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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, May 23, 2011, at 2 p.m.

Senate

THURSDAY, MAY 19, 2011

The Senate met at 10 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

The PRESIDING OFFICER. Today's opening prayer will be offered by Rev. Dr. Robert K. Schomp, transitional pastor of Bethany Christian Church in Tulsa, OK.

The guest Chaplain offered the following prayer:

Let us pray.

God of many names and faiths, we praise You for the freedom of religious expression which allows us to worship You in the temples, mosques, synagogues, and churches of our Nation. To You belong all realms, all power, and all glory. Yet in this Nation of immigrants, the United States of America, You have given us the freedom to establish our own government in order to defend and oversee the rights and welfare of our citizens.

Today, we pray for this august body, the U.S. Senate, whom we the people have chosen to share in the leadership of our country. We pray for Your assistance for these privileged women and men. Bless them with the stamina, the toughness, and the integrity to fight for what is right and honorable in Your sight. Instill in them the desire for unity within diversity, the will to overcome racism and bigotry, the courage to break down dividing walls of hostility, the ability to hear and respect the voices of those who disagree with them, and the determination to work with each other for justice, freedom, and peace. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL 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, May 19, 2011.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

WELCOMING THE GUEST CHAPLAIN

Mr. REID. Mr. President, I see our esteemed Chaplain in the Chamber. We appreciate very much, every day, his prayer and the prayer this morning by our guest Chaplain, which was a very nice prayer, very thoughtful, and outlines what our country is all about. I appreciate that very much.

SCHEDULE

Mr. REID. Mr. President, following any leader remarks, the Senate will be in morning business until 11 a.m., with the majority controlling the first half and the Republicans controlling the final half. At 11 a.m., the Senate will be in executive session to consider the nomination of Goodwin Liu to be a U.S. circuit judge for the Ninth Circuit, with the time until 2 p.m. equally divided and controlled. At about 2 p.m., there will be a rollcall vote on the motion to invoke cloture on the Liu nomination.

MEASURE PLACED ON THE CALENDAR—S. 1022

Mr. REID. Mr. President, S. 1022 is at the desk and is due for a second reading.

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

The legislative clerk read as follows:

A bill (S. 1022) to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention

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

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Act of 2004 until December 31, 2014, and for other purposes.

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

The ACTING PRESIDENT pro tempore. Objection is heard.

The bill will be placed on the calendar.

Mr. REID. Mr. President, will the Chair announce morning business, please.

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 11 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

Mr. REID. 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. SESSIONS. 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.

Mr. SESSIONS. Mr. President, I ask unanimous consent that Senator HATCH and I be able to speak in a colloquy.

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

THE BUDGET

Mr. SESSIONS. Mr. President, the Congressional Budget Act requires that Congress pass a budget by April 15. The Republican House has passed its budget. They stated their financial vision for the future in America. The Democratic Senate, however, has not passed a budget in 750 days. It has been 750 days since we have had a budget that passed the Senate. This year they haven't even brought a budget forward to committee to begin to mark up a budget as specifically required by the same statute. They have not even put forward a plan.

The Democrats control the Senate. They campaigned for the majority and, as my wife says to me when I complain: You asked for the job. So we have the largest economy on Earth, and we are in the middle of a fiscal crisis. For the majority party to skip work on the Nation's budget is not something to be taken lightly.

I ask my good friend, the Senator from Utah, the ranking Republican on the Finance Committee, my former chairman in the Judiciary Committee, if the American people were polled, how many does the Senator think would say the Senate should not pass a budget?

Mr. HATCH. That is a good question. The distinguished ranking member of the Budget Committee has asked a fundamental question. The answer, to me, and I think everybody else, is as clear as a bell: The American people overwhelmingly expect the Senate to do the people's business. First, we have to get our fiscal house in order. The House has taken the first step. The folks in Utah have dealt with their family budgets, business budgets, and government budgets, and they rightly ask that the Senate do exactly the same.

Mr. SESSIONS. One reason it is so important to have an honest, open budget process is that budgets are so easy to manipulate and spend. The President, in proposing a budget sometime ago, said his budget called on America to live within its means and ''not add more to the debt.'' That was the President's own statement. In fact, his budget doubles the debt in 10 years, producing annual deficits each year, the lowest of which never once fell below $748 billion. In fact, that would average almost $1 trillion a year and nowhere close to balancing.

The CBO found numerous gimmicks when they analyzed the President's plan. They found that it contained another $2.3 trillion in deficits. It increased the deficit. The President delivered a speech promising $4 trillion in savings over 12 years. After his budget was ill-received by objective commentators all over the country, editorial boards, and in Congress, he made a speech and he promised $4 trillion in savings over 12 years. But the committee analysts on our staff revealed that this so-called framework actually worsens the budget in relation to the CBO baseline.

Does the Senator from Utah believe the White House and the Democratic leaders in the Senate should produce an honest, concrete, fact-based budget on which we can rely?

Mr. HATCH. I sure do. They actually worsen the deficit by $2.2 trillion in relation to the CBO baseline.

Until one sees the numbers in black and white, the budget is just talk. Democrats and Republicans have an obligation to produce fiscal blueprints in an intellectually honest, complete, and transparent fashion. The majority, the Democrats, have the responsibility to take the first step, and the Republicans have a responsibility to convey our fiscal blueprint through debate and amendments. That is the way this traditionally has always been done. As the distinguished ranking member indicated, our side is ready to engage in this important debate and process, but it is hard to do it when they would not even put up a budget. They have not done that in the last couple of years. Without a budget, we don't have anything to debate and analyze.

Mr. SESSIONS. I ask Senator HATCH, for the people who may not understand, it is the chairman's responsibility to call a hearing and to begin a markup, and the minority is not able to call the committee into effect. So we do have to look to the chairman, and probably the chairman would operate in relation to the majority leader to call the committee into session; is that right?

Mr. HATCH. There is no question about it. The chairman has the responsibility for holding hearings that lead up to a budget resolution, the structure of the budget resolution, in accordance with his party's belief, it seems to me, and then bringing it up in committee where both sides can argue about it and both sides have the right to amend and improve it. Then they can bring it to the Senate floor. But they don't do that. Then they wonder why we are in such fiscal difficulties.

I know the distinguished Senator from Alabama understands this fully as the ranking member on the Budget Committee. Having also been chairman of the Judiciary Committee, frankly, I am concerned about it—and I think everybody is concerned—because they don't want to come up with a budget, and there may be invalid reasons for that.

Mr. SESSIONS. The budget is fundamentally a plan, a vision for the financial future of America. It is astounding that the party in the majority is not even prepared to say to the American people——

Mr. HATCH. Will the Senator yield?

Mr. SESSIONS. Yes.

Mr. HATCH. There is nothing more important in our lives now than coming up with a budget that would put us on a downward trend for spending. We are spending around 69 percent of the GDP. Our national debt of $14.3 trillion is 90 percent of the GDP. We are headed toward 90 percent of GDP of spending. If we get there, this country will have difficulties that will be difficult to overcome. That is where we are headed, especially if we don't have a budget to debate on the floor of the Senate.

Mr. SESSIONS. I couldn't agree more. When the President submitted his budget, Mr. Erskine Bowles, whom the President asked to chair the fiscal commission that was supposed to come up with a plan to help us get out of this fix, said the President's budget is nowhere close to what is necessary to avoid our fiscal nightmare. That is what the co-chair of the President's commission said.

So now we are looking to Congress. That is the President's proposal, but the Senate has to move forward a proposal. We cannot even go to conference and begin to work out a budget that both Houses can agree on until the Senate moves a budget forward.

Mr. HATCH. That is right. I think the distinguished chairman of the

Budget Committee, Senator CONRAD, wants to do it. But in their caucus they cannot get together because they all want to spend and tax more. They want to keep spending and taxing the way they have in the past. It is clear we cannot keep doing that.

Mr. SESSIONS. I agree. As a matter of fact, we have heard reports that the Democratic caucus is debating a budget in closed door caucus meetings, and they have done that at least twice. This is now 6 weeks after the committee deadline to bring forward a budget has passed.

These reports indicate that in order to oblige the Senate's leading progressive, the Senator from Vermont, Senator CONRAD has moved his budget further to the left, I think, than he probably desires. So we are told this budget now has more taxes than savings—raising taxes $2 trillion and possibly even $2.7 trillion, while cutting just $1.5 trillion in spending over 10 years. We will have to see it to know for sure. All we are hearing is news reports at this point.

Even the President, in his speech, called for $3 in spending cuts for every $1 in tax increases. Our analysis of his speech shows he did not do that. But that is what he said is the right approach.

As a ranking Republican on the Finance Committee, what are the Senator's thoughts about how steep tax hikes would affect the economy? Would it be better to cut wasteful Washington spending or to raise taxes and continue the spending spree we have been on?

Mr. HATCH. That is a good question. I tell my friend from Alabama that it amazes me how much our friends on the other side are hard wired to increase taxes.

As the ranking member knows, if current tax policy is left in place, including today's low rates, family tax relief and the alternative minimum tax patch, the Congressional Budget Office tells us revenues will trend to the historic average of 18 percent of GDP. The President moves revenues up to record highs as a percentage of GDP. Last year it was about 25.3 percent. The last time we had that was in 1945, at the end of the Second World War, at the height of it.

Now, the tax increases contemplated by the President's budget will mean half of the small business flow-through income will be hit with a marginal tax rate of 17 to 24 percent on top of the regular tax rate. Democrats and Republicans agree the small business sector is the key to job creation. Seventy percent of the jobs are created by small businesses. The top marginal rate on capital gains income will rise to 59 percent in a little over 18 months under the President's budget. That will drive down aftertax rates of return on investments.

Is that policy a path to recovery? I don't think so. I don't think anybody else who looks at it with any degree of intelligence thinks so. That is another reason we need to engage in the budget process in the committee, and I have to say that I am appreciative of my friend's leadership on that committee. He will have to lead our side, but it is hard to lead when you don't have anything to lead on.

Mr. SESSIONS. Well, we cannot even have a discussion if a budget isn't brought up.

I just had occasion to meet with the Finance Minister from Canada, and he told me they are bringing their corporate tax rate down to 15 percent or below. We are at 35 percent. We have the second highest corporate tax rate in the world. Wouldn't it be nice if we can tax more and get some more money? But as the Senator knows from his experience, if we have too high of tax rates, it drives investment out of America, drives jobs out of America, and companies are liable to want to move to Canada where they pay less taxes, creating jobs for them and not us.

So there is a danger, is there not, economically?

Mr. HATCH. Of course.

Mr. SESSIONS. There is a danger economically, is there not, and a danger to growth, which we need desperately, if we keep raising taxes.

Mr. HATCH. Our corporate rate is 35 percent. That is the highest in the world, other than Japan's. It is causing a lot of corporations to leave our country. In the 1970s, 39 of the top 50 multinational corporations in the world were based in the United States. Today there are only 16—that was the last figure I heard—which is low. The reason is we are taxing them to death, and we have a lot of other screwy tax aspects that don't work. We can solve all these problems if we just get a decent budget and work to bring spending under control and get on a downward trend with regard to spending.

I have to say, we cannot do it without budget debates and balance. Our friends on the other side don't seem to be able to get their caucus together and allow the chairman to come up with a budget on time, in a way that will help us debate this matter and, hopefully, resolve it on the Senate floor.

Mr. SESSIONS. I think the Senator is right. This Senate is filled with remarkable people, but I think our colleagues on the other side are paralyzed, frankly, by the challenge of putting a plan on paper that can actually be examined, the numbers calculated, and ideas confronted. I think their problem is they are not able to produce a budget their caucus will support, that the American people will support, and that would actually get the job done. That is a difficult challenge. But if you want to be a leader, you have to meet that challenge.

Mr. HATCH. My friend from Alabama, as he always does, has arrived precisely at the critical point. We need a fiscal policy that is balanced. Its remedies must respond to the causes of our current fiscal calamity. In the most recent fiscal year, spending hit, as I said, over 25 percent of GDP. That figure is easily more than 20 percent above the historical average.

It is unbelievable we are spending that much. Spending is fueling the deficits we are facing. The President's budget reaches into the American people's pocketbooks with taxes trending at or near historic highs in an anemic effort to close the gap. The other side of the ledger, spending, is not dented. It remains far above any reasonable historic average. Nobody can refute that fact. These are facts. I am concerned about it. I will tell my colleague that.

Mr. SESSIONS. Democratic leaders and the President talk a lot about a balanced approach to reducing our deficit. We believe in that approach. The Senator from Utah has indicated that. But I ask the Senator, what is the more balanced approach? Is the plan that hikes taxes and grows the government or a plan that controls Washington spending and shifts the balance back to everyday Americans?

Mr. HATCH. The ranking member, my friend from Alabama, summed up the fiscal predicament perfectly. It comes down to a lack of balance. Our friends on the other side simply cannot agree among themselves at this time, and the reason they cannot agree is, most of them are looking to the revenue side of the ledger to resolve what is a spending problem.

The Finance Committee has jurisdiction over 50 percent of Federal spending, and that will trend to 60 percent shortly. It has jurisdiction over nearly all revenues. As a member of the Finance Committee and ranking member, I fail to see how a tax-increase-driven budget can be advanced in the Finance Committee on a bipartisan basis. I am keenly interested in how the Budget Committee will come down on the biggest policy question of our time.

I am pleased to have the advice and counsel of my friend from Alabama as that process moves forward. I would like to have the advice and counsel of the distinguished Budget Committee chairman, but he cannot get his side to do what is reasonable; that is, bring down spending. That is what we have to do. We are taxing enough. We are spending us into oblivion, and that is the problem.

Mr. SESSIONS. This is true. It is dangerous to our country. We have gone 750 days without passing a budget in the Senate. I do believe if we took a poll of the American people, what percentage would one get if they were asked: Should the Congress of the United States, particularly at a time of great financial danger, have a budget? We will not have a budget unless the Senate acts.

It is a question both of philosophy and economics. Philosophically, the American people do not want Washington to hike taxes on millions of Americans in order to fund its wasteful

spending spree. Economically, the evidence shows cutting spending—not raising taxes—and we have done a number of studies on this—is the approach that consistently produces the best results time and time again.

We need a budget based on facts. We need a budget to grow the economy, not the government. We need a budget that imposes real spending discipline on Washington. We need a budget without gimmicks or empty promises. We need a budget that is produced publicly and openly, allowing the American people full opportunity to see what is in it and to consider it. We need a budget that the American people deserve, an honest budget that spares our children from both the growing burden of debt and the growing burden of big government. We need a budget that ensures America will compete, creating jobs, lead, and thrive in the 21st century.

Mr. HATCH. I thank my colleague. He sums it up pretty well, is all I can say. For our children, grandchildren, and great-grandchildren, we need to get this done. Frankly, it ought to be done in the Budget Committee and not by rule XIV on the floor. The reason it should be done in the Budget Committee is because I know the minority will weigh in and at least have their viewpoints expressed. There will be amendments, and people can vote up or down on whatever it is. Then they can bring it to the floor, and we should have a complete consideration of it here as well. That is the way it ought to be done.

As a former member of the Budget Committee, I have to admit it is a difficult process, but it is not difficult if we all work together to get spending under control and quit taxing the American people to death. We can do this if we work together.

I hate to say it, but I think our friends on the other side are not working together in their own caucus. The distinguished Senator from Alabama has pointed that out—I think courteously—today. I hope they will get together, even though I am pretty sure they are going to come up with a budget that continues to spend and tax such as we have had in the past. I hope they do not. If they do not, I think the American people will breathe a sigh of relief and say they did a good job. If they do, I think it will be more of the same.

Mr. SESSIONS. I thank Senator HATCH. I have enjoyed sharing these thoughts. I will note again that we are looking at a period in history in which our systemic debt problem is greater, I believe, than any time in our history. World War II was serious, but we could see our way out of it as soon as that war was over, and we bounced back rapidly.

Every expert tells us it is not going to be easy to bounce back out of the systemic problems we have. We need to have leadership. To have gone this long, 750 days without a budget in the Senate. Last year we did not pass a budget, and there were 59 Democrats in the Senate.

One may say: Don't be so partisan, Senator SESSIONS. We are calling their names this morning. We like our colleagues, but the truth is, when you have the majority, you have a responsibility. The responsibility at this point in history could not be greater than to produce a blueprint, a plan for the future, such as the House has done, that the American people can see: Does that solve our problems? Does it put us on the right path? I think the House bill does.

We have yet to see anything out of the Senate that does. It is our responsibility in this body to pass legislation, because if we do not, we cannot conference with the House, and we can never get a budget passed.

I thank Senator HATCH. I look forward to working with our colleagues. Maybe we can somehow break this logjam. The American people have a right to watch us and not be happy when we are not doing the kind of work necessary to put this country on a sound financial path.

I yield the floor.

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

Mr. HATCH. Is it time to move to the Liu nomination?

The ACTING PRESIDENT pro tempore. Not until 11 o'clock. There are a few minutes remaining.

Mr. HATCH. Mr. President, I ask unanimous consent to move to the nomination, if the leader has no objection, so I may give my opening remarks.

I withdraw my unanimous consent request and suggest the absence of a quorum.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. 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.

Mr. HATCH. Mr. President, I suggest the absence of a quorum, and I ask that the time be divided equally.

The PRESIDING OFFICER (Mr. BROWN of Ohio). Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from California.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF GOODWIN LIU TO BE A U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT

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

The bill clerk read the nomination of Goodwin Liu, of California, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. Under the previous order, the time until 2 p.m. will be equally divided and controlled between the two leaders or their designees.

The Senator from California.

Mrs. BOXER. Mr. President, I am very honored to speak in favor of the Goodwin Liu nomination and to urge my colleagues on both sides of the aisle to cast a proud vote for an extraordinary person, a remarkable young man who, for want of a better word, is just a star in everything he has ever done.

This is a picture of Goodwin. To say Goodwin personifies the dream of America is an understatement. To say this is a good nomination understates the way I feel about it. I thank the President for moving forward with Goodwin on two occasions, two nominations—or three times. I thank the Judiciary Committee for reporting him out on more than one occasion. Of course, I thank Senators LEAHY and REID and FEINSTEIN for their hard work in getting us to this point.

It is rather stunning for me to hear conservative Republicans come to the floor and blast this nominee because Goodwin Liu, Professor Liu has support from some of the most conservative legal minds in the country. Ken Starr, who, as we all know, was the special counsel on the White Water matter and who was considered at that time quite partisan and was one of the conservative, I think—I want to say stars of their thought, said:

> In our view—

And he writes this with Professor Amar, and this was published.

> In our view, the traits that should weigh most heavily in the evaluation of an extraordinarily qualified nominee such as Goodwin are professional integrity and the ability to discharge faithfully an abiding duty to follow the law. Because Goodwin possesses those qualities to the highest degree, we are confident that he will serve on the Court of Appeals not only fairly and competently, but with great distinction. We support and urge his speedy confirmation.

This is Kenneth Starr.

So I say to my Republican conservative friends, before you come here and start attacking Goodwin Liu for things he has never done, read what some of your conservative leaders in the legal profession are saying.

Just today in Politico there is yet another op-ed written by the chief

White House ethics lawyer under George W. Bush for 2½ years, Richard Painter, a Republican serving a Republican administration. This is what he said:

All that is required is for Senate Republicans to practice what they preached for so long under Bush. Give Liu an up-or-down vote rather than a filibuster.

Well, we are facing a filibuster. I want the American people to know—and everyone who is supporting Goodwin Liu and everyone who supports giving young, extremely talented people a chance to prove their mettle—that this is someone who has been a star his whole life, someone who caught the dream. Give this man a chance. Don't filibuster this. Let's have an up-or-down vote.

I think the ramifications—and I feel very strongly about this. I don't say this very often on the floor. I think the ramifications of this filibuster are going to be long and difficult for those who caused this good man to be filibustered, unless, of course, we get the 60 votes we need. Why do I think that? I am going to tell my colleagues why I think that. I am going to spend the next few minutes talking about Goodwin and telling my colleagues about his life and his achievements and his amazing recognition by so many in his short 40 years. Goodwin Liu has been extremely successful at each stage of his academic and professional career. He has reached for the stars, and he has grabbed them.

He was the covaledictorian and captain of his tennis team in high school. Let's start with Goodwin in high school. He was born to Taiwanese immigrants who are both physicians, they moved to Sacramento, and they were quite an influence on Goodwin. They used to leave out math problems for him to solve even after he finished his homework. They said to Goodwin: You work hard and you can get what you want. They forgot to mention there is a filibuster that could interfere, but let's not go there because we certainly hope we get the 60 votes.

So it starts in high school where we have a covaledictorian, a captain of the tennis team at Rio Americano High School in Sacramento. Then he goes to Stanford, where he graduates Phi Beta Kappa—a very big honor—from Stanford. While he is at Stanford, he is elected copresident of the student body. He receives an award called the Lloyd Dinkelspiel Award. It is the university's highest honor for outstanding service to undergraduate education.

So in high school, he is a star. He is a star at Stanford. Then he goes to Oxford University, where he was a Rhodes Scholar, which is considered one of the most prestigious academic accomplishments.

Following his time at Oxford, he decides to attend law school at Yale University. Once again, Goodwin goes to Yale and he is a star. He was an editor of the Law Journal. Along with a classmate, he won the law school's moot court competition. He wrote an article during his third year of law school that won two awards, one for best paper by a third-year law student and another for the best paper on taxation.

He had such a distinguished record in law school that it earned him a clerkship with Judge David Tatel of the U.S. Court of Appeals for the District of Columbia, and then he does so well there that he serves in one of the most prestigious clerkships in the country—a law clerk to Justice Ruth Bader Ginsburg on the U.S. Supreme Court.

