureaucratic politics and inertia have intervened to prevent timely success.

We must work to ensure that our implementers have the tools and authorities they need to perform their missions in the Defense Department. It is to this end that I offer this simple bill. I look forward to working with Chairman LEVIN and Ranking Member MCCAIN on the Armed Services Committee on this legislation.

By Mr. ROCKEFELLER (for himself and Ms. SNOWE):

S. 297. A bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act; to the Committee on Commerce, Science, and Transportation.

Mr. ROCKEFELLER. Mr. President, today, along with my colleague Senator SNOWE of Maine, I am introducing legislation to exempt universal service contributions and the universal service support programs from what is commonly referred to as the Antideficiency Act.

The Telecommunications Act of 1996 demonstrated our long-standing commitment to ensuring the availability of telecommunications to all Americans at reasonable prices. This concept known as universal service has been the responsibility of the Federal Communications Commission, FCC, since its beginnings in 1934. As a result of the 1996 Act, the Universal Service Fund, USF, was established in 1997. This fund is administered by the Universal Service Administrative Company, USAC, whose Board of Directors is appointed by the Chairman of the FCC.

USAC administers the High Cost, Low Income, Rural Health Care, and Schools and Libraries, E-rate, universal service programs. USAC makes commitments, through letters, to schools for each school year under FCC rules, and it is obviously important these commitments be made before the beginning of the school year to assist schools in their planning processes and achievement of educational goals. The letters of commitment are based upon funds the USF is authorized to collect, and the USF can adjust the contribution factor quarterly to ensure its receipts.

While the USF receives no Federal monies, FCC staff directed USAC in late September 2004 to treat E-rate and Rural Health Care commitment letters as government obligations subject to ADA requirements. Among the ADA requirements is the demand for cash on hand to cover all obligations. This requirement disrupted the distribution of funds for four months. Congress realized how ill-advised it is to subject these funds to the ADA and enacted legislation to provide for a one-year exemption of the USF from the ADA, through December 31, 2005, and this exemption has been extended for one-year increments in each subsequent year. The current extension expires December 31, 2011. Congress has made permanent similar exemptions for at least fourteen different programs, and we believe the time has come to end these annual one-year extensions and simply make the exemption permanent. This will allow USAC to continue administering these important programs in the most sensible and effective way.

It is important to understand that there is precedence to provide a permanent exemption. There are 14 agencies that currently have a permanent exemption for the ADA, including the Federal Aviation Administration, the Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration.

By Ms. STABENOW:

S. 298. A bill to drive American innovation and advanced vehicle manufacturing, to reduce costs for consumers, and for other purposes; to the Committee on Finance.

Ms. STABENOW. Mr. President, I rise today to introduce the Charging

America Forward Act, based on similar legislation I offered last year, to drive innovation and advance vehicle manufacturing and to lower costs for consumers when they buy these great new cars and trucks of the future which, by the way, I would remind folks are being made in Michigan. So we want people to be buying those automobiles.

In his State of the Union Address, President Obama called on us to rise to the challenge of the 21st-century economy to outinnovative, outeducate, and outbuild the rest of the world. We can do that.

He also challenged us to put 1 million electric vehicles on the road by 2015. The bill I have introduced today will help us achieve that goal. By investing in electric vehicle innovation, we can create the jobs of the future in America. We are already creating those jobs in Michigan with these investments.

We all know new technologies are always the most expensive, which is why we passed a tax credit of up to $7,500 on the purchase of a new electric vehicle. My bill makes that work even better for consumers. It turns that credit into a rebate that can be used at the time of purchase so that when you by a car, you would get up to the $7,500 off at the beginning, at the dealership, rather than waiting until you fill out your tax forms the next year.

Right now there is a cap on how many people can take advantage of these credits. My bill would double that so more people can get the savings from these particular credits and buy these new, great vehicles. Right now, when we see gas prices anticipated to rise like crazy into the summer, wouldn't it be great if you had an automobile that went 200 or 300 miles on a gallon of gas, or maybe didn't need any gas at all? That is what this is about.

The bill also increases investments in battery technology and innovation. We know that by supporting American innovation and manufacturing, we can bring jobs back. In fact, we are bringing jobs back from other countries because of what we have been doing through our investment efforts in the Recovery Act, and we can continue to create jobs in manufacturing in America.