I say to my Republican colleagues, what are you thinking? We should thank Goodwin for being willing to continue his life of public service. We should be praising his decision to put up with all of this confirmation process. Instead, they have given him a horrible time, an awful time, a miserable time. I said yesterday on the floor while addressing his wife and his kids: You be proud of your dad and you be proud of your husband, because I say this: If he doesn't get this, it is about politics. It says more about the people here in this place than it does about Goodwin. Throughout this period they have made all these attacks on him, all these ideological attacks, frankly, on someone they made him become.

This is a man with huge support from conservatives, moderates, and liberals. He brings people together because of his personality, his kindness, how intelligent he is, how he listens to people. That is what people tell us about him. Yet, still he has been viciously attacked, and we see politics being played.

This will not be lost on the American people, I will tell my colleagues that right now, because this isn't just some guy whom the President bumped into one day and said: I think you would be good on the court. This is an extraordinary American who has fought so hard in every job he ever had to be the best, to bring the best qualities to his work. That is why he has won the support of former Bush officials and Kenneth Starr, the conservatives I know support Goodwin. But it is not good enough for the politics that are being played around here, and this is not going to go down easy if he doesn't get his up-or-down vote. This is not going to go down easy. I have had experience in this political world for a long time. I won 11 straight elections. They have all been really—not all but most of them—very hard. I know when there is an issue that touches the heart, and I know when there is a person who comes along who deserves better than what Goodwin Liu is getting from the Republicans. I am speaking of the Republicans here in this Chamber, not the Republicans outside.

Let me read what Kenneth Starr said about this man. Let me read it again to my colleagues.

The traits that should weigh most heavily in the evaluation of an extraordinarily qualified nominee such as Goodwin are professional integrity and the ability to discharge faithfully an abiding duty to follow the law. Because Goodwin possesses those qualities to the highest degree, we are confident that he will serve on the Court of Appeals not only fairly and competently, but with great distinction. We support and urge his speedy confirmation.

That was Kenneth Starr. Well, Kenneth Starr's Republican friends are not listening. ''Speedy confirmation.'' This is an emergency vacancy. This is an emergency because they need to fill this position. What they are doing by playing politics with this is making sure the people of this country—because the Ninth Circuit is a very important circuit—will not get justice, unless they change their minds and come to their senses and do what they said they would do.

I won't quote who said these things, but I have heard many on the other side say: Oh, we don't want to filibuster judges. Let them get an up-or-down vote. Then we hear they are not going to vote to give Goodwin an up-or-down vote. What is the reason? There is no reason. Nobody can find a more qualified person. What is the message to the people in this country when we have someone who was a star in high school, a star in college, a star in law school, a star in everything he did, a law clerk?

Now, he gave a lot of his life to public service in the Corporation for National Service, where he helped launch the AmeriCorps public service program. As a senior adviser in the program, he led the agency's efforts to build the AmeriCorps program at colleges and universities across this country.

Between his clerkships, Goodwin returned to government service as a Special Assistant to the Deputy Secretary of Education.

He won praise from Republicans, from Democrats, from conservatives, from liberals, from moderates in every position he ever held until he got to this Senate floor, where the conservative Republicans turned their backs on Kenneth Starr, turned their backs on Bush administration lawyers, turned their backs on the facts of Goodwin Liu's life for some agenda. I am telling you, this will not go down easy for them. This will not go down easy.

Goodwin served in the private sector. He worked for a very well respected law firm, O'Melveny & Myers. He worked on a wide ring of matters from antitrust to white-collar crime. He also maintained an active pro bono practice—pro bono. He did things for free to help people who needed his help.

Walter Dellinger of O'Melveny said Goodwin was ''widely respected in law practice and for his superb legal ability, his sound judgment, and his warm collegiality.''

Well, let me tell you, the kind of treatment he is getting here is far from warm. It is cold. It is wrong. It is harsh.

I want to read again what Kenneth Starr said. This is the third time. Kenneth Starr—you cannot get more conservative.

The traits that should weigh most heavily in the evaluation of an extraordinarily qualified nominee such as Goodwin are professional integrity and the ability to discharge faithfully an abiding duty to follow the law. Because Goodwin possesses those qualities to the highest degree, we are confident that he will serve on the court of appeals not only fairly and competently, but with great distinction. We support and urge his speedy confirmation.

Kenneth Starr.

Again, today, in an op-ed piece in Politico, George W. Bush's White House ethics lawyer said:

All that is required is for Senate Republicans to practice what they preached . . . : Give Liu an up or down vote rather than a filibuster.

But, no, we are facing a filibuster against someone who is a star. So as we follow Goodwin's career—star in high school, star in college, star in law school—everywhere he goes he is recognized.

In 2003 he joined UC Berkeley's faculty as a law professor where he has excelled as a scholar and a teacher. He is considered in this Nation one of the leading constitutional law and education law experts—but not in this Chamber. What do they want from a nominee—backing from conservatives, backing from liberals, backing from the mainstream?

His article on education law issues won the Education Law Association's award for distinguished scholarship in 2006.

He received the Distinguished Teaching Award in 2009, the university's most prestigious award.

I have never—let me say this: I have seen some wonderful people come to this floor for confirmation, Democrats and Republicans. I have seen qualifications. I have voted for Republican judges, for Democratic judges. Honest to God, it is hard for me to recall someone who, at every stage of his life—and he is only 40 years old—has been able to achieve such excellence.

What is the message coming from this body if we do not give this man an up-or-down vote? I am telling you, it will go down hard.

The American Bar Association gave him the highest rating—the highest rating—and yet we are facing a filibuster.

The Goldwater Institute—everybody knows Barry Goldwater, idol of conservatives—the director of the conservative Goldwater Institute endorsed Goodwin Liu. But that is not good enough for my Republican friends. They said they are endorsing him because of his ''fresh, independent thinking and intellectual honesty.'' But that is not enough for my friends on the other side. They said they were endorsing him also because of his ''scholarly credentials and experience to serve with distinction on this important court.''

So we have heard from Kenneth Starr, a conservative icon. We have heard from George Bush's White House ethics lawyer for 2½ years, Richard Painter. He wrote today. Let's see what else Richard Painter wrote about Goodwin. These supporters of Goodwin's are passionate. That is why I say this is going to go down hard if we do not get this cloture vote. This is interesting. He writes:

I've done my share of vetting judicial candidates and fighting the confirmation wars. I didn't know much about Liu before his nomination to the Ninth Circuit. But I became intrigued by the attention the nomination generated, and I wondered if his Republican critics were deploying the same tactics the Democrats had used [against] Republican nominees. They were. If anything, the attacks on Liu have been even more unfair. . . .

More unfair.

Based on my own review of his record, I believe it's not a close question that Liu is an outstanding nominee whose views fall well within the legal mainstream. That conclusion is shared by leading conservatives who are familiar with Liu's record.

That is not good enough for my friends on the other side. Well, I will give them another quote.

Former Republican Congressman Bob Barr has also offered praise of Professor Liu's ''commitment to the Constitution and to a fair criminal justice system,'' as he puts it. He noted:

[Liu's] views are shared by many scholars, lawyers and public officials from across the ideological spectrum.

But Bob Barr's opinion is not good enough for my friends on the other side.

I am even going to read a quote from a former Congressman who tried to get the Republican nomination twice to run against me, Tom Campbell. He and I have had a couple of disagreements, but not on Goodwin. Tom Campbell, who served 9 years as a Republican Congressman from California, said:

Goodwin will bring scholarly distinction and a strong reputation for integrity, fairmindedness and collegiality to the Ninth Circuit.

Reflecting on Liu's many years of work in serving the public interest, Campbell also said:

I am not surprised that [Liu] has again been called to public service.

So it goes on and on. I will give you another Republican. Brian Jones, who served as the general counsel at the Department of Education from 2001 to 2005 under George W. Bush, after Liu's tenure there, this is what he said about Goodwin that speaks to the heart and soul of this good human being:

During [2001 and 2002], and even after he became a law professor in 2003, [Goodwin] volunteered his time and expertise on several occasions to help me and my staff sort through legal issues. . . . In those interactions, Goodwin's efforts were models of bipartisan cooperation.

Listen:

In those interactions, Goodwin's efforts were models of bipartisan cooperation.

He brought useful knowledge and careful lawyerly perspectives that helped our administration to achieve its goals.

And he says:

I am convinced, based on his record and my own experiences with him, that he is thoughtful, fair-minded and well-qualified to be an appellate judge.

Well, all those wonderful letters—and let me thank everyone who is engaged in this battle, from Kenneth Starr to the Goldwater Institute, and all the conservatives who have gotten involved in this campaign on Goodwin's side and all the liberals and all the moderates.

Here is a man whose family came from Taiwan. They taught him every value of family. Goodwin has a beautiful family. They taught him every value of hard work, every value of education, every value of fairness and justice. Why we would not give this man an up-or-down vote—that is all we are asking. No, they bring out the filibuster, and it is going to go down hard if this man does not get this opportunity.

So, Mr. President, this has been an honor for me to stand here for 2 days to lay out the strong support that Goodwin Liu has, not just from the two home State Senators—and let's keep that one in mind, Senators. When you and your colleague in your State are backing a nominee, just keep in mind, do not ever tell us, well, that does not matter because it should matter. He has strong support from the two home State Senators, strong support across the political spectrum, strong support by community organizations.

In closing, let me say this: Diversity is important on the bench. Why do I say that? I say that because America, we are a melting pot, and we are proud of this American dream. But if our court does not reflect this diversity, it could still be fair, it could still be just, but not as good as if we have a diversity of thought and ethnic diversity.

The Ninth Circuit—this is interesting. The Ninth Circuit covers an area where 40 percent of Asian Americans live. Forty percent of Asian Americans live within the Ninth Circuit boundaries, and we do not have an Asian American judge.

Is the Asian American community excited about this nomination? Absolutely. Whether they are Republicans—and many of them are—whether they are Democrats—and many of them are. I think it is almost like a 50–50 split in the Asian American community.

Well, pay attention to this. This is a moment. It should be a moment of great celebration. I am fearful—I am fearful—it might not be, but I am forever hopeful that it will be. If people listen, and they see the breadth of support for this man, and they take politics out of the equation and ideology out of the equation, they will vote for ending this filibuster, and they will vote for Goodwin.

I yield the floor.

Mr. HATCH. Mr. President, I rise in strong opposition to the nomination of Goodwin Liu to the U.S. Court of Appeals for the Ninth Circuit.

As he said at the first hearing before the Judiciary Committee, his record is public, and he has written what he has written; he has said what he has said.

That record is what we have to go on, the basis on which we have to make a decision about his nomination to the Federal bench or his confirmation by the Senate.

Professor Liu's record endorses a powerful judiciary that can take control of the law in general and of the Constitution in particular. His activist judicial philosophy is fundamentally at odds with the principles on which our system of government is based.

I examine a judicial nominee's entire record to determine if he is qualified by legal experience and, even more important, by judicial philosophy.

As to Professor Liu's legal experience, I know the ABA has rated him unanimously ''well qualified.'' That is more than a little baffling since the ABA's own criteria state the nominee should have at least 12 years of actual law and practice and substantial trial experience as a lawyer or trial judge. So it is a little bit more than baffling. Professor Liu has none of that. None of the actual law practice and substantial trial experience as a lawyer—none. Suffice it to say that understanding the mysteries of the ABA's judicial nominee ratings has eluded me for many years. Sometimes they do a great job. A lot of times they do not and politics enter in.

The more important qualification for judicial service is the nominee's judicial philosophy and his understanding of the power and the proper role of government in our system of government. Professor Liu has been unequivocal about his views on this issue, writing and speaking directly about how judges should go about judging. He has written and spoken extensively about how judges should interpret and apply the law, especially the Constitution, to decide cases.

The debate about judicial philosophy comes down to this. We can all read what the Constitution says. The real question is what the Constitution means, where the meaning of its words properly may be found. The debate is about who gets the final say on what the Constitution means, the people or the judges.

America's founders clearly took the people's side in this debate. In his farewell address in 1796, President George Washington said that the very basis of our political system is that the people control the Constitution. He said until the people change the Constitution, it is sacredly obligatory upon all. That certainly includes, in fact that primarily includes, government because that is what the Constitution exists to do, to both empower and to limit government.

The Constitution cannot limit government if it cannot limit judges and it cannot limit judges if they control what the Constitution means. The Constitution belongs to the people, not to judges.

President Obama takes the opposite view. When he was a Senator and opposed the nomination of Chief Justice John Roberts, one of the greatest appellate lawyers in the history of the country—he said that judges decide cases based on their deepest values and core concerns, their perspective on how the world works, their empathy, and what is in their heart. That is what then-Senator Obama said.

As a Presidential candidate he made the same case to the Planned Parenthood Action Fund and said these were the criteria by which he would pick judges.

President Obama certainly kept that campaign promise in the person of Professor Goodwin Liu. Professor Liu has written that judges are literally on a search for new constitutional meaning. In article after article, in speech after speech, he argues that judges on this quest for new constitutional meaning may find it in such things as the concerns, conditions, and evolving norms of society; social movements and practices; and shifting cultural understandings. No matter how you cut it, these are simply alternative ways of saying the Constitution means whatever judges say it means. This is a blueprint for a judiciary that controls the Constitution.

Professor Liu's approach treats the Constitution as if it were written in some kind of code or disappearing ink and treats judges as the only ones who have the key to figuring it out.

Professor Liu, of course, is hardly the only one to make this argument. It is pretty standard fare for those who want our Constitution to say and mean something other than what it does. When these folks want government to have power the real Constitution denies, they urge judges to change the Constitution's meaning to be what they want. When these folks do not want government to have power the real Constitution allows, they urge judges to make up so-called rights that are not there at all.

Whether seeking liberal or conservative political results, this is real judicial activism: judges taking control of our law by taking control of its meaning; judges remaking the Constitution in their own image. In my 35 years of actively participating in the judicial confirmation process, I don't recall someone who more forcefully and directly advocated such an activist judiciary.

In a 2008 article published in the Stanford Law Review, for example, Professor Liu argued that the judiciary is ''a culturally situated interpreter of social meaning.''

That would be a surprise to America's founders, who had a much more pedestrian view of the judiciary, which Alexander Hamilton described as the weakest and least dangerous branch.

Thomas Jefferson warned that if judges could control the Constitution's meaning it would be nothing but a lump of wax that judges could twist and shape into any form they please. There is no room in this modest judicial role for something as grand as interpreting social meaning.

I grant that there are individuals or institutions in our society that should play this role. I think elected representative bodies, such as the one in which I am proud to serve, should play this role. But the last body of people in our society who should play this role of culturally interpreting social meaning are judges in whose hands is placed the interpretation and application of the supreme law of the land.

I, for one, did not take an oath to support and defend a judge's empathy or perspective on how the world works, whether that judge is liberal or conservative. I did not take an oath to support and defend a judge's view of evolving social norms or shifting cultural understandings. I took an oath to support and defend the Constitution of the United States, a document that belongs, in its words and its meaning, to the people of the United States. The Constitution I have sworn to support and defend places limits on government, including limits on the judiciary and the people alone have authority to change those limits.

Professor Liu advocated an activist judiciary before he had been nominated to the judiciary, but when he came before the Judiciary Committee in each of two hearings he painted a very different picture. Before his nomination, for example, he wrote in the Stanford Law Review that judges must determine ''whether our collective values on a given issue have converged to a degree that they can be persuasively crystallized and credibly absorbed into legal doctrine.'' After his nomination he told the Judiciary Committee that there is no room for judges to invent or create new theories.

Now it is anybody's guess what all of that collective value convergence and credible crystallization means. But if that is not a new theory, I don't know what it is.

Before his nomination, Professor Liu wrote directly and forcefully about where judges should look for the meaning of the Constitution. He made a career of it, received awards for it, and became one of the stars of the leftwing legal universe. After his nomination when I raised some of his controversial writings at his first hearing, Professor Liu told me ''whatever I may have written in the books and articles would have no bearing on my role as a judge.''

At the end of that same hearing last year, Professor Liu told one of my committee colleagues that ''as you look across my entire record, there are many things I think relevant to the kind of judge I would be.''

Which is it? Before he wants to be a judge he argues that judges can find new meaning for the Constitution in changing cultural understanding and evolving social norms. After he wants to become a judge he tells critics to ignore that record but tells supporters to

consider that record. This has been about the most stunning confirmation conversion I have seen in all my time in the Senate.

In closing, the fight over judicial nominees is a fight over judicial power. Judges must either take the law as they find it, as the people and their elected representatives make it, or judges may make the law into whatever they want it to be. Those are the two choices. Our liberty requires that people to whom the Constitution belongs alone have the authority to change it. Our liberty requires judges who will be controlled by that Constitution.

President Obama and Professor Liu instead advocate a judiciary able to control the Constitution, to change the Constitution, to literally create from scratch a new Constitution. That will destroy our liberty.

When I look at Professor Liu's record I see he consistently and strongly advocates an approach that allows judges to find the meaning of the Constitution virtually anywhere they want to. That is the opposite of the defined, limited role judges properly have in our system of government. I cannot support someone for appointment to the Federal bench, especially to what is already the most activist circuit in the country, who believes judges should have that much power.

The Ninth Circuit Court of Appeals is indeed the most activist court in the country. It is a court that ignores the law consistently—or at least some of the judges on that court. Judge Reinhardt, who is a brilliant man by any measure, apparently doesn't even care what the words of the Constitution say. He is going to interpret things the way he wants. He is just one. There is a whole raft of them there. Judge Reinhardt gets reversed almost every time he writes an opinion—by the Supreme Court of the United States. The problem is that people can say: Isn't that taken care of by the Supreme Court? Yes, it is in those individual decisions. But in these circuit courts of appeals there are thousands of court cases and legal opinions written that will never be considered by the Supreme Court because the Supreme Court only considers between 80 and 100 cases a year. But thousands of cases are decided by these circuit courts of appeal, so they are important. Who we put on them is important, too. We don't need any more judicial activists, either from the right or left, interpreting the Constitution in accordance with their own predilections rather than what the Constitution actually says.

Goodwin Liu has a long history of positions that are outrageous to those of us who want the courts to be what they should be, interpreters of the laws, not makers of the law. They are not elected to anything and they are appointed for life on the basis that they will do what is right and that they will uphold the law regardless of whether they agree with it.

I have to say folks on our side who have listened to Goodwin Liu, we know what he stands for and what he has taught in schools. What he has written in books and law review articles is contrary to what judges should do. I don't care that the American Bar Association has given him such a sterling rating.

This is an important issue. I wish I didn't have to vote against Goodwin Liu because I like him personally. In fact, this is not about him as a person but whether he will be the right kind of judge. I am convinced that he will not and, therefore, I must strongly oppose his nomination.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I would like to speak on the Liu nomination. I appreciate the good advocacy of Senator BOXER. But I would remind her that she and her Democratic colleagues changed the ground rules of the Senate and created filibusters that had heretofore not been done in early 2001.

I opposed that, but after much debate, several years in which a half dozen fabulous nominees to the courts were being blocked by filibusters, the Gang of 14 decided that matter and said: Well, we all agree now. We will not filibuster except in extraordinary circumstances.

I think as a matter of law, not as a matter of character and personality but as a matter of approach to law, extraordinary circumstances exist in this case.

I have heard my colleague talk about Professor Liu's unusual intellectual abilities, his academic career, clerkship on the Supreme Court, and his prolific writings—and certainly I do not dispute he is a good man and involved in debate about law in America.

What they fail to mention, however, is his lack of any meaningful experience as a practicing attorney. He has never tried a case before a jury and has argued only once before a Federal court of appeals—only once. This is a very serious shortcoming for a number of reasons, the most important of which is the plain fact that significant legal experience litigating in court provides insight to someone who would be a judge and an understanding that words have meaning and consequences.

It is a real legal world testing ground in which persons can prove their judgment and their integrity and their skill. It also provides a maturing experience, where one learns that words have reality and that a single word in a deed, a contract, a letter or even an e-mail can determine which party receives millions of dollars in a lawsuit or even whether they go to jail.

Seasoned lawyers bring much to the bench, as do judges who have had previous experience when they go on to the courts of appeals. This lack of litigation experience leaves me with only two sources of how to evaluate how this nominee would behave on the bench: his writings, which are extensive, and his testimony before the committee, which frankly, I thought did not have much value.

From his writings, one cannot help but see that Mr. Liu has extraordinary beliefs about our laws and Constitution, beliefs that fall far outside the mainstream. They just do. Professor Liu does not believe judges are bound to apply the Constitution according to what it actually meant at its drafting or what it plainly says. But he believes judges are free to adapt the Constitution according to how they perceive the needs of modern society.

In fact, he has written this:

> Interpreting the Constitution requires adaptation of its broad principles to the conditions and challenges faced by successive generations. The question is not how the Constitution would have been applied at its founding, but rather how it should be applied today in light of changing needs, conditions, understandings of our society.

This is an untethering of a judge from law, in my opinion. He has also written that the Constitution has no fixed meaning. He has written that ''our Constitution has shown a remarkable capacity to absorb new meaning and new commitments forged from passionate dialogue and debate, vigorous dissent and sometimes disobedience.''

He goes on to say: ''Fidelity to the Constitution requires judges to ask not how its general principles would have been applied in 1789 or in 1868, but rather how those principles should be applied today in order to preserve their power and meaning in light of concerns, conditions, and evolving norms of our society.''

To that, I would disagree and say: Words do have meaning. They mean something specific. When they are written down in a statute or a Constitution, that meaning does not change by the mere passage of time or the mere shifting of political winds or the judge's personal views about what may be the concerns, conditions, and evolving norms of our society.

Judges are not empowered to do that. They are not empowered to impose their views about the concerns, conditions, and evolving norms of our society. Judges are given the power to decide cases and to say what the plain meaning of the law is. For a judge to believe otherwise is a serious threat to the rule of law and to the principles that make this Nation great.

Professor Liu's writings express extreme views about more than Constitutional interpretation. His writings have often expressed an unorthodox view of the role of a judge. Alexander Hamilton famously wrote in the Federalist Paper 78 that:

> The judiciary . . . has no influence over either the sword, the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatever. It may truly be said to have neither force nor will, but merely judgment.

Frankly, having read his writings and listened to his testimony, for all his great capabilities and fine character, I have concluded that he indeed

lacks the most essential quality of a judge; that is, good judgment, proven in the practice of law or as a previously appointed judge.

I agree with the role of a judge as envisioned by Chief Justice Marshall when he wrote: ''It is emphatically the province and duty of the Judicial Department to say what the law is.''

I think Chief Justice Roberts perfectly summed up the role of a judge as the Founders saw it, as we have been raised to understand it, when he said that a judge should be a neutral umpire who calls the balls and strikes without preference for either side.

But Professor Liu does not agree with that analogy. He attacked Chief Justice Roberts. He does not argue that the task of judges is to read the words of the Constitution according to their original meaning. Instead he has written that:

> The historical development and binding character of our constitutional understanding demand more complex explanations than a conventional account of the courts as independent, socially detached decision makers that say what the law is. The enduring task of the judiciary . . . is to find a way to articulate constitutional law that the nation can accept as its own.

This is utterly wrong. That view cannot be accepted because it calls for a judge to ponder, to seek, to render a decision that is popular or fits the judge's own values. Most certainly such a decisionmaking method is not law. It is not objective. It is subjective. It allows a judge to base rulings on factors that are incapable of being a standard. It introduces politics, ideology, religion, and whatever else may be in a judge's mind in a decisionmaking process. That is contrary to the entire history of the American rule of law that served us so well.

Mr. Liu has also written that ''the problem for courts is to determine, at the moment of decision, whether our collective values on a given issue have converged to a degree that they can be persuasively crystallized and credibly absorbed into legal doctrine.'' These words describe a policymaker not a judge.

Professor Liu's writings also show he does not share our Founding Fathers' vision in many different areas. He does not see the Constitution as a charter of freedom from government interference. Instead, he argues that portions of the Constitution create positive rights to welfare benefits. He attempts to derive all these rights from the citizenship clause of the fourteenth amendment.

That clause reads simply this: ''All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.''

It may be difficult to determine exactly what some of the words mean in the Constitution. However, our language has not changed so much that these words could possibly be read to mean that all Americans have a right to various benefits, such as—this is what Mr. Liu has written:

> . . . expanded health insurance, child care, transportation subsidies—

I kid you not—

> job training and a robust earned income tax credit.

That is what he has written in several important law journals; not remarks in a casual conversation. He has written in law journals. He writes that word ''citizenship'' does not mean citizenship in that clause but rather ''the ability to be a fully able participating member of society.''

The Constitution did not say that. The citizenship clause simply made a person a citizen. His article asserts that education, health insurance, childcare, transportation subsidies, job training, and presumably other welfare benefits we might need are constitutional rights because the citizenship clause ultimately requires equality of results in those contexts.

He asserts that the judge's role is to ensure such a result is achieved, even if the legislature may not so find. That is like no definition of citizenship I have ever heard. Professor Liu's interpretation of the citizenship clause is so far disconnected from the actual text of the document and what the people meant when they ratified it that it would be unrecognizable to those who drafted it.

Some of Professor Liu's supporters have said—as he did before the committee—that his argument about the citizenship clause was directed only at Congress, the legislative branch, executive branch, and it was never meant for judges. That simply does not square with what he wrote, and we have researched this and tried to be fair to him.

In 2008, Professor Liu published an article entitled ''Rethinking Constitutional Welfare Rights.'' Constitutional welfare rights. In that article, he set out to make—as he said—''a small step toward reformation of thought on how welfare rights may be recognized through constitutional adjudication.''

That means by judges. Judges do adjudication. In that same article, Professor Liu argued that, once a legislative body creates a welfare program, it is the role of the courts—he said the courts—to determine the community meaning and purpose of that welfare benefit, in light of the needs of ''equality'' and ''national citizenship.''

Professor Liu explicitly stated that when necessary, courts should recognize or expand these welfare rights by ''invalidating statutory eligibility requirements''—this is his language he wrote—''by invalidating statutory eligibility requirements''—that means welfare eligibility requirements—''or strengthening procedural protections against the withdrawal of benefits.''

In other words, Professor Liu believes judges have the right and, indeed, the duty, to rewrite laws written by Congress when they think those laws are inadequate or when the judge, without the traditional limits of legal standards, decides the case on what the judge thinks is fair.

This truly is a dangerous, nonlegal philosophy. His writings also show he holds a number of views on some of the most controversial topics of our day that are extreme.

He believes the longstanding definition of marriage as between a man and a woman is unconstitutional. He filed a brief, with other law professors in the California case, on that subject. We asked him about that at the hearing. Frankly, his answer was not satisfactory, in the sense that he said he was only referring to California law, when, in fact, his brief cited the U.S. Constitution, which has similar language.

He also made statements that raise questions as to his temperament. He was very nice at our hearing. We have heard nice things said about him. I just ask if you consider these nice comments he made about Chief Justice Roberts, for example. He said that Chief Justice Roberts has ''a vision for American law—a right-wing vision antagonistic to important rights and protections we currently enjoy.'' He criticized him for being a member of the ''Republican National Lawyers Association and the National Legal Center for the Public Interest, whose mission is to promote (among other things) 'free enterprise,' 'private ownership of property,' and 'limited government.' ''

These are all Mr. Liu's words. He considers those improper goals and says, ''These are code words for an ideological agenda hostile to environmental, workplace, and consumer protections.''

Give me a break. With respect to Justice Alito—a fabulous member of the Supreme Court, who is so experienced, so much more seasoned as a nominee than this nominee comes close to being—he went even further, appearing in person before the Judiciary Committee to testify that Justice Alito ''envisions an America where police may shoot and kill an unarmed boy to stop him from running away with a stolen purse; where Federal agents may point guns at ordinary citizens during a raid, even after no sign of resistance; where a black man may be sentenced to death by an all-white jury for killing a white man; and where police may search what a warrant permits, and then some.''

When asked about that in committee, he acknowledged that was unnecessarily colorful language. Nobody should say that kind of thing. It was an intemperate remark and was unfair to Justice Alito.

Thus, I have concluded that the nomination presents an extraordinary circumstance that requires me to oppose cloture on the nomination, which I am reluctant to do. I have voted against some nominees, but I have voted for probably 90 percent of President Obama's and President Clinton's nominees while I have been in the Senate. But this nominee, I believe, represents an extraordinary circumstance. His record reveals that he believes the Constitution is a fluid, evolving document,

with no fixed meaning; that he believes the role of a judge is to participate in a ''dialogue'' with the legislature about what welfare benefits are required by the Constitution, and that the traditional definition of marriage is unconstitutional. His record also reveals he is willing to use the courts in order to achieve what he thinks is the proper level of social welfare benefits, and that he is willing to attack the integrity and distort the records of honorable judges in order to promote his views of what he thinks the Constitution should require.

I do believe our Senate would have done better not to have had filibusters. That was my view. But we had a debate on that, and it changed. If Senator BOXER and other Democrats now have rethought that matter and wish to talk to me, I would certainly be willing to consider restoring the traditional view of the Senate regarding filibusters of judges. I don't think that is likely to happen, because it was done systematically and deliberately, with great deliberation and determination by the Democrats in 2001, I believe, and they imposed that change on the Senate. That is what we are operating under today.

Based on that, I do believe Professor Liu should not be confirmed.

I thank the Chair and yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Texas is recognized.

Mr. CORNYN. Madam President, I join my colleague from Alabama, who has served for a long time on the Senate Judiciary Committee, as have I, in voicing my strong opposition to this nominee.

It is odd, it seems to me, to have someone who has actually been nominated three separate times by this President, and I think it tells us something about the President's determination to nominate and see confirmed someone who is unsuited for service as a Federal judge.

In saying that, it doesn't mean they don't have rights to speak freely about their strongly held views. They do. That is what we do here in the legislative branch. That is not what we expect out of a life-tenured judge. We expect judges to be impartial, to render justice, and to decide cases, not to be roving policymakers making the country into their image of what it should be. We cannot vote for these judges. Judges are appointed and they serve for a lifetime. In return for that lifetime appointment and that protection from the sort of accountability that other elected officials are required to have, we understand and our Constitution provides, that they have a limited but important role, and that is to apply the law as written, apply the words of the Constitution as written, and not to sort of make it up as you go along or to dream up new rights along the way that are not subject to a vote of the American people, or subject to an election.

Based upon nearly everything that Mr. Liu, Professor Liu, has written or said, I have some very serious concerns about his impartiality and suitability to serve as a life-tenured judge. My concerns start with his lack of judicial temperament.

During the confirmation hearings of Justice Sam Alito, who is now on the U.S. Supreme Court, Mr. Liu went out of his way to testify under oath before the Senate Judiciary Committee in a way I can only describe as vicious and disgraceful. This is what he said:

> Judge Alito's record envisions an America where police may shoot and kill an unarmed boy to stop him from running away with a stolen purse; where Federal agents may point guns at ordinary citizens during a raid, even after no sign of resistance; where the FBI may install a camera where you sleep on the promise that they won't turn it on unless an informant is in the room; where a black man may be sentenced to death by an all-white jury for killing a white man, absent a multiple regression analysis showing discrimination; and where police may search where a warrant permits, and then some.

I humbly submit this is not the America we know, nor is it the America we aspire to be. These were the words of a person who President Obama has, three times, nominated to serve on the Ninth Circuit Court of Appeals, one of the highest courts in the land, which is expected to dispassionately decide cases without fear, favor, or any preconceived notion about the outcome. I think these words, perhaps more than anything else, demonstrate Professor Liu's nonsuitability to serve as a Federal judge. These were not an off-the-cuff set of remarks or a temporary lapse in judgment; they were a product of carefully scripted and prepared testimony provided to the Senate Judiciary Committee during the Alito hearings.

Despite Professor Liu's comments, Justice Alito was confirmed with bipartisan support. During his failed confirmation process last year, I asked Professor Liu that, if given the opportunity, would he change anything about his remarks about Justice Alito. In response, Mr. Liu claimed that he regrets having written that passage, calling it ''unduly harsh and provocative.''

Well, Professor Liu waited 4 years to provide that semi-apology to Justice Alito for these shameful remarks. Like so many nominees who come before the Senate Judiciary committee, they seem to undergo a nomination conversion that changes the tone and nature of their remarks and attitudes. Frankly, we cannot depend on this conversion sticking. We need greater assurance that the nominees who come before the Senate are going to exercise a sort of dispassionate judgment that we expect of judges.

Frankly, Professor Liu has shown himself capable of incredibly poor judgment—and not just one time. After Chief Justice Roberts was nominated to the Supreme Court, Mr. Liu again went out of his way to criticize then-Judge Roberts. He argued that Justice Roberts' record ''suggests that he has a vision for American law—a right-wing vision—antagonistic to important rights and protections that we currently enjoy, and that he is not afraid to flex judicial muscle to achieve it.''

In that same article, he attacked Justice Roberts' membership in the National Legal Center for Public Interest, calling its mission to promote free enterprise, private property, and limited government—he called those code words for an ideological agenda hostile to the environment, workplace, and consumer protections.

So Professor Liu considers free enterprise, private property, and limited government code words for an ideological agenda hostile to the environment, workplace, and consumer protections. That is what he said. Is that the kind of person we want, the Senate should want, or that America should want to sit in judgment, enforce our Constitution and laws passed by the Congress? Well, I think not.

Yet, in another dramatic nomination conversion during his failed nomination process last year, Professor Liu responded to my written questions by calling this statement a ''poor choice of words.''

There are several more examples of Professor Liu's lack of judicial temperament. His record is already crystal clear. It is one thing for Professor Liu to disagree with a person—we do that every day on the floor of the Senate, in committee, and around the country, across kitchen tables in our homes—but it is quite another to repeatedly engage in these types of inaccurate and, frankly, disgusting attacks against a public official trying to do their job the way they think it should be done. For Professor Liu to only reflect upon his statements once he is offered a life-tenured judgeship on the court of appeals is unacceptable.

Given his lack of experience as a practicing lawyer, obviously his lack of experience as a judge, never having served as a judge, it is impossible for me to trust his assurances that now all of a sudden he will calmly and impartially apply the law as written by Congress or as written in the Constitution of the United States.

I would cite just one other example of my experience on the Judiciary Committee, this one involving now Justice Sonia Sotomayor. Justice Sotomayor is a charming woman. She came into the Senate Judiciary Committee hearings and won over many people who were, frankly, a little skeptical of her nomination based on some of her previous writings and speeches. But I remember one particular question, she was asked whether she accepted as an individual right the guarantee in the second amendment of the Constitution the right to keep and bear arms, and she said she did. She accepted a decision in a case called the Heller case that said that was an individual right of a citizen.

A few months later, in a case called McDonald v. Chicago, she wrote a dissenting opinion from a Supreme Court decision where she said the right to keep and bear arms is not a fundamental right.

You can parse the words, ''an individual right,'' ''a fundamental right,'' but to me it is clear that Justice Sotomayor, during her confirmation hearings, tried to parse the words in a way so as not to raise alarms about her commitment to the Bill of Rights and the second amendment to the Constitution. But then once she was confirmed as a judge on the Highest Court in the land—of course, she serves for life with no accountability either to Congress or to the voters, and she, indeed, serves with impunity, even though her testimony before the committee and her decisions, once on the Court are inconsistent.

We just cannot take a chance that Professor Liu has somehow had a true conversion in his views and his attitudes during the nomination process.

Aside from his questionable temperament, Professor Liu's activist views of the law are equally troubling. In his book called ''Keeping Faith with the Constitution,'' Professor Liu summarizes activist philosophy in this way. He said:

> Fidelity to the Constitution requires judges to ask not how its general principles would have applied in 1789 or 1868, but rather how those principles should be applied today in order to preserve their power and meaning in light of the concerns, conditions, and evolving norms of our society.

What does that mean? Does that mean the words on the page do not necessarily mean what they say; that a judge is going to somehow subjectively read into those words what the evolving norms of our society are and to change an outcome to decide a case, to decide what our Constitution means based on their subjective impression of those words and what evolving norms in society means?

That is sometimes called a doctrine of believing in a living Constitution; that the words on the page are mutable or changeable and can morph over time and mean different things based on a judge's interpretation of what those evolving norms are. To me, that is a license to lawlessness. It is a license for a judge—an unelected, lifetime-tenured individual who takes an oath to uphold the Constitution and laws of the United States—that is untethered to any concept of what the law means, something that can be applied with equal application to every man, woman, and child in America and gives a judge a chance to impose their political or ideological views on what the Constitution means. That is dangerous, it is lawless, and it is not upholding the Constitution that we, even as Members, swear to uphold in our different jobs as policymakers.

Particularly troubling for Professor Liu is his controversial and, I would say, ridiculous view that our Constitution somehow guarantees a European-style welfare state. We are engaged in a very important debate on the floor of the Senate, and during the course of this vote on the debt ceiling—which I suppose we will have sometime in July, or not—with whether we are going to continue to be an opportunity society or whether we have become an entitlement society, a welfare state.

Professor Liu, in his article, ''Rethinking Constitutional Welfare Rights,'' has argued that the Constitution includes an ''affirmative right to health insurance, childcare, transportation subsidies, job training, and a robust earned-income tax credit.''

I must have missed that in my copy of the Constitution. I do not remember the Founding Fathers writing in the Constitution, nor the States ratifying language in the Constitution, that guarantees a right to a robust earned-income tax credit. When Senator SESSIONS gave Professor Liu the opportunity to clarify his views in April 2010, he replied:

> I do believe that, Senator. But those arguments are addressed to policymakers, not the courts.

I think Professor Liu is being disingenuous, and I am trying to be charitable. When he says the Constitution includes these rights but says those arguments are addressed to policymakers, not the courts, he is denying that a court that might agree with him might enforce those rights as a matter of constitutional law. This is not just addressed to policymakers. That is not being honest. I do not blame him if he has an honestly held view about these matters. I would welcome candor in expressing those strongly held views. But they are views more appropriately expressed in the court of public opinion where we debate the values and meaning of our laws and what kind of country we want this to be, not in people who want to be judges and impose those views as a matter of judgment in an individual case, transforming the written Constitution into something completely different than what each of us can read on a printed page or what we learned in school our Constitution actually means.

In other words, Professor Liu believes the Constitution contains an unenumerated list of goods and services, such as free health insurance, daycare, and bus passes that Federal legislators must provide to every citizen.

It is not difficult to see how an activist judge might one day use Professor Liu's theory to force Congress to provide for these lavish welfare benefits, even though our country faces a historic debt crisis, as we do now. What is more, Professor Liu has suggested that under his view of the Constitution, it may be unconstitutional to repeal certain welfare programs once they are enacted.

For example, in ''Rethinking Constitutional Welfare Rights,'' Professor Liu wrote that legislation may give rise to a cognizable constitutional welfare right if it has ''sufficient ambition and durability, reflecting the outcome of vigorous public contestation and the considered judgment of a highly engaged citizenry.''

That is a mouthful. What he is saying is, once the legislature passes a law, the legislature has no power to repeal that law because it somehow then is transformed into a constitutional right and beyond the power of Congress to change. That is radical.

Professor Liu's writings also have suggested his unconventional belief that the death penalty is unconstitutional, that same-sex marriage is a constitutional right, and that it is appropriate for judges to consider foreign law when reaching their legal conclusions about what American law means.

Taken as a whole, Professor Liu's record demonstrates that he would use his position as a Federal judge to advocate his ideological theories and undermine the well-settled principles of the U.S. Constitution. That is simply unacceptable to me. I think it should be unacceptable to the Senate.

Given his lack of temperament, his poor judgment, and his activist view of the role of judges and the law, I am left with no choice but to fight Professor Liu's confirmation with every tool at my disposal.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. COONS. Madam President, I rise today to continue to express my views in support of the nomination of Professor Goodwin Liu, a nominee, as you know, to the Ninth Circuit Court of Appeals. Much has been said on the Senate floor in recent hours, and I rise to offer my comments on some of the concerns that are being debated.

For once, it is great to actually hear debate on the floor of this Chamber. I have been here, as you know, Madam President, just 6 months. As someone who is new to the Judiciary Committee, new to the debates and dialog of this Chamber, I am struck at the things I am hearing about Professor Goodwin Liu and the significant divergence between what I have found in questioning him, looking at his record, and speaking with my colleagues and what I have heard on the floor just today.

I will do my best to try and lay out what I see as the real record of the real Professor Goodwin Liu, a nominee to the Ninth Circuit Court of Appeals.

Some have come to the floor today and argued that Professor Liu lacks the candor or the temperament to serve on a circuit court. As someone who clerked for the Third Circuit Court of Appeals for a distinguished judge, I will suggest something that I think is commonplace, which is that candor and an appropriate temperament are critical to service on a circuit court of appeals.

A lot of these charges raised against Professor Liu seem to center on a few

comments that Professor Liu made during the nomination hearing for now-Justice Alito or some purported deficiencies in his disclosures to the Judiciary Committee. Let me speak briefly to both of those, if I may.

Professor Liu has apologized at length and in detail for the intemperate tone of one brief passage that he wrote as part of his testimony before the Judiciary Committee during the Alito nomination hearings now some 6 years ago. I take this apology at face value. I take his expression of regret at the tone at face value. But anyone who has taken the time to meet him, to interview him, to question him, I think has to conclude that despite this one brief episode of the use of intemperate language, he is not an intemperate person.

In fact, the American Bar Association, as my colleague, Senator BOXER, pointed out previously today, specifically considered Professor Liu's temperament when it gave him its highest rating of ''unanimously well qualified'' in the recommendation for his consideration by this body.

Let me next turn briefly to claims about candor before the committee which I believe are equally unfounded. He has, in fact, testified before the Judiciary Committee for a total of 5 hours and answered hundreds of questions and requests for additional information. He has been sharply criticized for missing some documents from his initial response to what is a searching committee questionnaire.

I will comment for those following this debate that Professor Liu has been a prolific scholar and speaker. He is someone who has published extensively. He is someone who has spoken extensively. He is the first controversial circuit court nominee to have his nomination take place not just in the computer age but in the YouTube age when a combination of cell phones and video recorders have literally made a record of every bag lunch, every 5-minute speech, every off-the-cuff remark made by this nominee before us.

The argument that his need to supplement the record with some documents not initially produced and that somehow that reflects some lack of candor, and somehow that suggests a lack of truthfulness that should disqualify him not for a vote but not even for a consideration of a vote is wholly without merit.

As the White House Chief Ethics Counsel under President Bush, Richard Painter, has written: Professor Liu's ''original answers to the questions''—asked by the Judiciary Committee—''was a careful and good-faith effort to supply the Senate with the information it needed to assess his nomination.''

It means a great deal to me that someone such as Mr. Painter concluded that Professor Liu provided a lot more information than most nominees do in similar circumstances. Frankly, it seems to me overreaching to try to suggest that simply because in the YouTube age this professor, who provided us with hours of testimony, pages of responses, failed to notice the committee about some brown bag lunches and off-the-cuff comments rises to the standard of justifying a filibuster.

Let me next turn to the suggestion that he is insufficiently qualified to hold the position of circuit judge—an important concern, because we want judges of judicial temperament, of openness and candor and good character, and also those who are sufficiently experienced. As I said a moment ago, the American Bar Association, after conducting a confidential and comprehensive review of his qualifications, concluded he was ''unanimously well-qualified''—its highest possible rating.