We have invested $2 billion in the Recovery Act toward advanced batteries—the kind of batteries that power these electric vehicles. Before we made that investment, the United States made 2 percent of the world's advanced batteries. In just 4 years, because of that investment, we will be making 40 percent of the world's advanced batteries. That is a big deal, an effective investment.

My bill calls for doubling this smart investment and building on these partnerships to create even more jobs. We want to make our country the undisputed leader in advanced battery technology, manufacturing, and development, and we are on the way to doing that. We need to keep focused and we will get there.

The Charging America Forward Act also extends a tax credit for businesses that purchase hybrid medium and heavy-duty trucks. This will help keep those technologies more affordable for our companies and job creators, in addition to the savings they will get from better fuel efficiency.

The bill extends an important tax credit to support charging stations, so we have the infrastructure needed in our homes or in our garages to be able to power the electric vehicles.

Innovation is the reason America has the strongest economy in the world, even with our challenges. We have always been the leader. To compete in the 21st century economy, we need a strong, vibrant investment strategy, an economy that looks to the future, not the past. That is what Charging America Forward is all about. With the right investments, we can create jobs today that will last for years and years to come.

We are in a race for the future. We need to outcompete our global competitors around the world. We can do that. We will do that if we out innovate, outeducate, and outbuild. That is what this legislation is about—investing in the future to win that race, investing in advanced vehicles so we can get to that future we all want.

AMENDMENTS SUBMITTED AND PROPOSED

SA 51. Mr. UDALL of New Mexico submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table.

SA 52. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 223, supra; which was ordered to lie on the table.

SA 53. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill S. 223, supra; which was ordered to lie on the table.

SA 54. Mr. REID of Nevada submitted an amendment intended to be proposed by him to the bill S. 223, supra; which was ordered to lie on the table.

SA 55. Mr. REID of Nevada submitted an amendment intended to be proposed by him to the bill S. 223, supra; which was ordered to lie on the table.

SA 56. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill S. 223, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 51. Mr. UDALL of New Mexico submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, between lines 11 and 12, insert the following:

SEC. 733. PRIVACY PROTECTIONS FOR AIRCRAFT PASSENGER SCREENING WITH ADVANCED IMAGING TECHNOLOGY.

(a) IN GENERAL.—Section 44901 is amended by adding at the end the following:

''(l) LIMITATIONS ON USE OF ADVANCED IMAGING TECHNOLOGY FOR SCREENING PASSENGERS.—

''(1) IN GENERAL.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall ensure that advanced imaging technology is used for the screening of passengers under this section only in accordance with this subsection.

''(2) IMPLEMENTATION OF AUTOMATED TARGET RECOGNITION SOFTWARE.—Beginning January 1, 2012, all advanced imaging technology used as a primary screening method for passengers shall be equipped with automatic target recognition software.

''(3) DEFINITIONS.—In this subsection:

''(A) ADVANCED IMAGING TECHNOLOGY.—The term 'advanced imaging technology'—

''(i) means a device that creates a visual image of an individual's body and reveals other objects on the body as applicable, including narcotics, explosives, and other weapons components; and

''(ii) includes devices using backscatter x-rays or millimeter waves and devices referred to as 'whole-body imaging technology' or 'body scanning'.

''(B) AUTOMATIC TARGET RECOGNITION SOFTWARE.—The term 'automatic target recognition software' means software installed on an advanced imaging technology machine that produces a generic image of the individual being screened that is the same as the images produced for all other screened individuals.

''(C) PRIMARY SCREENING.—The term 'primary screening' means the initial examination of any passenger at an airport checkpoint, including using available screening technologies to detect weapons, explosives, narcotics, or other indications of unlawful action, in order to determine whether to clear the passenger to board an aircraft or to further examine the passenger.''.

(b) REPORT.—

(1) IN GENERAL.—Not later than March 1, 2012, the Assistant Secretary of Homeland Security (Transportation Security Administration) shall submit to the appropriate congressional committees a report on the implementation of section 44901(l) of title 49, United States Code, as added by subsection (a).

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of all matters the Assistant Secretary considers relevant to the implementation of such section.

(B) The status of the compliance of the Transportation Security Administration with the provisions of such section.

(C) If the Administration is not in full compliance with such provisions—

(i) the reasons for such non-compliance; and

(ii) a timeline depicting when the Assistant Secretary expects the Administration to achieve full compliance.