In previous nomination debates, Senators of this body, Senators of the other party, have touted the ABA rating as a comprehensive and exhaustive evaluation that provides valuable insight that ought to be trusted. Several Members of this body—several Senators—including some who spoke immediately before me have made those exact references to the value of the ABA rating process. Reasonable minds may be able to differ on the margins, but it is not credible, in my view, to claim a candidate with Professor Liu's remarkable legal education, long record of public service and experience, and the ABA's highest rating is not qualified to serve on a circuit court.

The charges or suggestions that Professor Liu is unqualified because he is young or because he lacks significant courtroom experience are also hollow and one-sided when we look at the real record. Since 1980, 14 nominees younger than Professor Liu—advanced by Republican Presidents—have all been confirmed. For example, Judge Neil Gorsuch, on the Tenth Circuit, was 38 when nominated; Judge Brett Kavanaugh, an acquaintance and, I would say, friend of mine from law school—now on the DC Circuit—was 38 when nominated; and now-Justice Samuel Alito was 39 when nominated to the Third Circuit.

Republican nominees with similar or lesser practical courtroom experience than Professor Liu have also been nominated and confirmed. Circuit Court Judge Frank Easterbrook and J. Harvie Wilkinson were both under 40 when nominated without any practicing legal experience at all. Yet this lack of practical experience didn't prevent either of these judges from becoming the most well respected and widely regarded in their circuits.

I would ask my colleagues to seriously consider looking instead at the standard that was applied when a similarly controversial professor came before this body. I was not here at the time, but I understand from the record that Democratic Senators approached the nomination of Michael McConnell, President George W. Bush's nominee to the Tenth Circuit, in a way that was generous and that accepted at face value some of his assertions.

Like Professor Liu, Professor McConnell was a widely regarded law professor who was nominated to a Federal appeals court without having first served as a judge. Many Democratic Senators at the time had concerns about Professor McConnell's conservative writings, which included strong opposition to Roe v. Wade, congressional testimony that the Violence Against Women Act was unconstitutional, and harsh criticism of the Supreme Court's 8-to-1 decision in the Bob Jones case. Despite these positions—which one could argue are at the outer edge, even the extreme of the legal canon at the time—Professor McConnell was confirmed, not after a filibuster, not after a long series of grinding nomination hearings and public discourse, but Professor McConnell was confirmed by voice vote of this Chamber 1 day after his nomination was confirmed by the Judiciary Committee.

In supporting Professor McConnell's nomination, Democratic Senators at the time credited his assurances that he understood the difference between the role of law professor and judge and that he respected and would follow precedent. In my view, the Senators of this body should credit similar assurances that Professor Liu has provided during his confirmation hearings and that Professor Liu has provided to me in an individual interview in answer to hundreds of written questions from members of the committee as well as in answer to challenges presented here.

Let me next turn to some challenges or concerns that have been raised about Professor Liu's view on education. A bipartisan group of 22 leaders in education law, policy, and research have written to support Professor Liu's nomination and to highlight his scholarship and reputation in the field of education law and policy. They wrote:

> Based on his record, we believe Professor Liu is a careful, balanced, and intellectually honest scholar with outstanding academic qualifications and the proper temperament to be a fair and disciplined judge.

Later, they wrote in this letter:

> His work is nuanced and balanced, not dogmatic or ideological.

Madam President, I ask unanimous consent to have printed in the RECORD the letter to which I just referred.

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

MARCH 23, 2010.

Re Federal Judicial Nomination of Goodwin H. Liu, U.S. Court of Appeals for the Ninth Circuit.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. JEFF SESSIONS,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SESSIONS: We are a bipartisan group of 22 leaders in education law, policy, and research who support the nomination of Professor Goodwin Liu to be a judge on the U.S. Court of Appeals for the Ninth Circuit. Your

committee will undoubtedly receive much commentary about Professor Liu's scholarly work in constitutional law. We write to highlight his scholarship and reputation in the field of education law and policy. Collectively, we have read his work in this area; we have seen him speak at many panels and conferences; and some of us have worked closely with him on research projects or on policy issues when he served in the U.S. Department of Education. Based on his record, we believe Professor Liu is a careful, balanced, and intellectually honest scholar with outstanding academic qualifications and the proper temperament to be a fair and disciplined judge.

Professor Liu is one of the nation's leading experts on educational equity. His scholarly work on topics such as school choice, school finance, desegregation, and affirmative action is unified by a deep and abiding concern for the needs of America's most disadvantaged students. In analyzing problems and proposing solutions, Professor Liu's writings are thorough, pragmatic, and scrupulously attentive to facts and evidence. His work is nuanced and balanced, not dogmatic or ideological. For example:

He has argued for more resources for low-performing schools while also advocating greater opportunities, including school vouchers, to enable disadvantaged students to choose better schools.

He has argued for greater equity in school finance while also urging reforms that would loosen regulations and increase local control over spending decisions.

He has praised the No Child Left Behind Act for focusing education policy on achievement outcomes and inequities while also urging reforms to ameliorate the Act's unintended negative consequences.

He has argued that the Fourteenth Amendment guarantee of national citizenship encompasses a duty to provide adequate education while emphasizing that the responsibility for enforcement belongs to Congress, not the judiciary.

He has written in support of affirmative action while also emphasizing that affirmative action primarily benefits middle- and high-income minorities and does not do enough to promote socioeconomic diversity.

We do not necessarily agree with all of Professor Liu's views. But we do agree that his record demonstrates the habits of rigorous inquiry, open-mindedness, independence, and intellectual honesty that we want and expect our judges to have. His writings are meticulously researched and carefully argued, and they reflect a willingness to consider ideas on their substantive merits no matter where they lie on the political spectrum. Moreover, we are confident in Professor Liu's ability to decide cases based on the facts and the law, regardless of his policy views. His scholarship amply demonstrates that kind of intellectual discipline, and our high regard for his work is widely shared. Indeed, the Education Law Association selected Professor Liu in 2007 to be the first-ever recipient of the Steven S. Goldberg Award for Distinguished Scholarship in Education Law.

In short, Professor Liu is exceptionally qualified to serve on the federal bench. He would make an outstanding judge, and we urge his speedy confirmation.

Sincerely,

Cynthia G. Brown, Vice President for Education Policy, Center for American Progress Action Fund.

Michael Cohen, President, Achieve, Inc.; Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education, 1999–2001.

Christopher T. Cross, Chairman, Cross & Joftus LLC; Assistant Secretary for Educational Research and Improvement, U.S. Department of Education, 1989–91.

Linda Darling-Hammond, Charles E. Ducommun Professor of Education, Stanford University.

James Forman Jr., Professor of Law, Georgetown University Law Center; Co-Founder and Board Chair, Maya Angelou Public Charter School.*

Patricia Gándara, Professor of Education and Co-Director of The Civil Rights Project/Proyecto Derechos Civiles, UCLA.

James W. Guthrie, Senior Fellow and Director of Education Policy Studies, George W. Bush Institute.

Eric A. Hanushek, Paul and Jean Hanna Senior Fellow, Hoover Institution, Stanford University.

Frederick M. Hess, Director of Education Policy Studies American Enterprise Institute.

Paul Hill, John and Marguerite Corbally Professor and Director of the Center on Reinventing Public Education, University of Washington.

Richard D. Kahlenberg, Senior Fellow, The Century Foundation.*

Joel I. Klein, Chancellor, New York City Department of Education; Assistant Attorney General, Antitrust Division, U.S. Department of Justice, 1997–2001.

Ted Mitchell, President and Chief Executive Officer, NewSchools Venture Fund.

Gary Orfield, Professor of Education, Law, Political Science, and Urban Planning and Co-Director of The Civil Rights Project/Proyecto Derechos Civiles, UCLA.

Michael J. Petrilli, Vice President for National Programs and Policy, Thomas B. Fordham Institute; Research Fellow, Hoover Institution, Stanford University; Associate Assistant Deputy Secretary, Office of Innovation and Improvement, U.S. Department of Education, 2001–05.

Richard W. Riley, Partner, Nelson Mullins Riley & Scarborough LLP; U.S. Secretary of Education, 1993–2001; Governor of South Carolina, 1979–87.

Andrew J. Rotherham, Co-Founder and Publisher, Education Sector.

James E. Ryan, William L. Matheson & Robert M. Morgenthau Distinguished Professor of Law, University of Virginia School of Law.

William L. Taylor, Chairman, Citizens' Commission on Civil Rights.

Martin R. West, Assistant Professor of Education, Harvard University.

Judith A. Winston, Principal, Winston Withers & Associates, 2002–2009; General Counsel, U.S. Department of Education, 1999–2001, 1993–97.

Bob Wise, President, Alliance for Excellent Education; Governor of West Virginia, 2001–2005; Member, U.S. House of Representatives, 1983–2001.

(*affiliation listed for identification purposes only)

Mr. COONS. Madam President, during his confirmation hearings, Professor Liu said this, in testifying before the Judiciary Committee:

> I absolutely do not support racial quotas, and my writings, I think, have made very clear that I believe they are unconstitutional.

Professor Liu also stated to the committee:

> I think affirmative action, as it was originally conceived, was a time-limited remedy for past wrongs, and I think that is the appropriate way to understand what affirmative action is.

These two statements, which reflect Professor Liu's testimony to the committee, are well within the mainstream.

Professor Liu has written and spoken about his support for diversity in public schools and, in my view, there is nothing extreme in this view. Ever since Brown v. Board of Education was decided by a unanimous Supreme Court in 1954, the Supreme Court of the United States has recognized the legitimacy of State action to desegregate schools.

In fact, the Supreme Court upheld the use of race as one factor in admissions decisions in the 2003 case of Grutter v. Bollinger. Although some on the far right of the Supreme Court have argued that both Brown and Grutter should be disregarded to the extent they recognize the permissibility of efforts to achieve diversity in public institutions, it is, I would argue, those Justices who are out of step with the mainstream of Federal jurisprudence and of the constitutional tradition of this country.

Even in its most recent case on point, the 2007 decision in Parents Involved v. Seattle School District, which struck down a specific desegregation program, five of the nine Justices who made up the majority agreed with Liu that achieving diversity remains a compelling governmental interest.

The notion that somehow Professor Liu is an idealog on these issues is belied by his actual record. As a scholar, Professor Liu has supported market-based reforms to promote schoolhouse diversity—reforms that are often labeled conservative. Professor Liu believes, and has written in support of, school choice and school vouchers, stating they have a role to play in improving educational opportunities for disadvantaged children. He has publicly advocated for these programs on a nationwide scale, earning praise from conservatives in the process.

Clint Bolick, director of the conservative Goldwater Institute—referred to previously by my colleague, Senator BOXER—has written:

> I have known Professor Liu . . . since reading an influential law review article he coauthored . . . supporting school choice as a solution to the crisis of inner-city public education. It took a great deal of courage for [him] to take such a strong public position . . . I find Professor Liu to exhibit fresh, independent thinking and intellectual honesty.

He closes his letter by saying:

> He clearly possesses the scholarly credentials and experience to serve with distinction on this important court.

Professor Liu has, in my view, made very clear that he understands the difference between being a law professor, a scholar and advocate, and a judge. He has assured us during his nomination hearings before the committee and again in personal conversations with me he would follow the court's precedent if confirmed. During his confirmation hearings Professor Liu testified to our committee:

[I]f I were fortunate enough to be confirmed in this process, it would not be my role to bring any particular theory of constitutional interpretation to the job of an intermediate appellate judge. The duty of a circuit judge is to faithfully follow the Supreme Court's instructions on matters of constitutional interpretation, not any particular theory. And so that is exactly what I would do, I would apply the applicable precedents to the facts of each case.

As I said before, and I will say again, I believe this quote from Professor Liu deserves exactly the same weight and deference and confidence as similar assertions by then-Professor McConnell, now Circuit Court Judge McConnell, when he was confirmed by voice vote in this Chamber. To speak otherwise is to do violence to the tradition of deference to those who give sworn testimony, to hearings, and to the deliberations of this body.

Last, let me turn to some points that were raised recently about whether Professor Liu believes Americans have a constitutional right to welfare benefits, such as education, shelter, or health care; and, if confirmed, would somehow declare those constitutional rights from the bench.

Professor Liu has authored, as I have said, many different Law Review articles, and in one, the 2008 Stanford Review Article, entitled, ''Rethinking Constitutional Welfare Rights,'' he, in fact, criticized another scholar's assertion from a 1969 article that courts should recognize constitutional welfare rights on the basis of a so-called ''comprehensive moral theory.'' Professor Liu rejected that.

In 2006, he penned a Yale Law Review article that argued the 14th amendment authorizes and obligates Congress to ensure a meaningful floor of educational opportunity.

His record is replete with sources that make it clear Professor Liu respects and recognizes the role of this body—of Congress—and the role of the Supreme Court in establishing, interpreting, and applying both precedent and constitutional theory, and that he accepts, acknowledges, and will respect the very real limits on a circuit court judge in innovating in any way.

Madam President, in closing, allow me to simply share with you and the Members of this body that—new to this body, new to the fights that have divided this Chamber and have deflected real deliberation on nominees to circuit courts and the Supreme Court—I have taken the time to review his writings, to interview him individually, to attend the nomination hearing, and have come to the conclusion that candidate, nominee Professor Goodwin Liu is a qualified, capable, competent, in fact, exceptional legal scholar, who understands and will respect the differences between advocacy and scholarship and serving as a member of the circuit court in the Judiciary of the United States.

I urge the Members of this body, I urge my colleagues to take a fresh look at the record and to allow this body to vote. Why on Earth this record of this exceptionally qualified man would justify a filibuster is utterly beyond me and suggests that, unfortunately, we have become mired in partisanship rather than allowing debate and votes on this floor, which, in my view, if we followed the best traditions of this body, would lead to the confirmation of Goodwin Liu to the Ninth Circuit.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Madam President, I would tell my colleague from Delaware that he makes some very excellent points and they were very well stated.

I have spent a number of years—now almost 7—on the Judiciary Committee, and my observations make me painfully aware of our process. Goodwin Liu is a stellar individual. There is no question about it. He is a stellar scholar. There is no question about it. But my observations have taught me, as we have voted and put judges on the appellate court and on the highest Court, that what is said in testimony before the committee doesn't bear out or have any impact on what happens once somebody becomes a judge. My observation is that people are who they are.

I actually spent a significant time with Goodwin Liu. I think he is a genuine great American. The question, however, is not whether he is a stellar scholar, of stellar intellect, or whether he is a great American. The question is: Do his beliefs match what the Constitution requires of appellate judges and higher judges. And I have come to the conclusion that being stellar and being a great teacher and professor, being a wonderful judge, is not enough. I take the words to heart, that my colleague said, because we all make mistakes. His comments on Judge Alito and Judge Roberts, he said, were poor judgment; he should not have done it. There is not anybody in this body who has not done the same thing, so we cannot hold that against him, and I do not.

But what I do think matters is whether the oath to the Constitution and our laws and our treaties and the foundational documents of our Constitution do matter. I believe that where we find ourselves today as a country—not having the debates on the Senate floor as we should be having the debates on the Senate floor—is partially to blame because of where the judges have put us. They have not been loyal to the document. They expanded the commerce clause well beyond its ever-anywhere-close intent. The general welfare clause, that now finds us at a time when we are nearing bankruptcy, and we cannot get out of our problems without retracting tremendously the size and scope of the Federal Government. We cannot grow our economy with the tax revenue increases that are going to be required to get out of this problem. It comes back down to what do they believe about the Constitution.

The best way to find that out is, before they ever thought about being nominated and before they are trying to be controversial in a teaching environment, what are their great thoughts and what are their beliefs. I do not believe professors write articles to be controversial. I believe they write articles based on what their learned research tells them. I just have a frank disagreement with Professor Liu on the role of a Federal judge.

I actually believe what the Constitution says. It says:

The judicial Power should extend to all Cases, in Law and Equity, arising under this—

And the word is ''this''—

Constitution, the Laws of the United States, and the Treaties made, or which shall be made. . . .

The problems I have with Professor Liu are that I believe he advocates for an unconstitutional role for judges. He believes the Constitution is a living document, that it is indeterminate.

I recognize I am just a doctor from Oklahoma and I don't have a law degree, but I can read these words as plain as anybody else. I don't think they are indeterminate. I think some of the things our Founders did were wrong, and we have corrected them through the years, through wise Supreme Court decisions, but also through amendments to the Constitution.

He also believes the Constitution should be subject to ''socially situated modes of reasoning that appeal culturally and historically to contingent meanings.'' What that says to me is what this says is wide open.

I really like the guy. I got along fabulously with him. He is a wonderful individual. But I don't think he is who we want on the appellate court. I think what potential judges say and write, when we take the totality of what they say and write—not what they say at a hearing because it all changes once they are nominated—what they say and write is very important about what kind of judge they are going to become.

You heard Senator CORNYN relate about Justice Sotomayor, based on ''here is her testimony,'' and in the first case what she does is exactly opposite of what her testimony does but is totally consistent with what her beliefs were and her writings in previous cases. It used to be the Judiciary Committee didn't bring the judges before them. We looked at the history.

Let me address something else. What the ABA says doesn't matter to me anymore because there was a controversial nominee from Oklahoma the ABA rated ''qualified,'' when four distinct people interviewed by the ABA said the individual wasn't qualified, and that was totally discounted by the ABA. The people who were actually interviewed said the person was not qualified. The ABA gave them a ''qualified'' rating anyway. These are their peers. That basis for saying we have qualifications is no longer trustworthy

in my mind and hasn't been for some time. I think the due diligence is lacking in the ABA and their method for scoring who is qualified or who is not.

The final point I would make is, although he has written a lot, and a lot of it has been controversial, one of the things that really bothers me is his profound belief that he has the right to use foreign law to interpret the U.S. Constitution. That is really code word for saying: If I do not like what is written in this document, I will go find some jurisprudence somewhere else and apply it to this document that gets me the result I want, rather than being truthfully and honestly obedient to what this document says.

I know that sounds overly simple, but it is not. The fact that we are not applying our Constitution and its meaning and what our Founders said about what it meant and we are ignoring it is one of the things that has put us in the perilous state we are in today.

We are going to have a great test sometime in the next year on the massive expansion of the commerce clause that was put in the law through the Affordable Care Act. I will predict in this body today, if that is upheld, there will be no need for State and local governments anymore because there will be no limitation on what we as a Federal Government can do to limit the freedom and free exercise of the tenth amendment to the States.

The idea that one can take what this Constitution very clearly says: ''all cases in law or equity arising under this Constitution''—not foreign law, not foreign constitution, not foreign thought, but our law—it does not mean we cannot learn from other things, but we cannot use foreign law to interpret our Constitution. It is a violation of a judicial oath every time one of our Supreme Court Justices references their opinion based on foreign law. It is a violation of their oath because their oath is to this Constitution, not some other constitution. So we see that occasionally, especially in minority opinions, and oftentimes in previous majority opinions, that have gotten our country into the problem we are in.

I believe Goodwin Liu a generally wonderful man. He is a stellar intellectual thinker. By reports he is an outstanding professor and is a great human being. That does not qualify him to be on the Ninth Circuit Court of Appeals. What will qualify him is absolute fidelity to our Constitution and our future and not the creative ways that we can change that through our own wills or whims of judges to get a result that is different than what our Constitution would say that we should have.

So I, regretfully—and it is truly with regret—will be voting against cloture for his nomination because I do not like this process. I think it hurts us. I think it divides our body. My hope is we can handle these in the future much better than we have handled them in the past.

I see the assistant majority leader on the Senate floor, and I will yield to him.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, at 2 o'clock we will have a vote on the Senate floor. A man is seeking a judgeship. There is no question in anybody's mind that this is a judgeship that should be filled. Professor Goodwin Liu wants to serve in the U.S. Circuit Court of Appeals for the Ninth Circuit. He was nominated in February of 2010. Here we are in May of 2011. The significance of that delay is the fact that this is a vacancy that causes a problem. The Administrative Office of the U.S. Courts—no political office but the court's office—declared a judicial emergency in this circuit and said they need this vacancy filled. So nobody questions that there is at least a sense of urgency in filling the seat.

So you ask yourself, if the President nominated someone back in February of 2010, why in May of 2011 are we just getting around to it? I think that question needs to be directed to the other side of the aisle. They have found reasons to delay this and to raise questions which have brought us to this moment.

So how about this professor? Is he qualified to serve at the second highest level of courts in America on the Ninth Circuit? The American Bar Association did not waste any time evaluating Professor Goodwin Liu. They awarded him their highest possible rating—''unanimously well-qualified.'' If we look at his background, it is no surprise.

The son of immigrants, he attended Stanford University, where he graduated Phi Beta Kappa. He won a Rhodes Scholarship, attended Yale Law School, where he was editor of the Yale Law Review. He served as a law clerk to Judge Tatel of the DC Circuit and to Supreme Court Justice Ruth Bader Ginsburg.

After finishing his second clerkship, the one at the Supreme Court, he worked for years at the law firm of O'Melveny & Myers in Washington. Then he joined the faculty at the University of California-Berkeley Law School. He has won numerous awards for his teaching and academic scholarship, including the highest teaching award given at the Cal-Berkeley Law School.

What is the point of this debate? We know he is well qualified. We know there is a judicial emergency that requires us to fill this seat—and we should have done it a long time ago. When we look at his resume, it would put every lawyer, including myself, to shame, when we consider all that he has done leading up to this moment in his career.

It turns out those who oppose him do not oppose his qualifications. They think he has the wrong philosophy, the wrong values. They criticize him for a handful of statements he made while he served as a professor. Isn't it interesting, the double standard that is being applied?

I was here in 2002 when a Tenth Circuit Court of Appeals nominee by the name of Michael McConnell was up to be considered. He had been a law professor at the University of Utah and the University of Chicago. At his nomination hearings, Senator ORRIN HATCH, who strongly supported his nomination, said:

> I think we should praise and encourage the prolific exchange of honest and principled scholarly writing, assuming such scholars know the proper role of a judge to interpret the law as written and to follow precedent.

What was Senator HATCH defending in Professor McConnell's background? It was the fact that he had called Roe v. Wade, a landmark Supreme Court decision, ''illegitimate.'' Professor McConnell had defended Bob Jones University's racist policies on the grounds that they were ''church teachings,'' even though the Supreme Court rejected his argument in an 8-to-1 decision, and he claimed the Violence Against Women Act was unconstitutional.

That was fodder for a lot of questions that should have been asked and were asked. He had made some very extreme statements as a professor. But Professor McConnell assured the Senate that when he left the classroom and entered the courtroom he would put his views aside and follow the law. The Senate did not stop him with a filibuster. The Senate took Professor McConnell at his word and gave him an up-or-down vote on the Senate floor, and he was confirmed. That is all we are asking for when it comes to Professor Liu. I point out that other well-respected Federal judges have also served in academic roles before coming to the bench.

Richard Posner of the Seventh Circuit in Chicago is a friend of mine. Every once in a while we get together for an amazing lunch. He is such a brilliant guy. We disagree on so many things, but I can't help but sit there in awe of this man's knowledge of the law and of the world and his prolific authorship of books on so many subjects.

I think most would agree he has taken some pretty controversial views himself. In a 2005 debate on civil liberties with Geoffrey Stone, Judge Posner said:

> Life without the self-incrimination clause, without the Miranda warnings, without the Fourth Amendment's exclusionary rule, with an unamended USA PATRIOT Act, with a depiction of the Ten Commandments on the ceiling of the Supreme Court, even life without Roe v. Wade would still, in my opinion anyway, be eminently worth living.

Is there any fodder there for political commentators? He was a sitting judge when he said that. Some of my friends on the left would have had a field day with that quote.

Some of my friends on the right might have disagreed strongly with Judge Posner when he wrote an article about the 2008 Supreme Court decision in DC v. Heller, a case where the court

stated the Second Amendment right to bear arms confers an individual right. Judge Posner wrote that the Court's decision in Heller ''is questionable in both method and result, and it is evidence that the Supreme Court, in deciding constitutional cases, exercises a freewheeling discretion strongly flavored with ideology.''

I suspect there are a lot of Senators on the other side of the aisle who disagree with that quote.

So let's get down to the bottom line. We recognize the value of academic freedom and discourse. We understand a professor has a different role in America than someone sitting on a bench judging a case. We trust them. We give them basic credit for integrity when they say they can separate the two lives. They understand the two responsibilities.

Professor Liu is a man widely recognized for his integrity and independence. That is why he has the support of prominent conservative lawyers. Kenneth Starr—no hero on the Democratic side of the aisle—has said he would be a great judge. Bob Barr, former Republican Congressman, and Goldwater Institute Director Clint Bolick express support for Liu's nomination. In fact, Ken Starr and Yale law Professor Akhil Amar wrote:

> [I]n our view, the traits that should weigh most heavily in the evaluation of an extraordinarily qualified nominee such as Goodwin are professional integrity and the ability to discharge faithfully an abiding duty to follow the law. Because Goodwin possesses these qualities to the highest degree, we are confident he will serve on the Court of Appeals not only fairly and competently, but with great distinction. We support and urge his speedy confirmation.

Well, we are not going to grant their wishes with a speedy confirmation; the question is whether 60 Senators will decide that Professor Goodwin Liu is entitled to a vote—a vote—an up-or-down vote—in the Senate.

Professor Liu said at his confirmation hearing:

> [T]he role of a judge is to be an impartial, objective, and neutral arbiter of specific cases and controversies that come before him or her, and the way that process works is through absolute fidelity to the applicable precedents and the language of the laws, statutes, or regulations that are at issue in this case.

Professor Liu is committed to respect and follow the judicial role. I am confident he will fulfill that role with distinction.

This is a good man, a great lawyer, an extremely well-qualified nominee. His nomination has been languishing before this Senate since February of last year. He has had to put his life on hold in many respects waiting for the Senate to act.

We will have a cloture vote in about an hour. I think we know what is going on here. For many on the other side of the aisle, they are guided by advisers who tell them: Keep as many critical judicial posts open for as long as possible. Help is on the way in the next election. We don't want to allow this President to fill these vacancies, and particularly when it comes to the circuit courts because of the tremendous responsibility and opportunity there is for important and historic decisions.

So Professor Liu has been caught in this maelstrom. He is now going to be subjected to this filibuster vote. I sincerely hope my colleagues will be fair and honest in their vote. I hope they will look at the obvious record of this man to fill an important vacancy, a man found unanimously ''well qualified'' by the American Bar Association, a person with a legal resume that is peerless, someone who has stated purely and unequivocally that he will follow the law. To dwell on statements he has made as a professor is to do a great disservice to academic freedom and to ignore the obvious. When Republican nominees came before us, we have used our discretion to separate out their academic lives with their promise that as judges they will look at the world in a very sober, honest way.

I intend to vote in support of cloture and in support of this nomination. I urge my colleagues to do the same.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Madam President, several of my colleagues have expressed concerns about the nomination of Goodwin Liu. I share many of those concerns and do not wish to belabor points they have already made. I will limit my comments today to two fundamental reasons why I find myself unable to support the nomination of Professor Liu to serve as a judge on the U.S. Court of Appeals for the Ninth Circuit.

First, I am truly dismayed by the lack of judgment displayed in Professor Liu's 2006 testimony regarding the confirmation of Samuel Alito as an Associate Justice for the U.S. Supreme Court. Throughout extensive written testimony and during an appearance before the Senate Judiciary Committee, Professor Liu unfairly criticized then-Judge Alito and his long judicial record as, among other things, having ''shown a uniform pattern of excusing errors and eroding norms of basic fairness.'' In particular, the final paragraph of Professor Liu's written testimony which served as a summary of his entire analysis of Judge Alito was nothing short of an inflammatory attack. He wrote:

> Judge Alito's record envisions an America where police may shoot and kill an unarmed boy to stop him from running away with a stolen purse; where federal agents may point guns at ordinary citizens during a raid, even after no sign of resistance; where the FBI may install a camera where you sleep on the promise that they won't turn it on unless an informant is in the room; where a black man may be sentenced to death by an all-white jury for killing a white man. . . .

Professor Liu's unseemly attack on Justice Alito generated considerable attention at the time, as well as understandable concern about Professor Liu's temperament, his judgment, and his basic ability to be fair.

So far as I know, it was only after he was nominated to be a judge on the U.S. Court of Appeals for the Ninth Circuit that Professor Liu offered any apology for his testimony about Justice Alito. A few weeks ago, Professor Liu told members of the Judiciary Committee that he had learned from the outrage his remarks caused ''that strong language like that is really not helpful in the process.'' Professor Liu's observation is certainly true, but it misses the central point. His comments about Justice Alito were offensive not simply because they were unhelpful in his confirmation process, but because they were misleading and they were an unwarranted personal attack on a dedicated judge and public servant.

Professor Liu's treatment of Justice Alito and his last-minute and incomplete handling of the concerns raised by his remarks lead me to believe that he lacks the basic judgment and discretion necessary to be confirmed to a life-tenured position in the judiciary.

The second reason I feel compelled to oppose this nomination has to do with the integrity of our Nation's system of constitutional government and the rule of law. In my careful and considered judgment, the judicial philosophy espoused by Professor Liu is fundamentally inconsistent with the judicial mandate to be a neutral arbiter of the Constitution and to uphold the rule of law.

I do not base this conclusion on the fact that his approach to the law is in many respects different from my own. That is not a prerequisite and that is not the basis of my opposition to this nominee. Most of the judges nominated by President Obama do not share my personal textualist and originalist commitments. Yet in my short time as a Member of the Senate, I have voted to confirm many nominees with whom I fundamentally disagree.

Professor Liu, by contrast, is not simply a progressive nominee with a somewhat more expansive view of constitutional interpretation than is common among many sitting judges, nor is he a nominee whose controversial remarks are few and can be overlooked given a long history of mainstream legal practice and observations.

Throughout the course of his numerous speeches, articles, and books, Professor Liu has championed a philosophy that in my judgment is incompatible with faithfully discharging the duties of a Federal appellate judge in our constitutional Republic. His approach advocates that judges go far beyond the written Constitution, statutes, and decisional law to ascertain and incorporate into constitutional law—in Professor Liu's own words—''shared understandings,'' ''evolving understandings,'' ''social movements,'' and ''collective values.''

In a 2008 Stanford Law Review article describing the judicial role, Professor Liu wrote:

[T]he problem for courts is to determine, at the moment of whether our collective values on a given issue have converged to a degree that they can be persuasively crystallized and credibly absorbed into legal doctrine.

In so framing the process of judicial decisionmaking, he advocated a conception of a judiciary as a ''culturally situated interpreter of social meaning.''

In a 2009 book entitled ''Keeping Faith with the Constitution,'' he wrote that constitutional interpretation rightly ''incorporates the evolving understandings of the Constitution forged through social movements, legislation, and historical practice.''

In an interview later that year, Professor Liu suggested that the judicial role is an individual process that includes ''lessons learned from experience, and an awareness of the evolving norms and social understandings of our country.''

These are just a few examples of a clear, consistent, and extreme approach to judging that Professor Liu has championed in many settings over the course of many years. His approach necessarily requires a judge to violate separation of powers principles, making law based on the judge's subjective understanding of public opinion, communal values, historical trends, or personal preferences, rather than faithfully interpreting and applying the laws made by the legislative and executive branches.

A noted judge who has faithfully served in the role to which Professor Liu has been nominated, and who as a result was intimately familiar with the very real dangers of legislating from the bench, shared this vital insight:

It is absolutely important to freedom to confine the judiciary's power to its proper scope as it is to confine that of the President, Congress, or state and local governments. Indeed, it is probably more important, for only courts may not be called to account by the public.

I rise today in defense of our Nation's constitutional separation of powers and, ultimately, in defense of the essential liberty that it protects.

I also feel the need to respond to the point made by my distinguished colleague, the Senator from Illinois, moments ago. This is not an opposition that is based on a disagreement with a particular set of legal analyses. My colleague from Illinois noted there was some opposition to Judge McConnell who was confirmed by this body to serve on the U.S. Court of Appeals for the Tenth Circuit, notwithstanding the fact that many in this body disagreed with particular legal conclusions that had been reached by then-Professor McConnell. This is different than that. This is not about a disagreement with a particular legal conclusion. It is instead about a concern arising out of a systemic, broad-based interpretive approach, one I believe doesn't give due regard to the rule of law, to the notion that we are a nation that lives under the law, that our laws consist of words, that words have defined, finite meaning, and that in order for our laws to work properly, that meaning needs to be respected and it needs to be interpreted in and of itself and held as an independent good by the judiciary on a consistent basis.

Professor Liu's appalling treatment of Justice Alito leaves grave doubt in my mind as to whether he possesses the requisite judgment to serve as a life-tenured judge. I have come to the conclusion that Professor Liu's extreme judicial philosophy is simply incompatible with the proper role of a judge in our constitutional Republic.

For these reasons, as well as those articulated by many of my colleagues, I am compelled to oppose this nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank the Chair.

I rise to support the nomination of Goodwin Liu to be a member of the U.S. Court of Appeals for the Ninth Circuit. I believe Mr. Liu's academic qualifications, strong intellect, his character, and his temperament make him a person who would be a valuable addition to the Federal bench. Therefore, I urge my colleagues to vote for cloture and then in favor of his confirmation.

Mr. Liu brings an outstanding academic and professional background to this nomination and a personal life story that is quintessentially American. It is not a reason in itself, certainly, to vote to confirm him as a judge of this high court, but it speaks to the endless opportunities for upward mobility in this country for people who work hard. Where you end up is not determined by where you start out in this country.

Goodwin Liu is the second son of Taiwanese immigrants. As a young boy, his family settled in Sacramento. He began to work hard from the beginning, ultimately graduating from Stanford University. He received a Rhodes Scholarship to Oxford University and eventually graduated from Yale Law School.

Should he be confirmed to the Ninth Circuit, Professor Liu would become the second Asian American currently serving on a Federal appeals court. He is now an associate dean and professor of law at the University of California, Berkeley School of law. He is widely recognized and respected broadly throughout academic and legal communities in the United States.

I note that prior to entering academia, he was an appellate litigator with O'Melveny & Myers—a first-rate firm here in Washington—and clerked for both Circuit Court Judge David Tatel and Supreme Court Justice Ruth Bader Ginsburg, representing different points on the ideological legal spectrum, and served them both, I know, with great distinction.

Although I do not agree with everything Goodwin Liu has ever written or said, his views, it seems to me, have been well expressed and well reasoned and quite intelligent. I think he has a thoughtful approach to complex legal questions, and I am impressed he has earned the respect and support of thinkers and lawyers from all sides of the legal ideological spectrum, which I think speaks, ultimately, to his personal evenhandedness, to the power of his intellect, and what we can expect of him as a judge of the circuit court.

I was particularly impressed—and I know it has been quoted before, but it speaks volumes—by the comments of former Judge Ken Starr, a former dean also, who said Goodwin Liu is ''a person of great intellect, accomplishment, and integrity, and he is exceptionally well-qualified to serve on the court of appeals.''

I know many of my colleagues have concerns about this nomination, about things Professor Liu has either written or said, and I understand those. I have some of those concerns. I read the statement he made about Judge Alito. It has the ring of a passionate litigator making an argument with probably more zeal than he himself appreciates as he looked at it in the aftermath.

But for those who have concerns, I urge my colleagues to vote accordingly on an up-or-down vote, not to sustain this filibuster and, therefore, prevent an up-or-down vote on this nomination.

I have always felt that in our advice and consent role—this is my own personal reading of it—the President, by his election, earns the right to make these nominations. We do not have to decide, in confirming a nominee, that we would have made this nomination, only that the nominee is acceptable, is within the range of those acceptable and capable of doing the job for which he is nominated.

Not so long ago, in 2005, there was a move to reduce the right to filibuster and require 60 votes, particularly with regard to Supreme Court nominees but others as well. That led to the formation of the so-called Gang of 14. I was proud to be a member of that group, and we reached an agreement, one of whose I wish to read now on ''Future Nominations.'' This is one of them: Goodwin Liu.

Signatories will exercise their responsibilities under the Advice and Consent Clause of the United States Constitution in good faith. Nominees should only be filibustered under extraordinary circumstances, and each signatory must use his or her own discretion and judgment in determining whether such circumstances exist.

End of quote from the agreement of the Gang of 14.

I do not think these are extraordinary circumstances, when you consider Goodwin Liu's intellect, his varied background, the character he has, and this broad range of endorsements from people. To me, a disagreement about a statement made in the heat of an argument or even the substance of an article published is not strong enough to prevent this nominee from

having what I think is his right and the President's right to get a vote up or down—not to block him by requiring 60 votes.

So I urge my colleagues to vote for cloture. I am going to do so with a full measure of comfort and confidence about the kind of judge Goodwin Liu would be but with a full measure of comfort that I am exercising my responsibility under the advice and consent clause, as I have always seen it, including as it has been informed by my proud participation in the memorandum of understanding of the Gang of 14 in 2005.

I thank you very much and yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Madam President, I rise in regretful opposition, quite frankly, to having to vote to deny cloture for a judicial nominee. I also was in the Gang of 14, and the whole effort was to make sure the Senate follows constitutional and historical norms; that is, giving great deference to Presidential elections when it comes to the judiciary.

So to my conservative colleagues, the best way to make sure you have conservative judges is to win elections. Because if we start blocking all the judges whom we do not like, who have a different view of the law than we, our friends on the other side will return the favor and you wind up having a chaotic situation.

There is a reason Justice Ginsburg got 90-something votes and Justice Scalia got 90-something votes. It used to be the way you did business around here. When a President won an election, they were able to pick qualified nominees for the court. Unless you had a darn good reason, they went forward. I think that should be the standard.

To me, I do give a lot of deference. It is not one speech. It is not an article. Justice Sotomayor, whom I voted for, had made a famous speech that she thought the experiences of a Latino woman maybe were more valuable to the court than that of a White male, and people got up in arms about that. It bothered me. She explained herself. I look at the way she lived her life, and I understood, based on the way she lived her life, that she was a fair person who did not represent bigotry on her part toward White males.

We all make statements and write articles and get in debates and I am not going to use that as a reason to disqualify somebody from sitting on the judiciary. I would not want that done to our nominees, and I do not intend to do it to the other side.

But here is what Mr. Liu did that, to me, is a bridge too far. When a conservative wins the White House, you expect people such as Chief Justice Roberts and Justices Alito and Scalia. When a liberal wins, you expect people such as Justices Ginsburg and Elena Kagan and Sotomayor. That is the way it works. All of them are well qualified; they just have a different approach to the law. But there are a lot of 9-to-0 decisions.

The one thing that drives my thinking is, Mr. Liu chose—not in an article he wrote as a young man, not in some debate that got carried away but to appear before the Judiciary Committee and basically say Judge Alito's philosophy would create:

> . . . an America where police may shoot and kill an unarmed boy to stop him from running away with a stolen purse—

That line probably comes from some case Judge Alito was involved in—

> where federal agents may point guns at ordinary citizens during a raid, even after no sign of resistance; where the FBI may install a camera where you sleep on the promise that they won't turn it on unless an informant is in the room; where a black man may be sentenced to death by an all-white jury for killing a white man, absent a multiple regression analysis showing discrimination. . . .

These statements about Judge Alito and the decisions he has rendered and his philosophy are designed to basically say that people who have the philosophy of Judge Alito are uncaring, hateful, and should be despised. That is a bridge too far. Because I share Judge Alito's philosophy, we may come out at a different result on a particular case, but I do not think I fall in the category of being hateful, uncaring, and someone you should despise.

These statements given to the Judiciary Committee were designed to inflame passion against Judge Alito based on his analysis of cases before him during his judicial tenure.

If that is not enough, Chief Justice Roberts' record, according to Mr. Liu, suggests he has a vision for American law—a ''right-wing vision antagonistic to important rights and protections we currently enjoy.''

It is one thing to debate your opponent. It is another thing to have strong opinions. But this is not an accidental statement. This was calculated, delivered at a time where it would do maximum damage.

All I am saying to future nominees: I expect President Obama to nominate people of a liberal judicial philosophy. I do not deny you access to the court because you may have said something in an article I do not like, you may have represented a client with whom I disagree. But the one thing I will not tolerate is for a conservative or a liberal person seeking a judgeship to basically impugn the character of the other way of thinking.

These words are not that of a passionate advocate who may have went too far, according to Senator LIEBERMAN, in my view. These words were designed to destroy, and they ring of an ideologue. He should be running for office, not sitting on the court. There is a place for people who think this way about conservative judicial philosophy: Run for President. Run for the Senate. Do not sit on the court. Because the court has to be a place where you accept differences, you hash it out, you render verdicts. Based on the way he views Justice Alito and Chief Justice Roberts and his disdain for their philosophy, I do not believe he could give someone such as me a fair shake.

So at the end of the day, I ask one thing of my Democratic colleagues. I will try my best to make sure the Senate stays on track and that we do not get on the road of filibustering judges haphazardly based on the fact they are somebody we do not agree with. I have tried my best not to go down that road because I think it will destroy the judiciary and disrupt the Senate.

If you are a conservative in the future wanting to be a judge and you come before our committee, when a liberal nominee is before the committee, and you question their patriotism and you suggest they are hateful people who should be despised for their philosophy, then I will render the same verdict against you.

We want people on the court who are well rounded, who are qualified, who understand America is a big place, not a small place. In Mr. Liu's world I think he has a very small view of the law. Those on the other side who think differently should be engaged intellectually or challenged through academic debate. He has tried to basically rip their character apart, and he will not get my vote. A conservative who feels the same way about liberal philosophy would not get my vote either.

I am looking for the model of Miguel Estrada, who was poorly treated, who wrote a letter on behalf of Elena Kagan, saying: She was my law school classmate. We don't agree on much when it comes to the law, but she is a wonderful person, well qualified, and deserves to be on the bench.

That is the way conservatives and liberals should engage each other, in my view, when it comes to the judicial nomination process.

This was a bridge too far for LINDSEY GRAHAM.

I yield the floor.

Mr. MCCAIN. Madam President, as a member of the Gang of 14 in 2005, I agreed that ''Nominees should be filibustered only under extraordinary circumstances.'' The nomination of Mr. Liu rises to a level of ''extraordinary circumstances'' due to his clear belief that judges have vast powers to shape and even rewrite the law—a contention I deeply oppose as an elected representative of the people who believes it is the duty of the Congress to shape and write the laws and not that of the judiciary.

With no litigation or judicial experience to examine, the Senate can only consider Mr. Liu's academic writings and public comments. These writings and his testimony before the Senate Judiciary Committee show Mr. Liu believes that the Constitution is a living, breathing document that must change to accommodate new progressive ideas. Specifically, Mr. Liu has said, ''The Framers deliberately chose broad words so they would be adaptable over time.''

Additionally, in a November 2008 article published in the Stanford Law Review, Mr. Liu wrote,

The problem for courts is to determine, at the moment of decision, whether our collective values on a given issue have converged to a degree that they can be persuasively crystallized and credibly absorbed into legal doctrine. This difficult task requires keen attention to the trajectory of social norms reflected in public policies, institutions, and practices, as well as predictive judgment as to how a judicial decision may help forge or frustrate a social consensus.

Mr. Liu's remarks show that he does not subscribe to the philosophy that Federal judges should respect the limited nature of judicial power under our Constitution. Judges who stray beyond their constitutional role believe that judges somehow have a greater insight into the meaning of the broad principles of our Constitution than representatives who are elected by the people. These activist judges assume that the judiciary is a superlegislature of moral philosophers.