(3) SECURITY CLASSIFICATION.—The report required by paragraph (1) shall be submitted, to the greatest extent practicable, in an unclassified format, with a classified annex, if necessary.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term ''appropriate congressional committees'' means—

(A) the Committee on Commerce, Science, and Transportation and Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Committee on Homeland Security of the House of Representatives.

SA 52. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 26, between lines 23 and 24, insert the following:

(c) QUALIFICATIONS BASED SELECTION.—Section 40117, as amended by subsection (a), is further amended by adding at the end the following:

''(o) QUALIFICATIONS BASED SELECTION.—

''(1) IN GENERAL.—Any contract or subcontract described in paragraph (2) that is funded in whole or in part from the proceeds from passenger facility charges imposed under this section shall be awarded in the same manner as a contract for architectural and engineering services is awarded under chapter 11 of title 40, United States Code, or an equivalent qualifications-based requirement prescribed for or by the eligible agency.

''(2) CONTRACT OR SUBCONTRACT DESCRIBED.—A contract or subcontract described in this paragraph is a contract or subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services.''.

SA 53. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 208, between lines 19 and 20, insert the following:

(c) IMPLEMENTATION OF NTSB SAFETY RECOMMENDATIONS.—

(1) INSPECTION.—As part of the annual inspection of general aviation aircraft, the Administrator of the Federal Aviation Administration (referred to in this section as the ''Administrator'') shall require a detailed inspection of each emergency locator transmitter (referred to in this section as ''ELT'') installed in general aviation aircraft operating in the United States to ensure that each ELT is mounted and retained in accordance with the manufacturer's specifications.

(2) MOUNTING AND RETENTION.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall determine if the ELT mounting requirements and retention tests specified by Technical Standard Orders C91a and C126 are adequate to assess retention capabilities in ELT designs.

(B) REVISION.—Based on the results of the determination conducted under subparagraph (A), the Administrator shall make any necessary revisions to the requirements and tests referred to in subparagraph (A) to ensure that emergency locator transmitters are properly retained in the event of an airplane accident.

(3) REPORT.—Upon the completion of the revisions required under paragraph (2)(B), the Administrator shall submit a report on the implementation of this subsection to—

(A) the Committee on Commerce, Science, and Transportation of the Senate; and

(B) the Committee on Transportation and Infrastructure of the House of Representatives.

SA 54. Mr. REID of Nevada submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 27, strike line 11 and all that follows through ''or transfer'' on line 23, and insert the following:

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in subparagraph (A)(i), by striking ''purpose;'' and inserting the following: ''purpose, which includes serving as noise buffer land that may be—

''(I) undeveloped; or

''(II) developed in a way that is compatible with using the land for noise buffering purposes;''; and

(ii) in subparagraph (B)(iii), by striking ''paid to the Secretary for deposit in the Fund if another eligible project does not exist.'' and inserting ''reinvested in another project at the airport or transferred to another airport as the Secretary prescribes.'';

(B) by redesignating paragraph (3) as paragraph (5); and

(C) by inserting after paragraph (2) the following:

''(3)(A) A lease by an airport owner or operator of land acquired for a noise compatibility purpose using a grant provided under this subchapter shall not be considered a disposal for purposes of paragraph (2).

''(B) The airport owner or operator may use revenues from a lease described in subparagraph (A) for ongoing airport operational and capital purposes.

''(C) The Administrator of the Federal Aviation Administration shall coordinate with each airport owner or operator to ensure that leases described in subparagraph (A) are consistent with noise buffering purposes.

''(D) The provisions of this paragraph apply to all land acquired before, on, or after the date of the enactment of this paragraph.

''(4) In approving the reinvestment or transfer

SA 55. Mr. REID of Nevada submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, between lines 11 and 12, insert the following:

SEC. 7___. CONVEYANCE OF LAND TO CITY OF MESQUITE, NEVADA.

(a) DEFINITIONS.—

(1) CITY.—The term ''city'' means the city of Mesquite, Nevada.

(2) MAP.—The term ''map'' means the map entitled ''Mesquite Airport Conveyance'' and dated February 6, 2011.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Bureau of Land Management.

(b) CONVEYANCE OF LAND TO CITY.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, subject to valid existing rights, and notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary shall convey to the city, without consideration, all right, title, and interest of the United States in and to the land described in paragraph (2).