Despite this difference in judicial philosophy, I believe Mr. Liu has had a remarkable career in academics and has an inspiring life story as the child of immigrants from Taiwan. However, an excellent resume and an inspiring life story are not enough to qualify one for a lifetime of service on the Federal bench. Those who suggest otherwise need only to be reminded of Miguel Estrada who was filibustered by the Democrats seven times because many Democrats disagreed with Mr. Estrada's judicial philosophy. This was the first filibuster ever to be successfully used against a court of appeals nominee.

I supported Mr. Estrada's nomination to the DC Circuit Court of Appeals, not because of his inspiring life story or impeccable qualifications, but because his judicial philosophy was one of restraint. He was explicit in his writings and responses to the Senate Judiciary Committee that he would not seek to legislate from the bench.

Judicial activism demonstrates a lack of respect for the popular will that is at fundamental odds with our republican system of government. And, as I stated earlier, regardless of one's success in academics and in government service, an individual who does not appreciate the commonsense limitations on judicial power in our democratic system of government ultimately lacks a key qualification for a lifetime appointment to the Federal bench. For this reason, and no other, I am unable to support Mr. Liu's nomination.

Shaping the judiciary through the appointment power is one of the most important and solemn responsibilities a President has and certainly one that has a profound and lasting impact. The President is entitled to nominate those whom he sees fit to serve on the Federal bench, and unless the nominee rises to ''extraordinary circumstances,'' I have provided my constitutional duty of ''consent'' for most nominees.

I regret I am unable to do so for Mr. Liu, but I believe his inability to respect the limited nature of the judicial power under our Constitution should preclude him from a lifetime appointment to the Ninth Circuit Court of Appeals.

Mr. WHITEHOUSE. Madam President, I rise today to urge my colleagues to support Professor Goodwin Liu's nomination to the U.S. Court of Appeals for the Ninth Circuit.

Professor Liu is abundantly qualified to serve on the bench. He has a sharp legal mind, is a careful and rigorous thinker, and understands the proper limited role of a judge. He has shown a commitment to public service throughout his career and his remarkable success reflects well on the great opportunities our country offers and the qualities of Mr. Liu and his family. If confirmed, he would be a credit to the Ninth Circuit and to his home State of California.

People who know Professor Liu, Republican and Democrat alike, think very highly of him and have commended him for his intellect, integrity, and temperament.

Among many other Republicans and conservatives, Professor Liu can count as supporters former Whitewater prosecutor Ken Starr, former Republican Congressman Bob Barr, and Clint Bolick, the litigation director of the Goldwater Institute. Former Republican Congressman Tom Campbell has said that Liu ''will bring scholarly distinction and a strong reputation for integrity, fair-mindedness, and collegiality to the Ninth Circuit.'' Susan A. McCaw, who was an ambassador in George W. Bush's administration wrote that ''Goodwin's strengths are exactly what [she] expect[s] in a judge: objectivity, independence, collegiality, respect for differing views, [and] sound judgment,'' and noted that he ''possesses these qualities on top of the brilliant legal acumen that is well-established by his record and the judgment of those most familiar with his scholarly work.''

Furthermore, Professor Liu has the support of leading law enforcement groups and prosecutors, as well as business groups, and the endorsements of the New York Times, the Washington Post, the Los Angeles Times, the San Francisco Chronicle, and the Sacramento Bee. He has also been deemed unanimously well qualified by the American Bar Association.

These recommendations are part of an ample record on which the Senate can base its decision. Professor Liu's voluminous writings and unprecedented thoroughness in responding to questions from the Judiciary Committee give us great insight into his temperament and approach to the difficult questions of constitutional law.

This record reveals a genuine thoughtfulness and intellectual rigor. This has made Professor Liu one of the leading legal academics of his generation. As Professor Liu himself has said, the scholar's role is ''to question the boundaries of the law [and] to raise new theories.'' Professor Liu also clearly understands that the scholar's role is different from the role of a judge, explaining that it is the function of a scholar ''to be provocative in ways that it's simply not the role of a judge to be.'' He further elaborated that he would leave his personal views behind if taking the bench: ''What is not transferable [from the position of scholar to the position of judge] . . . are the substantive views that one might take as a matter of legal theory. Those are left at the door. When one becomes a judge, one applies the law as it is to the facts of every case.''

I would remind my Republican colleagues that they have been ready in the past to credit academics with the ability to put aside their scholarly views when they take the bench. True, this was for nominations made by a Republican President, but there is no reason why the rules should be different for President Obama. Consider the nomination of Judge Michael McConnell, for example. He was confirmed to the Tenth Circuit in 2002 by a unanimous vote on the Senate floor, despite having, as a scholar, vigorously criticized Roe v. Wade as ''illegitimate'' and wrongly decided, and having made sundry other criticisms of Supreme Court precedent. The Senate took him at his word that he would follow the law rather than his personal beliefs. A proper recognition of Professor Liu's strong character, integrity, and commitment to the rule of law should lead us to the same conclusion today.

In short, it is time to confirm this highly qualified nominee and I urge all my colleagues to support his nomination.

Mr. KYL. Madam President, it is with great reluctance that I vote against cloture on any nominee, including Professor Goodwin Liu. It is my general view that every nominee deserves an up or down vote.

Ever since the tradition was established that filibusters would be avoided, except in ''extraordinary'' circumstances, I have tried to apply that standard in an objective way.

This is one such occasion when I cannot vote for cloture on the nominee. I believe extraordinary circumstances exist. I have serious concerns as to whether Professor Liu could lay aside his ideas and ideologies and approach cases from a purely objective, unbiased point of view. It is very clear he would violate one of the first principles of judicial character, which is to approach each case without prejudice.

I will highlight some specific examples to illustrate my concerns.

First, is Professor's Liu's views on the use of foreign law in U.S. courts. He stated:

[T]he use of foreign authority in American constitutional law is a judicial practice that has been very controversial in recent years. . . . The resistance to this practice is difficult for me to grasp, since the United

States can hardly claim to have a monopoly on wise solutions to common legal problems faced by constitutional democracies around the world.

Of course, judges should never task themselves with finding ''wise solutions'' from ''foreign authorities,'' instead of interpreting U.S. law. And Americans shouldn't have to walk into a courtroom not knowing under which nation's law they will be judged!

Second, is Professor Liu's troubling view of constitutional ''welfare rights.'' Professor Liu wrote that courts should interpret ''welfare rights,'' such as education, shelter, subsistence, and health care (and the funding for each) as constitutional rights.

Of course, no such welfare rights exist in our Constitution, and it is inappropriate for the courts to attempt to invent new rights or revise the Constitution to advance an ideological or political position.

Third, Professor Liu wrote that he believes the Constitution is a ''living document,'' ''indeterminate,'' and subject to ''socially situated modes of reasoning.'' Moreover, Professor Liu believes that judges should look to ''our collective values,'' ''evolving norms,'' and ''social understandings'' in interpreting the Constitution.

Again, the Constitution is not subject to new definitions and interpretations. These views may be appropriate in the confines of liberal academia, but they have no place in a U.S. courtroom.

In addition to his controversial views on judging and the Constitution, I have an additional set of concerns, as well. Those concerns relate to Professor Liu's charges against Supreme Court Justices Roberts and Alito. Before his own nomination to the bench, Professor Liu led the opposition to their nominations to the High Court. His descriptions of their qualifications show very poor judgment.

For instance, Professor Liu spoke very disparagingly of Justice Roberts stating:

> [b]efore becoming a judge, he belonged to the Republican National Lawyers Association and the National Legal Center for the Public Interest, whose mission is to promote (among other things) 'free enterprise,' 'private ownership of property,' and 'limited government.' These are code words for an ideological agenda hostile to environmental, workplace, and consumer protections.

Professor Liu also wrote that regardless of Chief Justice Roberts's qualifications, ''a Supreme Court nominee must be evaluated on more than legal intellect.''

So, in other words, Professor Liu believes that a good judge must possess more than intellect and allegiance to the law.

Professor Liu also made some inappropriate comments when testifying against Justice Alito's nomination, stating:

> Judge Alito's record envisions an America where police may shoot and kill an unarmed boy to stop him from running away with a stolen purse; where federal agents may point guns at ordinary citizens during a raid, even after no sign of resistance . . . where a black man may be sentenced to death by an all-white jury for killing a white man . . . and where police may search what a warrant permits, and then some.

He also criticized Justice Alito because ''[h]e approaches law in a formalistic, mechanical way abstracted from human experience.''

Again, these comments are inappropriate and demonstrate that Professor Liu does not possess the requisite standards for impartial judging.

In conclusion, I do not vote against Professor Liu lightly. But the President has nominated someone who does not possess the requisite impartiality for judging. I am firmly convinced that, rather than apply the law, Professor Liu would apply his own preconceived notions and standards to advance his liberal views. Therefore I oppose his nomination.

Mr. AKAKA. Madam President, today I rise to speak in support of Goodwin Liu to be a Federal judge on the U.S. Court of Appeals for the Ninth Circuit.

I am confident that Professor Liu, as a nationally recognized expert on constitutional law, is highly qualified for this prestigious position. His understanding of the role of a circuit judge—to follow the instructions and precedents set by the Supreme Court—will allow him to remain a neutral mediator. This judicial philosophy will be the basis for his restrained actions, and will be balanced by his experiences as a professor and in the public and private sectors. Professor Liu's background speaks volumes about his qualifications and his strong work ethic.

Goodwin Liu, the son of immigrant parents from Taiwan, is a graduate of Stanford University. He was elected co-president of the student body and graduated Phi Beta Kappa. He was also awarded the Lloyd W. Dinkelspiel Award, the university's highest honor for outstanding service to undergraduate education.

After, Stanford, Goodwin Liu attended Oxford University on a Rhodes Scholarship and earned a master's degree in philosophy and physiology. He continued his education at Yale Law School, where he was an editor of the Yale Law Journal and won the prize for best team argument in the law school moot court competition. His academic accomplishments earned him clerkships with Judge David S. Tatel on the U.S. Court of Appeals for the DC Circuit and Justice Ruth Bader Ginsburg on the U.S. Supreme Court.

Between these prestigious clerkships, Goodwin Liu served as a special assistant to the Deputy Secretary at the U.S. Department of Education. In that capacity, he advised the Secretary and Deputy Secretary on a range of legal and policy issues, including the development of guidelines to help turn around low-performing schools. He also spent 2 years as a senior program officer for higher education at the Corporation for National Service, AmeriCorps, leading the agency's effort to build community service programs at colleges and universities nationwide.

Goodwin Liu also worked in the private sector for a prominent Washington law firm and maintained an active pro bono practice. In 2003, he returned to California to join the faculty of Boalt Hall, one of the Nation's top law schools, where he established himself as an outstanding scholar and teacher. A few years later, Goodwin's work on ''Education, Equality, and National Citizenship'' won him the Educational Law Association's Steven S. Goldberg Award for Distinguished Scholarship. He quickly earned tenure and was elected to the American Law Institute. In 2009, after being promoted to associate dean, he received Berkeley's most prestigious teaching award, the UC Berkeley Distinguished Teaching Award for excellence in teaching.

Goodwin Liu is an exceptionally qualified nominee and a shining example of the American dream. I have long been impressed by his academic and career achievements, and after meeting with him yesterday I am thoroughly convinced that he will be an outstanding judge for the Ninth Circuit, which encompasses Hawaii and includes over 40 percent of our Nation's Asian-American and Pacific Islander population. Goodwin Liu was given the American Bar Association's highest rating of ''Unanimously Well Qualified'' based on his integrity, professional competence, and judicial temperament. He is highly qualified, intelligent, and he will help the court better reflect the broad population it serves.

He has strong support in the Senate and he deserves an up-or-down vote.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I would like to inquire how much time we have on our side.

The PRESIDING OFFICER. Three minutes forty-five seconds.

Mr. GRASSLEY. Mr. President, I have a few closing remarks regarding the nomination of Goodwin Liu. Yesterday, I outlined my objections to this nominee in some detail. As I stated, my objections to this nominee can be summarized with five areas of concern: his controversial writings and speeches; an activist judicial philosophy; his lack of judicial temperament; his troublesome testimony and lack of candor before the committee, and his limited experience.

I hope the President will withdraw this nomination and send to the Senate a consensus nominee to fill this vacancy. We have demonstrated over and over again our cooperation in moving forward on consensus nominations. The President needs to nominate mainstream individuals, who understand the proper role of a judge.

Nominees who would bring a personal agenda or political ideology to the courtroom will have great difficulty in being confirmed.

Yesterday, a few Senators met with Mr. Liu. After that meeting, one of my colleagues from the other side of the aisle made the following statement, ''The court of appeals is where law is made, and we need the finest minds in the world for that.'' I am troubled by that statement on more than one level.

First, intellect is an important element I consider in the confirmation process. Mr. Liu does have an outstanding academic record. His intellect is not the issue. The nominee himself noted there was more to being a judge than intellect. He stated, with regards to the nomination of Chief Justice Roberts, ''[t]here's no doubt Roberts has a brilliant legal mind. . . . But a Supreme Court nominee must be evaluated on more than legal intellect.''

He then voiced concerns that ''with remarkable consistency throughout his career, Roberts ha[d] applied his legal talent to further the cause of the far right.'' Mr. Liu went on, demonstrating a lack of judicial temperament, to disparage Justice Robert's views on free enterprise, private property and limited government. In my statement yesterday I made my views very clear on how I feel about Mr. Liu's remarks, so there is no reason to repeat that.

The point is, intellect is only one component. Using Mr. Liu's standards, a nominee ''must be evaluated on more than legal intellect.'' Mr. Liu does have a fine intellect, but he has used his talent to consistently promote views that are far out of the mainstream. Shortly after President Obama was elected, he said, ''Now we have the opportunity to actually get our ideas and the progressive vision of the Constitution and of law and policy into practice.'' I do not intend to give Mr. Liu that opportunity.

The second problem I have with the statement is the assertion that ''The court of appeals is where law is made.'' We have heard this view before. While serving as a circuit judge, Sonia Sotomayor stated that the court of appeals ''is where policy is made.''

Now I understand there are elements of our society who wish this were the case. Those who can not get their policy views enacted through the legislative process, as our Constitution requires, often turn to the courts. But I flatly reject this notion.

The Constitution vests the legislative power in the Congress, not the courts. Judges are simply not policymakers. The court of appeals is not where law is made. The courts are vested with the judicial power. That means they are to decide cases and controversies. They are to apply the law, not make the law.

Unfortunately, this philosophical disagreement occasionally finds its way into the debates on nominations. But let me remind the Senate where this started. Going back to the nomination of William Rehnquist in 1971, Democrats have used or attempted to use the filibuster to delay or defeat judicial nominees. Fortunately, it is a rare occasion. There have been a total of 46 cloture votes, including this one, on 32 different judicial nominations in American history. Of the 32 judicial nominees subject to cloture votes, 22 were against Republican nominated judges. Between 1971 and 2000, there were 11 cloture votes on judicial nominees. Most of those filibusters, attempted by Democrats, were unsuccessful and cloture was invoked.

However, beginning in 2002, Senate Democrats changed the rules. There were 30 cloture votes on 17 of President Bush's judicial nominees. Eight of President Bush's nominees are not on the bench because of the filibuster or threatened filibuster by Senate Democrats.

This does not include a number of Bush's nominees that were subjected to the so-called ''pocket filibuster'' in Committee by the Democratic majority in the 110th Congress, including Peter Keisler to the DC Circuit and Robert Conrad to the 4th Circuit, among others.

We hear about the notion of ''extraordinary circumstances'' as a justification or requirement for extended debate. That was an outcome of an agreement in the 109th Congress. However, even after that time, Senate Democrats have used a broad and inconsistent application of that term. Even after that agreement, Senate Democrats attempted to filibuster judicial nominees. However, they do not seem to find it applicable to the nominee before us today. I disagree. The nomination of Goodwin Liu does raise extraordinary circumstances, as I outlined in depth yesterday.

I have no personal animosity towards Mr. Liu. I recognize he has a fascinating personal story and has accomplished much. This debate is not about his ethnic background or personal history.

I wish Mr. Liu well in his academic career. But a lifetime position on the Federal bench is not where he belongs. Therefore, I will vote no on the cloture motion and urge my colleagues to do the same.

I ask unanimous consent to have printed in the RECORD documents in opposition to the nomination.

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

[From nationalreview.com, Mar. 3, 2011]

MIGUEL ESTRADA ON GOODWIN LIU'S CONTEMPTIBLE MUD-FLINGING

(By Ed Whelan)

More on Richard Painter's insipid argument (see point 2 here) that Goodwin Liu's attacks on the nominations of Chief Justice Roberts and Justice Alito shouldn't be held against him:

Former D.C. Circuit nominee Miguel Estrada, whose unsuccessful nomination Richard Painter despicably tried to invoke in support of his shoddy Huffington Post defense of Liu, strongly disagrees with Painter. In an e-mail to me, Estrada writes (emphasis added):

No one doubts that Senators from both parties have behaved shamefully toward nominees of the other party. The treatment of then-Judge Alito by Democratic members of the Judiciary Committee is not yet all that far in the rear-view mirror, and some of President Obama's nominees have waited far too long. There is much to be said, therefore, for the proposition that the degradation of the judicial confirmation process is a problem that cries out for a long-term solution. The one thing that ought to be reasonably clear, however, is that someone who personally contributed to the sorry state of the confirmation process, by jumping in the mud pit with both feet and flinging the mud with both hands, is not well positioned to demand that standards be elevated solely for his benefit. Surely Mr. Painter can find a better case than this to dramatize the need for reform.

[From nationalreview.com, Mar. 2, 2011]

RICHARD PAINTER'S DECEPTIVE PORTRAYAL OF GOODWIN LIU—PART 1

(By Ed Whelan)

On Huffington Post, law professor (and former Bush White House ethics adviser) Richard Painter offers an extensive, but badly flawed, defense of Goodwin Liu that falsely accuses me of ''invent[ing] a series of myths about Liu with no basis in reality.'' The opening part of Painter's essay consists of regurgitating ill-informed or utterly conclusory endorsements of Liu from various folks, including some conservative who ought to know better. See, for example, my critique of the letter that Ken Starr submitted (jointly with Akhil Amar).

Given that Liu's hearing starts soon, I'm going to race through Painter's supposed myths in this post and the next (in the same order as he lists them):

1. According to Painter, I have propagated the ''myth'' that ''Liu believes judges 'may legitimately invent constitutional rights to a broad range of social ''welfare'' goods, including education, shelter, subsistence, and health care.' '' My actual quote states that Liu argues in a law-review article that ''judges (usually in an 'interstitial' role) may legitimately invent constitutional rights to a broad range of social 'welfare' goods, including education, shelter, subsistence, and health care.'' It's telling that Painter has to excise the italicized parenthetical in order to falsely accuse me of misstating Liu's views. Nor does he address (much less take issue with) my detailed posts on the matter.

2. According to Painter, it is a ''myth'' that Liu ''believes in a 'freewheeling constitutional approach' that allows people 'to redefine the Constitution to mean whatever they want it to mean.' '' Painter cherry-picks the most innocent-sounding of Liu's statements and ignores the controversial ones. (See, for example, the material in this post of mine.).

3. According to Painter, it is a ''myth'' that Liu ''is a supporter of racial quotas in the schools, and he supports school choice only insofar as it furthers that goal.'' That is no myth, as I have documented. Painter doesn't even address my arguments.

4. According to Painter, it is a myth that Liu ''supports racial quotas forever.'' Painter doesn't address my argument, and he hides behind a ridiculously narrow definition of quotas.

5. According to Painter, it is a ''myth'' that Liu supports ''reparations for slavery'' and a ''grandiose reparations project.'' Painter pretends to provide a full account of Liu's discussion of ''solutions for racial equality'' but somehow completely omits the remarks of Liu's that I've highlighted, including:

Then there's a further issue, which is that maybe there are white families who were not

involved as directly or even indirectly with the slave trade, but who still benefited from it. And then there is the whole question, which you put on the table, about people who came to America after, and, you know, like my family. And why is it that this movie speaks to me so deeply yet?

And so, what I would do, I think I would draw a distinction between a concept of guilt, which locates accountability in a sort of limited set of wrong-doers, and, on the other hand, a concept of responsibility, which is, I think, a more broad suggestion that all of us, whateverour lineage, whatever our ancestry, whatever our complicity, still have a moral duty to . . . make things right. And that's a moral duty that's incumbent upon everybody who inherits this nation, regardless of whatever the history is.

And I think, to add one more point on top of that, the exercise of that responsibility . . . necessarily requires the answer to the question, ''What are we willing to give up to make things right?'' Because it's gonna require us to give up something, whether it is the seat at Harvard, the seat at Princeton. Or is it gonna require us to give up our segregated neighborhoods, our segregated schools? is it gonna require us to give up our money?

Its gonna require giving up something, and so until we can have that further conversation of what it is we're willing to give up, I agree that the reconciliation can't fully occur.

[From nationalreview.com, Mar. 2, 2011]

RICHARD PAINTER'S DECEPTIVE PORTRAYAL OF GOODWIN LIU—PART 2

(By Ed Whelan)

I'll continue with Painter's last three supposed ''myths'' and then offer some broader comments on Painter's defense of Liu:

6. Painter says it's a ''myth'' that Liu supports ''direct judicial imposition of interdistrict racial-balancing orders'' in public schools. Painter tries to give his readers the impression that Liu accepts Milliken v. Bradley as settled law. But he somehow doesn't disclose that Liu (in remarks that he failed to disclose to the Senate Judiciary Committee) called for Milliken to ''be swept into the dustbin of history.''

7. Painter says it's a ''myth'' that Liu supports ''using foreign law to redefine the Constitution.'' Painter relies entirely on Liu's self-serving confirmation testimony and clips a passage to omit the fact that Liu wrote in 2006 that it ''is difficult for [him] to grasp'' how anyone could resist the ''use of foreign authority in American constitutional law.''

8. Painter says it's a ''myth'' that Liu supports ''the invention of a federal constitutional right to same-sex marriage.'' I addressed this matter in detail just yesterday and fully stand by my account. (Painter falsely attributes to me the claim that Liu's amicus brief in the California supreme court was ''truly an argument under the U.S. Constitution.'')

I'll briefly add some closing comments:

If Painter were really interested in a real debate on Liu, he wouldn't have waited until the day of the hearing to launch his shoddy attack on me. He could have done so at any time over the last eight months. Instead, he's tried to gain some tactical advantage by depriving me of a fair opportunity to respond. (I've had to write these responsive posts within the space of two hours or so of discovering Painter's essay, and I'm sure that there's much that I would say better, or more fully, if I had time.)

Painter claims to have ''reached the conclusion that Liu deserves an up-or-down vote in the Senate and ought to be confirmed'' only after ''reading Liu's writings [and] watching his testimony?'' But the fact of the matter is that Painter, evidently suffering a severe case of battered-conservative-academic syndrome, raced onto the Liu bandwagon without having any understanding of what was at issue, and (both now and in a previous op-ed) he has resolutely ignored or distorted the many highly problematic aspects of Liu's record.

[From nationalreview.com, Mar. 3, 2011]

RICHARD PAINTER'S DECEPTIVE PORTRAYAL OF GOODWIN LIU—PART 3

(By Ed Whelan)

I'll limit myself to a couple of additional observations (beyond my Part I and Part 2 posts) on Richard. Painter's deeply defective Huffington Post defense of Goodwin Liu:

1. In addition to failing to confront my actual arguments, Painter relies heavily on the argument-by-authority fallacy. As he puts it:

''Now, you can believe the top experts in the areas of Liu's scholarship and prominent conservatives such as Ken Starr and Clint Bolick—or you can believe National Review Online's Ed Whelan. I know where I would put my marbles.''

Set aside that Painter, having evidently lost his marbles, would have to find them first before he could put them anywhere. Painter leaves the false impression that folks like Starr and Bolick have actually responded to my critiques of Liu and of their misunderstandings of his record. So far as I'm aware, they haven't.

(It's also amusing that Painter can't even be evenhanded in his mistaken argument by authority. While he invokes various credentials of Liu supporters, he identifies me only as ''National Review Online's Ed Whelan.'')

2. Towards the end of his piece, Painter tries to dismiss the relevance of Liu's demagogic and irresponsible arguments against the confirmations of Chief Justice Roberts and Justice Alito. According to Painter, ''[i]t is critically important . . . that people feel free to speak their minds about Supreme Court and other judicial nominations without fear of retribution.'' But as I explained ten months ago when Painter made the same bad argument, Painter completely misses the point: The shoddy quality of Liu's opposition to Roberts and Alito reflects very poorly on him. There is no reason to encourage cheap attacks like Liu's by not holding him accountable.

[From nationalreview.com, Mar. 3, 2011]

PAINTER SHOULDN'T DISTORT WHELAN'S ARGUMENTS

(By John Yoo)

I've seen Richard Painter's post criticizing Ed Whelan for his posts on the nomination of Goodwin Liu. Painter accurately reports that I've said that Liu (a colleague of mine at Berkeley Law) is a good nominee to the Ninth Circuit for a Democratic president. However, I don't want that to be thought of as endorsing, in any way, what Painter says about Ed's writings on Liu.

What bothers me about Painter's post is that he accuses Ed of distorting Liu's record, but I believe that that's what he has done to Ed. He should provide in full or link to Ed's criticisms of Liu and let the reader decide, rather than describing (or misdescribing) and dismissing Ed's posts in a short sentence or two. I don't think the Painter post is fair on this point. To me, such posts actually may hurt Liu if it appears that his supporters are not fully engaging his critics and their best arguments.

[From nationalreview.com, Mar. 10, 2011]

CLINT BOLICK: RICHARD PAINTER IS ''OFF-BASE''

(By Ed Whelan)

A follow-up to my refutation (Part 1, Part 2, and Part 3) of Richard Painter's smears against me in his deeply defective Huffington Post defense of Ninth Circuit nominee Goodwin Liu:

Clint Bolick, whose support for Liu Painter cites repeatedly, has invited me to publish this statement of his:

Although Ed Whelan and I have taken different positions on the judicial nomination of Prof. Goodwin Liu, I believe that Richard Painter has mischaracterized a number of Ed Whelan's arguments as ''myths.'' In particular, Painter's assertions are off the mark regarding Whelan's criticisms of Liu on the creation of welfare rights, reparations, racial balancing, and the use of foreign law. Obviously, opinions vary regarding the merits of the nomination, but Painter is off-base on several crucial assertions.

Given our bottom-line differences on the Liu nomination, I am particularly grateful to Clint Bolick, as I also am to John Yoo, for standing up against Painter's smears. It's striking that two of the very small number of conservatives that Painter relies on for their support of Liu have repudiated Painter (versus zero, so far as I'm aware, who have endorsed his smears). Further, another conservative, Miguel Estrada, whose own nomination battle Painter tried to use in support of Liu, has emphatically condemned Liu's mudslinging against the Roberts and Alito nominations.

At this point, it should be clear that it would be reckless at best for anyone to accept Painter's propositions at face value. I am not arguing that the reader must accept my word on Painter (or Bolick's or Yoo's) or on Liu. Rather, the interested reader should carefully examine the competing accounts (both on the matters that Bolick identifies above and on those he doesn't address) and determine who has argued responsibly and effectively and who hasn't. I am confident of the judgment that the intelligent and fair-minded reader will reach.

CONFUSED AMAR/STARR LETTER IN SUPPORT OF GOODWIN LIU

(By Ed Whelan)

Law professors Akhil Reed Amar and Kenneth W. Starr have sent the Senate Judiciary Committee a badly confused letter in support of Goodwin Liu's nomination to the Ninth Circuit. The core of their letter is dedicated to the proposition that Liu has ''independence and openness to diverse viewpoints as well as [the] ability to follow the facts and the law to their logical conclusion, whatever its political valence may be'' (or, as they later put it, the ''ability to discharge faithfully an abiding duty to follow the law'').

Amar and Starr offer two examples in purported support of their proposition, but neither helps. First, they cite Liu's limited support of school-choice programs. As I've explained, Liu supports school-choice programs only insofar as they advance racial quotas. Once one understands that (and there's no indication that Amar and Starr do), it's difficult to see how Liu's position on school choice evidences his ''independence and openness to diverse viewpoints,'' and his position certainly has no relation to his supposed ''ability to follow the facts and the law to their logical conclusion.''

Second, Amar and Starr cite Liu's correct prediction that the California supreme court would uphold Proposition 8 ''under applicable precedents'' (their phrase). They assert

that his correct prediction shows that Liu ''knows the difference between what the law is and what he might wish it to be.'' But this is a glaring non sequitur. Liu wasn't stating how he would rule; he was predicting how the California supreme court would. Moreover, in an op-ed, Liu stated that the challenge to Proposition 8 was a ''good argument, but one that faces difficult precedents,'' and he argued that ''there are good reasons for the California Supreme Court to rethink its jurisprudence in this area.'' So much for his ''know[ing] the difference between what the law is and what he might wish it to be.''

Amar's and Starr's assertion of Liu's ''ability to follow the facts and the law to their logical conclusion'' is also curious, as it's not really his ''ability'' that anyone has questioned. It's his willingness and commitment. Further, anyone familiar with Liu's gauzy constitutional theorizing would recognize that the whole concept of following the law doesn't have much substance in his framework. Take, for example:

The problem for courts is to determine, at the moment of decision, whether our collective values on a given issue have converged to a degree that they can be persuasively crystallized and credibly absorbed into legal doctrine. This difficult task requires keen attention to the trajectory of social norms reflected in public policies, institutions, and practices, as well as predictive judgment as to how a judicial decision may help forge or frustrate a social consensus.

It is, of course, theoretically possible that someone who advocates a freewheeling judicial role could himself be quite scrupulous in following a whole body of precedent that he detests. But Amar and Starr provide zero reason for anyone to believe that Liu would carry out the judicial role in that manner, and there is nothing in his record to support speculation that he would.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have listened to a lot of the debate about Professor Liu, and having sat in on the hearings with him, having met with him, having gone through the whole record, I sometimes wonder who this is everybody is talking about. It is not the man I heard from, the man who testified under oath and had to speak very candidly, very honestly about his positions. He is a man who is admired by legal thinkers and academic scholars from across the political spectrum.

He has spent his career in public service, private practice, and as a teacher since receiving degrees from Stanford University and Yale Law School. He is a Rhodes scholar. After law school, Professor Liu clerked for DC Circuit Judge David Tatel, and Supreme Court Justice Ruth Bader Ginsburg. No one can question his intellect or his qualifications. He should be treated with respect and admired, not maligned and caricatured. His honest testimony during two hearings before the Judiciary Committee should be credited, rather than ignored.

Professor Liu's parents, wife, children, friends and community are justifiably proud of him and have looked forward to his confirmation to the court of appeals since he was first nominated in February 2010. We saw his beautiful children at each of his two confirmation hearings—indeed, the first was born only weeks before his first hearing and was nearly a year old at his second. The son of Taiwanese immigrants, Professor Liu would bring much-needed diversity to the Federal Bench. There is no Asian Pacific American judge on the Ninth Circuit Court of Appeals, which, of course, includes California and Hawaii and a number of Western States.

If we look at the record, Professor Liu is a nominee with significant support from across the political and ideological spectrum. Among the letters I will have printed in the RECORD is one from Kenneth Starr, the former Solicitor General during President George H. W. Bush's administration. For those who have may have forgotten, he was the independent counsel who investigated President Clinton during the Clinton administration.

He and distinguished Professor Akhil Amar wrote:

[I]t is our privilege to speak to his qualifications and character, and to urge favorable action on his nomination in the discharge of your constitutional duties of advice and consent. In short, Goodwin is a person of great intellect, accomplishment, and integrity, and he is exceptionally well-qualified to serve on the court of appeals. The nation is fortunate that he is willing to leave academia to engage in this important form of public service.

We also heard from Clint Bolick, who is the director of the conservative Goldwater Institute, named after a former colleague of mine, Barry Goldwater. He said:

Having reviewed several of his academic writings, I find Professor Liu to exhibit fresh, independent thinking and intellectual honesty. He clearly possesses the scholarly credentials and experiences to serve with distinction on this important court.

A bipartisan group of eight chief corporate executives who know Professor Liu from his service on the Stanford University Board of Trustees recently wrote to the Senate in support of Professor Liu's nomination:

In short, Goodwin's strengths are exactly what we expect in a judge: objectivity, independence, collegiality, respect for differing views, sound judgment. Goodwin possesses these qualities on top of the brilliant legal acumen that is well-established by his professional record and the judgment of those most familiar with his scholarly work.

I ask unanimous consent that these letters be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1.)

Mr. LEAHY. I could put in the RECORD many more from the broad set of preeminent lawyers, organizations, and leaders in the academic world who support this nomination. Professor Liu's nomination merits our support, not this filibuster.

The Senate should vote on this nomination. In 2005, when the Republican majority threatened to blow up the Senate to ensure up-or-down votes for each of President Bush's judicial nominations, Senator MCCONNELL, then the Republican whip, said:

Any President's judicial nominees should receive careful consideration. But after that debate, they deserve a simple up-or-down vote. . . . It's time to move away from advise and obstruct and get back to advise and consent. The stakes are high . . . . The Constitution of the United States is at stake.

Other Republican Senators made similar statements back then. Many declared that they would never support the filibuster of a judicial nomination. Some have tried to stay true to that vision and principle. That is why the filibuster against Judge Hamilton failed and that against Judge McConnell was ended. This filibuster should also be ended.

Now the Senators, many of whom are still serving on the other side of the aisle, claim to subscribe to a standard that prohibits filibusters of judicial nominees, except in ''extraordinary circumstances.'' None of them have shown there are any extraordinary circumstances here. The President has nominated an outstanding lawyer, supported by his home State Senators and favorably reported by a majority of the Senate Judiciary Committee. This nomination is to fill a vacancy, a judicial emergency, on the Ninth Circuit.

The 14 Senators who signed the Memorandum of Understanding in 2005, the then-Gang of 14, wrote about their ''responsibilities under the Advice and Consent Clause of the United States Constitution'' and that fulfilling their constitutional responsibilities in good faith meant that ''[n]ominees should only be filibustered under extraordinary circumstance.'' Well, let's be responsible. Let's bring it to a vote.

I had hoped 2 weeks ago, when 11 Republican Senators joined in voting to end the filibuster against Judge Jack McConnell of Rhode Island that the Senate was moving away from the narrow partisan attacks of judicial nominations that have slowed us almost from the day President Obama took office. Instead, for the sixth time since President Obama took office just over a couple of years ago, we have had to seek cloture to overcome a Republican filibuster of one of President Obama's well-qualified judicial nominations.

The 14 Senators who signed the Memorandum of Understanding in 2005 wrote about the need for the President to consult with Senators. Well, this President, unlike his predecessor, has been a model in that regard. Unlike President Bush, President Obama actually has consulted with both Republican and Democratic Senators in the home States. And unlike my predecessor, the Republican Chairman of the Judiciary Committee, I have not proceeded with any nominee against the wishes of a home State Senator. So apparently we have one rule if it is a Republican President and a Republican chairman of the committee, but everything changes if we have the nominees of a Democratic President. I protected Republican home State Senators. In return, I would expect Republican Senators to respect the views of other Senators, and to work with the President.

In 2005 they called for a return to our earlier practices and the reduction of rancor in the confirmation process and a return to the traditions of the Senate. I have worked very hard to do just that. I think of the vote on Janice Rogers Brown to the DC Circuit. She was a nominee who had argued that Social Security was unconstitutional, saying that ''[t]oday's senior citizens blithely cannibalize their grandchildren.'' I think most of us disagreed with her on that, but she got an up-or-down vote. They agreed to invoke cloture on the nomination of Priscilla Owen to the DC Circuit. Owen, a nominee whose rulings on the Texas Supreme Court were so extreme, they drew a condemnation of other conservative judges on that court. In fact, President Bush's White House counsel and later Attorney General, called one of her opinions an unconscionable act of judicial activism. But she was a Republican and she got a vote.

By the standard utilized in 2005 to end filibusters and vote on President Bush's controversial nominees, this filibuster should be ended and the Senate should vote on the nomination.

There were no ''extraordinary circumstances'' to justify the Republican filibuster of Judge David Hamilton, President Obama's very first judicial nomination. David Hamilton of Indiana was a 15-year veteran of the Federal bench. President Obama nominated Judge Hamilton in March 2009, after consultation with the most senior and longest-serving Republican in the Senate, Senator DICK LUGAR of Indiana, who then strongly supported the nomination. Rather than welcome the nomination as an attempt by President Obama to step away from the ideological battles of the past, Senate Republicans ignored Senator LUGAR's support, caricatured Judge Hamilton's record and filibustered his nomination. After rejecting that filibuster, Judge Hamilton was confirmed. The majority leader has had to file cloture on four other highly qualified judicial nominations, and now Professor Liu's nomination is the sixth.

No Senator could claim the circumstances surrounding the filibusters of President Obama's other circuit court nominations to be extraordinary. Republicans filibustered the nomination of Judge Barbara Keenan, a nominee with nearly 30 years of judicial experience, and who had been the first woman to hold a number of important judicial roles in Virginia. Once the filibuster was ended, she was ultimately confirmed 99–0 as the first woman from Virginia to serve on the Fourth Circuit.

Senate Republicans filibustered the nomination of Judge Thomas Vanaskie, despite his 16 years of experience as a Federal district court judge in Pennsylvania. That filibuster ended when the Senate agreed to vitiate the cloture, end the filibuster, and proceed to a vote. There were no extraordinary circumstances.

Last year, Senate Republicans filibustered the nomination of Judge Denny Chin, an outstanding judge with 16 years experience. They delayed his Senate consideration for months. There was no reason to do it. Finally, when that filibuster ended, the Senate proceeded to vote and confirm the only active Asian Pacific American judge serving on the Federal appellate court. The only one in all of our courts. This nominee is likewise deserving of a vote and not a partisan filibuster.

Following the recent filibuster of the nomination of Judge Jack McConnell to the district court in Rhode Island, this filibuster is the sixth time the majority leader has had to seek cloture to bring a judicial nomination to a vote.

I will say how it is unusual to have a second hearing on a nomination, at the request of Republican members of the committee. I said at the time that I hoped they would evaluate him fairly with open minds. Any Senator who listened to Professor Liu's answers during hours of questions at two confirmation hearings and considered his responses to hundreds of written followup questions—hundreds—should come away understanding this is an exceptional lawyer and scholar who will make an outstanding judge, a judge who respects the rule of law and reveres the Constitution.

Professor Liu's answers under oath and his reputation as a well-respected constitutional law professor paint a very different picture than the caricature created by the attacks from the special interest groups. Republican Senators did not wait for his hearing before declaring their opposition.

Senator FEINSTEIN noted at Professor Liu's first hearing over a year ago that he has an extraordinary legal mind and is a person of integrity. I agree. No fairminded person can or should question his qualifications, talent, or character. Nobody can doubt his temperament. Through hours and hours and hours of questioning, we saw his judicial temperament. Unlike some of the nominees supported by the other side, he actually answered the questions. He assured the committee time and time again that he understands the role of a judge and the need for a judge to follow the law and adhere to the rule of law. He met every test presented to him by Senators on the Judiciary Committee from either side of the aisle. He exceeds every standard we have used to measure judicial nominees.

Yet in the course of the debate on this nomination we have heard troubling and baseless attacks on Professor Liu's character and integrity. Incredibly, despite this nominee's testimony at two confirmation hearings and his answers to hundreds of written questions, he has been accused of lack of candor. Professor Liu has not been a stealth nominee. In fact, his record as a professor, public servant and advocate has been a remarkably open and public one. Senators have been able to review an unprecedented volume of information provided by this nominee and ask him hundreds of questions about it. He has been available to meet with Senators and many have taken him up on the opportunity. So accusations that Professor Liu has been less than candid are misplaced, and a decision to simply ignore his record, his testimony before the committee, and his assurances under oath that he understands the role of a judge and would follow precedent if confirmed is misguided.

The many letters of strong support we have received from conservatives and Republicans who have reviewed Professor Liu's record and know the nominee show the hollowness of the partisan attacks on Professor Liu's character. In their letter, Ken Starr and Professor Amar describe Professor Liu as, ''a person of great intellect, accomplishment and integrity.'' A bipartisan group of eight CEO's based their support for Professor Liu's nomination on their observation of ''his character and intellect.'' A bipartisan group of 22 leaders in education law, policy and research cited Professor Liu's ''independence and intellectual honesty'' as among the many of his exemplary traits leading them to support his nomination. Senators can in good faith oppose this nomination, though I disagree with them, but the attacks on a fine man's character have no place in this debate.

Nonetheless, each time the Judiciary Committee considered Professor Liu's nomination a total of three times—Republican Senators voted against. When Senators are not willing to give serious and open-minded consideration to nominations it reduces the hearings and committee process to a game of delay and partisan points-scoring. That, too, is wrong.

I urge Senators to reject the special interest pressure groups and to approach this nomination the way I approached a similar nomination of a law professor by President Bush, the nomination of Professor Michael McConnell to the Tenth Circuit. He was a widely regarded law professor. Like Professor Liu, Professor McConnell was nominated to a Federal appeals court without having first served as a judge. He was one of two dozen such nominations confirmed after being nominated by President Bush.

Professor McConnell's own provocative writings included staunch advocacy for reexamining the first amendment free exercise clause and the establishment clause jurisprudence. He had expressed strong opposition to Roe v. Wade and to the clinic access law, and he had testified before Congress that he believed the Violence Against Women Act was unconstitutional. Professor McConnell's writings on the actions of Federal District Court Judge John Sprizzo in acquitting abortion protesters could not be read as anything other than praise for the extralegal behavior of both the defendants and the judge.

Some thought Professor McConnell would turn out to be a conservative activist judge on the Tenth Circuit. I was concerned about his refusal to take responsibility for his harsh criticism of the Supreme Court's decision in the Bob Jones case. But I put faith in Professor McConnell's assurance that he understood the difference between his role as a teacher and an advocate and his future role as a judge. He assured us that he respected the doctrine of stare decisis, and that as a Federal appeals court judge he would be bound to follow Supreme Court precedent. I valued the fact that his home State Senator, Senator HATCH, supported him. The similarity there—except for the philosophy—is exactly the same with McConnell and Liu. McConnell was reported favorably by the Judiciary Committee with my support, and he was confirmed to the Tenth Circuit by the Senate just one day after his nomination was reported. We voted for McConnell. They want to stop Liu.

Numerous conservative legal scholars have praised Professor Liu's understanding of constitutional law, stating that it falls well within the mainstream of American legal thought. Nothing I have read or heard from Professor Liu gives me any reason to doubt his conviction about the critical importance of the rule of law as the guiding principle of judicial decision-making. As a professor he has done what great professors do—challenge our view of the law. But he has left no doubt that as a judge he would do what great judges do in applying the law fairly to each case.

I thank Professor Liu's home State Senators, Senator FEINSTEIN and Senator BOXER, for their staunch advocacy for his nomination. I also thank the many Senators who have come to the floor to speak in support of Professor Liu's nomination, including the majority leader, Senator REID, the assistant majority leader, Senator DURBIN, and Senators BLUMENTHAL, COONS, CARDIN, FRANKEN, and LIEBERMAN.

I hope Senators from both sides of the aisle will join me in ending the filibuster of Professor Liu's nomination. He has demonstrated a command of the law and devotion to it. He has shown that he understands the role of the judge and how it differs from his career as an advocate and an academic.