(2) DESCRIPTION OF LAND.—The land referred to in paragraph (1) consists of land managed by the Bureau of Land Management described on the map as ''Remnant Parcel''.

(3) MAP AND LEGAL DESCRIPTION.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall finalize the legal description of the parcel to be conveyed under this section.

(B) MINOR ERRORS.—The Secretary may correct any minor error in—

(i) the map; or

(ii) the legal description.

(C) AVAILABILITY.—The map and legal description shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(4) COSTS.—The Secretary shall require the city to pay all costs necessary for the preparation and completion of any patents for, and transfers of title to, the land described in paragraph (2).

(5) WITHDRAWAL.—Subject to valid existing rights, until the date of the conveyance under paragraph (1), the parcel of public land described in paragraph (2) is withdrawn from—

(A) location, entry, and patent under the public land mining laws; and

(B) operation of the mineral leasing, geothermal leasing, and mineral materials laws.

(6) REVERSION.—If the land conveyed under paragraph (1) ceases to be used by the city for the purposes described in section 3(f) of Public Law 99–548 (100 Stat. 3061), the land shall, at the discretion of the Secretary, revert to the United States.

SA 56. Mrs. MCCASKILL submitted an amendment intended to be proposed by her to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 184, line 11, strike ''system shall—'' and insert ''system—''.

On page 184, line 12, insert ''shall'' after ''(1)''.

On page 184, line 16, insert ''may'' after ''(2)''.

On page 184, line 22, insert ''shall'' after ''(3)''.

On page 186, line 1, insert ''and extent'' after ''quality''.

On page 186, line 21, strike ''proposed'' and insert ''final''.

On page 186, line 22, strike ''employees'' and insert ''personnel''.

On page 186, line 25, strike ''determined acceptable by the Administrator and consistent with the applicable laws of the country in which the repair station is located.'' and insert ''consistent with the requirements of section 45102 of this title and approved by the Administrator.''.

PRIVILEGES OF THE FLOOR

Mr. CARDIN. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Scott J. Glick, a Department of Justice detailee to the Senate Judiciary Committee during today's session.

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

Mr. CARDIN. Mr. President, Mr. Glick will be leaving us soon. He has been an invaluable resource, particularly for the subcommittee I chaired in the 111th Congress that dealt with terrorism and homeland security. I thank him for his dedicated work in the Senate. It was extremely important work that he did dealing with the espionage statute and terrorists, generally. I thank him for his service.

Mr. HARKIN. Mr. President, I ask unanimous consent that Ashley Waddell, David Kerem, and Brian Burroughs of my staff be granted the privileges of the floor during the duration of today's proceedings.

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

DISCHARGE AND REFERRAL—S. 248

Mr. MANCHIN. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of S. 248 and that the bill be referred to the Committee on Finance.

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

ORDERS FOR TUESDAY, FEBRUARY 8, 2011

Mr. MANCHIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Tuesday, February 8; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and that following any leader remarks the Senate resume consideration of S. 223, the Federal Aviation Administration authorization bill, as provided for under the previous order.

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

PROGRAM

Mr. MANCHIN. Mr. President, Senators should expect a rollcall vote at 10:30 a.m. tomorrow in relation to the Nelson of Florida amendment No. 34 to the FAA authorization bill. That will be the only vote of the day.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANCHIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:02 p.m., adjourned until Tuesday, February 8, 2011, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

SUZAN D. JOHNSON COOK, OF NEW YORK, TO BE AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM, VICE JOHN V. HANFORD III, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE CHIEF OF STAFF, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3033:

To be general

GEN. MARTIN E. DEMPSEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. VINCENT K. BROOKS

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be brigadier general

COL. GINA D. SEILER

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be brigadier general

COL. MICHAEL A. CALHOUN

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) MARK J. BELTON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) GEORGE W. BALLANCE
REAR ADM. (LH) ROBIN R. BRAUN
REAR ADM. (LH) RUSSELL S. PENNIMAN IV
REAR ADM. (LH) GARY W. ROSHOLT

CONFIRMATIONS

Executive nominations confirmed by the Senate, Monday, February 7, 2011:

THE JUDICIARY

PAUL KINLOCH HOLMES III, OF ARKANSAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF ARKANSAS.

DIANA SALDANA, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS.

MARCO A. HERNANDEZ, OF OREGON, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF OREGON.