I hope every Senator will treat Professor Liu with the same fairness that we gave Professor McConnell, and give the same weight to Professor Liu's assurances that we gave to McConnell's identical assurances. Then the Senate will finally be able to consider and confirm this extraordinary nominee.

How much time remains?

The PRESIDING OFFICER. There is 13 minutes 30 seconds remaining.

EXHIBIT 1

MARCH 19, 2010.

Senator PATRICK J. LEAHY,
Chairman,
Senator JEFF SESSIONS,
Ranking Member, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER SESSIONS: As your Committee considers the nomination of Goodwin Liu to serve on the U.S. Court of Appeals for the Ninth Circuit, it is our privilege to speak to his qualifications and character, and to urge favorable action on his nomination in the discharge of your constitutional duties of advice and consent. In short, Goodwin is a person of great intellect, accomplishment, and integrity, and he is exceptionally well-qualified to serve on the court of appeals. The nation is fortunate that he is willing to leave academia to engage in this important form of public service.

The Committee is no doubt familiar with Goodwin's personal story as the son of immigrants from Taiwan and his sterling record of achievements and accolades. We know Goodwin as a fellow teacher and scholar of the law; we have read some of his writings, and we have seen him speak in academic and public settings. What we wish to highlight, beyond his obvious intellect and legal talents, is his independence and openness to diverse viewpoints as well as his ability to follow the facts and the law to their logical conclusion, whatever its political valence may be. These are the qualities we expect in a judge, and Goodwin clearly possesses them.

Two examples help make the point. First, Goodwin (and his co-author Bill Taylor) wrote an article in Fordham Law Review in 2005 defending the use of school vouchers to provide better educational opportunities for children trapped in failing schools. The article provides a careful and candid review of the evidence on how vouchers have worked in practice, and it responds to the critics of vouchers in a direct and forceful way. We are fairly sure that this piece did not win Goodwin any friends in the liberal establishment, but it reflected his sincerely reasoned view about one way to improve the life chances of some of our most disadvantaged children. Goodwin's commitment to this issue brought him to Pepperdine in 2006 for a meeting organized by Clint Bolick, then president of the Alliance for School Choice. Given how far apart he and Clint are on other issues, Goodwin's enthusiastic participation in that meeting demonstrates his willingness to find common ground even with people who have quite different beliefs from his own.

A second example hits closer to home for one of us. In 2008, Goodwin joined an amicus brief by constitutional law professors in support of the plaintiffs who challenged California's marriage laws in the state supreme court. The court ruled for the plaintiffs, but in November 2008 the voters of California effectively reversed that ruling by enacting Proposition 8, a state constitutional amendment that limits marriage to opposite-sex couples. In October 2008, before Proposition 8 passed, Goodwin was called to testify at a joint hearing of the California Assembly and Senate Judiciary Committees on the legal issues raised by Proposition 8. He was asked to testify as a neutral legal expert (indeed, he was the sole witness tapped for that role), and on the core issue that later became the subject of a state constitutional challenge, Goodwin correctly forecasted that Proposition 8 would be upheld by the California Supreme Court under applicable precedents. Again, Goodwin's position, which he also stated in a Los Angeles Times editorial, could not have pleased his friends who sought to invalidate Proposition 8. But, as the example shows, Goodwin knows the difference between what the law is and what he might wish it to be, and he is fully capable and unafraid of discharging the duty to say what the law is.

As his academic colleagues, we would add a further point. Given what we know of Goodwin, it seems no accident that he was asked by his dean (literally before the ink was dry on his tenure review) to assume the role of associate dean. If Berkeley is like other law schools, the duties of that position include planning the curriculum and, importantly, serving as something of a catch-all for faculty requests and complaints. His appointment to that role is additional evidence of his reputation for collegiality, fairness, and good judgment.

In sum, you have before you a judicial nominee with strong intellect, demonstrated independence, and outstanding character. We recognize that commentators on all sides will be drawn to debate the views Goodwin has expressed in his writings and speeches. In the end, however, a judge takes an oath to uphold and defend the Constitution, and in the case of a circuit judge, fidelity to the law entails adherence to Supreme Court precedent and (apart from the en banc process) adherence to circuit precedent as well. Thus, in our view, the traits that should weigh most heavily in the evaluation of an extraordinarily qualified nominee such as Goodwin are professional integrity and the ability to discharge faithfully an abiding duty to follow the law. Because Goodwin possesses those qualities to the highest degree, we are confident that he will serve on the court of appeals not only fairly and competently, but with great distinction. We support and urge his speedy confirmation.

Respectfully submitted,

AKHIL REED AMAR,
Sterling Professor of Law and Political Science, Yale Law School.

KENNETH W. STARR,
Duane and Kelly Roberts Dean and Professor of Law, Pepperdine University School of Law.

GOLDWATER INSTITUTE,
Phoenix, AZ, January 20, 2010.

Re Nomination of Goodwin Liu to Ninth Circuit.

Hon. ORRIN HATCH,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SEN. HATCH: I hope the new year is off to a good start for you.

I understand that the President will send to the Senate the nomination of Goodwin Liu to serve on the U.S. Court of Appeals for the Ninth Circuit. He is associate dean and professor of law at Boalt Hall at the University of California, and a former Rhodes Scholar and clerk to Justice Ruth Bader Ginsburg. Although Prof. Liu and I differ on some issues, I strongly support his nomination.

I have known Prof. Liu for several years, since reading an influential law review article he co-authored with William Taylor of the Citizens' Commission on Civil Rights supporting school choice as a solution to the crisis of inner-city public education. It took a great deal of courage and integrity for Prof. Liu and Mr. Taylor to take such a strong and public position. Subsequently, Prof. Liu participated in a program hosted by the Alliance for School Choice bringing together diverse supporters of expanded educational opportunities.

Having reviewed several of his academic writings, I find Prof. Liu to exhibit fresh, independent thinking and intellectual honesty. He clearly possesses the scholarly credentials and experience to serve with distinction on this important court.

Thank you for considering my comments, and I hope our paths cross soon. With all best wishes.

Very sincerely,

CLINT BOLICK,
Director.

MAY 17, 2011.

Hon. HARRY REID,
U.S. Senator, Hart Senate Office Building, Washington, DC.

Hon. MITCH MCCONNELL,
U.S. Senator, Russell Senate Office Building, Washington, DC.

DEAR SENATOR REID AND SENATOR MCCONNELL: We are a bipartisan group of eight business leaders who write in our personal capacities in support of University of California law professor Goodwin Liu's nomination to the Ninth Circuit Court of Appeals. We know Goodwin from his service on the Stanford University Board of Trustees, and having observed his character and intellect in the intimate setting of a high-level fiduciary board, we have no doubt that he would make a superb federal judge.

The Stanford Board of Trustees is the university's governing body. It is the custodian of the university's endowment and properties, and it sets the annual budget, appoints the president, and determines policies for operation and control of the university. Election to the board involves a rigorous screening process that considers an individual's temperament, collegiality, professional accomplishments, leadership abilities, and judgment, among other qualities. The 32 current trustees include leading venture capitalists, foundation and university presidents, and more than a dozen chairmen or CEOs of major corporations and private equity firms. The board meets five times a year for two days at a time, so board members get to know each other quite well.

Goodwin's election as a trustee is indicative of his professional stature and integrity, as well as his record of public service. Through the careful and confidential scrutiny involved in the board's screening process, Goodwin emerged as a person widely admired for his intellect, fairness, and ability to work well with people of differing views.

On the board, Goodwin has lived up to his reputation. Across a wide range of complex issues, Goodwin routinely asks thoughtful and incisive questions. He is good at thinking independently and zeroing in on important issues that need attention. Even in a room full of highly accomplished leaders, Goodwin is impressive. He is insightful, constructive, and a good listener. Moreover, he possesses a remarkably even temperament; his demeanor is unfailingly respectful and open-minded, never dogmatic or inflexible. Given these qualities, it was no surprise that he was asked to chair the board's Special Committee on Investment Responsibility after serving just one year of his five-year term.

In short, Goodwin's strengths are exactly what we expect in a judge: objectivity, independence, collegiality, respect for differing views, sound judgment. Goodwin possesses these qualities on top of the brilliant legal acumen that is well-established by his professional record and the judgment of those most familiar with his scholarly work.

The confirmation of exceptionally qualified nominees like Goodwin should not be a partisan issue. We believe Goodwin deserves the support of Senators from both parties; at the least, he deserves a timely up-or-down vote. We are pleased to join the diverse range of individuals who endorse Goodwin's nomination and urge his swift confirmation.

Sincerely,

MARIANN BYERWALTER,
Chairman, JDN Corporate Advisory LLC.

STEVEN A. DENNING,
Chairman, General Atlantic LLC.

JOHN A. GUNN,
Chairman, Dodge & Cox.

FRANK D. LEE,
CEO, Dragonfly Sciences, Inc.

HAMID R. MOGHADAM,
Chairman and CEO, AMB Property Corporation.

RUTH PORAT,
Executive Vice President and Chief Financial Officer, Morgan Stanley.

RAM SHRIRAM,
Founding Board Member, Google, Inc.

JERRY YANG,
Co-Founder and Chief Yahoo, Yahoo!, Inc.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The minority leader is recognized.

Mr. MCCONNELL. Mr. President, over the past two years, our Nation has been engaged in a great debate about the kind of country we want America to be—a place of maximum liberty and limited government, or a place where no problem is too big or too small for the government to get involved.

This debate arose because of a President who made no apologies about wanting to move America to the left, and it continues today, despite widespread opposition to the President's policies, because of the President's clear determination to forge ahead.

But just as Rome wasn't built in a day, neither is President Obama's vision assured. Rather, it is a work in progress.

A big part of the President's plan was to put government in charge of our Nation's health care system.

Another part was making sure government calls the shots over private industry and elections—so much so that we are actually having a debate right now about whether businesses need to ask the White House's permission to move to another State, and whether private businesses should be forced to disclose political contributions in order to get a Federal contract.

And still another part of the President's vision involves the people he wants to put on our Nation's courts.

Do we want people who have reverence for the U.S. Constitution and who believe it means what it says or do we want people on our courts who care more about advancing an ideology that is antithetical to the Constitution than they do about upholding it.

This is the question Presidents need to ask themselves when it comes to judicial nominees. And I think this President's preference in this area is clear.

Based on some of the nominations we have seen, President Obama wants men and women on the courts who will advance his vision, who would expand the scope of government beyond anything the founders could have ever imagined.

Yet not until now has the Senate been asked to confirm someone who has so openly and vigorously repudiated the widely accepted meaning and purpose of the Constitution. And here I am referring, of course, to the nomination of Goodwin Liu to the Ninth Circuit Court of Appeals.

So this afternoon I would like to take a moment to explain why I believe it is so critically important that the Senate reject this nomination now by opposing cloture on it.

The first thing I would say about Mr. Liu is that I have nothing against him personally. No one disputes that he has a compelling personal story or that he is possessed of a fine intellect. But earning a lifetime appointment isn't a right, nor is it a popularity contest.

Rather, it is incumbent upon those of us who are required to vote on judicial nominees like him to evaluate each one of them closely—to examine their judicial philosophies, to look at their records, and to consider their temperaments. And that's just what we have done here. What have we found?

When it comes to Mr. Liu's record as a practicing lawyer, the first thing to say is that it is almost nonexistent. He has no prior experience as a judge and minimal experience actually practicing the law.

This means that in evaluating what kind of judge Mr. Liu would be, and in trying to determine his judicial philosophy, we are necessarily limited to what he has written.

And what do Mr. Liu's writings reveal? Put simply, they reveal a left-wing ideologue who views the role of a judge not as that of an impartial arbiter but as someone who views the bench as a position of power.

As recently as 2 years ago, Mr. Liu said he believed that the last presidential election gave liberals, as he put it, ''a tremendous opportunity to actually get [their] ideas and the progressive vision of the Constitution and of law . . . into practice.''

Here is an open acknowledgement by Mr. Liu that a judge should use his position to advance his own views. This is repugnant. Anyone who holds such a view as a judge would undermine the integrity of the courts.

And what are Mr. Liu's views?

In an article he published 3 years ago, Mr. Liu wrote that courts should interpret the U.S. Constitution as containing a right to education, shelter,

subsistence, and health care—a constitutional right. By this he meant that the courts should determine how ''particular welfare goods'' should be distributed rather than the people themselves, through the democratic process.

The point is that Mr. Liu appears to view the judge not as someone whose primary job is to interpret the Constitution but as someone whose lifetime tenure liberates him to advance his views of what the Constitution means and empowers him to impose it on others. In his view, it is the job of a judge to create new rights, regardless of what the Constitution says or what the American people, acting through the democratic process, want.

And while this philosophy may be popular on left-wing college campuses, it has no place whatsoever in a U.S. courtroom. Everyone who enters our courtrooms should have the assurance that judges will uphold their rights equally and that they won't overstep their bounds. Mr. Liu's writings provide no such assurance. On the contrary, they suggest a deeply held commitment to the view that the Constitution can mean pretty much whatever a judge wants it to, that judges can just make it up as they go along.

In Mr. Liu's court, the defendant couldn't expect to be protected by the Constitution and the laws, because the law is subject to the whim of the judge. This is precisely the opposite of what Americans expect in a judge. It also happens to be the opposite of what the Founders envisioned for the courts. As it says in Federalist 78, the Judiciary ''has neither force nor will, but merely judgment.''

Compare this with Mr. Liu, whose writings suggest again and again that a judge shouldn't look so much at the words of the Constitution when setting out to interpret it, as they should ''our collective values'' or our ''evolving norms''.

Let's be clear. It is the judge, in Mr. Liu's view, who will determine what ''norms'' are ''evolving,'' not the American people.

Clearly, the Constitution itself would take a backseat in his court.

Indeed, even a brief review of his writings suggests that, as a judge, Mr. Liu might very well accord greater respect to foreign law than he would to our own Constitution.

As he once wrote:

> The U.S. can hardly claim to have a monopoly on wise solutions to common legal problems faced by constitutional democracies around the world.

Again, this might fly in a left-wing classroom—but it is cold comfort to those who look to the courts for equal justice under the law. Americans shouldn't have to wonder when they walk into an American courtroom which Nation's laws they will be judged under.

So, as I see it, there is no question, based on his writings, that Mr. Liu's judicial philosophy is completely antithetical to the judicial oath that he would be sworn to uphold.

Upon his own nomination to the bench, Professor Liu has sought to distance himself from his legal writings. He has also told the judiciary committee that he stands by them. Well, he can't have it both ways. And as others have pointed out, if we can't go by what Professor Liu has written, there is nothing left upon which to evaluate him.

On the question of qualifications, Mr. Liu just doesn't have much legal experience outside of the classroom. And while no one is saying teachers can't be good judges, this particular teacher's judicial philosophy, as evidenced by his writings, is so far outside the mainstream that anyone who believes in the primacy of the U.S. Constitution should be deeply troubled by the prospect of his appointment to the court.

I believe this nominee is precisely the kind of judge we want to prevent from getting on the bench. He should not be confirmed. I will vote against cloture. I urge my colleagues to do the same.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I will use leader time to give my remarks. I ask unanimous consent that as soon as I have finished my remarks, the vote go forward.

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

Mr. REID. Mr. President, 2 days ago I came to the floor to talk about the nomination of Goodwin Liu, an extremely well-qualified, fairminded, and widely respected legal scholar. The President has nominated him to serve his country on the U.S. Court of Appeals for the Ninth Circuit.

All week, this body has heard speeches about Mr. Liu's merits, so I will repeat them only briefly. He was a Rhodes Scholar and clerked on the U.S. Supreme Court. He served as associate dean at the California Berkeley School of Law and is a professor there right now. He has done a lot of pro bono work and even helped launch AmeriCorps. On top of all that, he has lived the American dream. He is the highly successful son of immigrants.

His integrity has been praised by Democrats and Republicans, not just one or two but many. Former Republican Congressman—and a very conservative Congressman—Bob Barr commended Liu's commitment to the Constitution. One of President Bush's former lawyers said Liu falls within the mainstream. Even Ken Starr, the Whitewater special prosecutor, endorsed this man who served in the Clinton administration.

The record is clear. Any claims that Goodwin Liu is anything but deserving of our confirmation is simply inaccurate. But I recognize every Senator has the right to vote how he or she feels they should vote. It is worth noting, however, that the vote before us now is not a vote to confirm him; it is a vote on whether he deserves an up-or-down vote. There is no question he does deserve an up-or-down vote.

A simple up-or-down vote is hardly a controversial request. This is not only my view and the view of my fellow Democrats, it is a view of my Republican friends as well. In a 2004 Law Review article, one of our Republican colleagues, the junior Senator from Texas and longtime member of the Texas Supreme Court, wrote the following:

> Wasteful and unnecessary delay in the process of selecting judges hurts our justice system and harms all Americans. It is intolerable no matter who occupies the White House and no matter which party is in the majority party in the Senate . . . Filibusters are by far the most virulent form of delay imaginable.

The junior Senator from Texas is in the Chamber today. We will see if he still feels that way or if he will, in his own words, hurt our justice system and harm all Americans with intolerable virulent delays. We will carefully be watching how he votes.

We will also be carefully watching another Republican Senator, the senior Senator from Tennessee, who said this in 2005:

> I pledged, then and there, I would never filibuster any President's judicial nominee, period. I might vote against them, but I will always see them come to a vote.

The senior Senator from Tennessee is here today. ''Never'' is about as unambiguous as it gets. We will be watching to see if he upholds his public pledge.

A third Republican Senator, the junior Senator from Georgia, said this in 2005:

> I will vote to support a vote, up or down, on every nominee, understanding that, were I in the minority party or the issues reversed, I would take exactly the same position because this document, our Constitution, does not equivocate.

The junior Senator from Georgia will be voting this afternoon. Now, as he predicted, he is in the minority and the issue is reversed. We will see if, as he promised, he will take the same position or if he will equivocate.

Here is a fourth. Four years ago, another Republican Senator, the senior Senator from Utah, former chairman of the Judiciary Committee, said this on this floor:

> We may not use our role of advise and consent to undermine the President's authority to appoint judges . . . It is wrong to use the filibuster to defeat judicial nominees who have majority support, who would be confirmed if only we could vote up or down. That is why I have never voted against cloture on judicial nominations.

Yet another pledge never to vote against cloture on a judicial nomination. That is four. There are more.

That is precisely the vote before us now. We will be watching to see if the senior Senator from Utah follows his own counsel or if he, in his own judgment, undermines the authority of the President of the United States.

These pledges were made publicly and plainly. In a court of law, they would be considered pretty clear evidence. It does not take the great legal mind of a Goodwin Liu to recognize that simple principle.

We have heard the promises. Now we will hear the votes.

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Goodwin Liu, of California, to be United States Circuit Judge for the Ninth Circuit.

Harry Reid, Patrick J. Leahy, Charles E. Schumer, Richard Blumenthal, Daniel K. Akaka, Al Franken, Richard J. Durbin, Sheldon Whitehouse, Dianne Feinstein, Jeff Merkley, Christopher A. Coons, Mark Begich, Amy Klobuchar, Barbara Boxer, Jack Reed, Debbie Stabenow, Sherrod Brown.

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

The question is, Is it the sense of the Senate that the debate on the nomination of Goodwin Liu, of California, to be United States Circuit Judge for the Ninth Circuit shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Texas (Mrs. HUTCHISON), the Senator from Kansas (Mr. MORAN), and the Senator from Louisiana (Mr. VITTER).

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

The yeas and nays resulted—yeas 52, nays 43, as follows:

[Rollcall Vote No. 74 Ex.]

YEAS—52

Akaka	Franken	McCaskill
Begich	Gillibrand	Menendez
Bennet	Hagan	Merkley
Bingaman	Harkin	Mikulski
Blumenthal	Inouye	Murkowski
Boxer	Johnson (SD)	Murray
Brown (OH)	Kerry	Nelson (FL)
Cantwell	Klobuchar	Pryor
Cardin	Kohl	Reed
Carper	Landrieu	Reid
Casey	Lautenberg	Rockefeller
Conrad	Leahy	Sanders
Coons	Levin	Schumer
Durbin	Lieberman	Shaheen
Feinstein	Manchin	Stabenow
Tester	Warner	Wyden
Udall (CO)	Webb	
Udall (NM)	Whitehouse	

NAYS—43

Alexander	DeMint	McConnell
Ayotte	Enzi	Nelson (NE)
Barrasso	Graham	Paul
Blunt	Grassley	Portman
Boozman	Heller	Risch
Brown (MA)	Hoeven	Roberts
Burr	Inhofe	Rubio
Chambliss	Isakson	Sessions
Coats	Johanns	Shelby
Coburn	Johnson (WI)	Snowe
Cochran	Kirk	Thune
Collins	Kyl	Toomey
Corker	Lee	Wicker
Cornyn	Lugar	
Crapo	McCain	

ANSWERED ''PRESENT''—1

Hatch

NOT VOTING—4

Baucus	Moran
Hutchison	Vitter

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 43, and 1 Senator responded ''Present.'' Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

● Mr. MORAN. Mr. President, today, I was unavoidably absent for vote No. 74 on cloture for the nomination of Goodwin Liu, of California, to be a U.S. circuit judge for the Ninth Circuit. I was in my home State of Kansas at the time of the vote. Had I been present, I would have voted to oppose the invoking of cloture on the nomination.●

The PRESIDING OFFICER. The Senator from Illinois.

LEGISLATIVE SESSION

Mr. DURBIN. Mr. President, I ask unanimous consent the Senate resume legislative session.

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

MORNING BUSINESS

Mr. DURBIN. I ask unanimous consent the Senate proceed to a period of morning business until 6 p.m., with Senators permitted to speak for up to 10 minutes each.

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

The Senator from Nebraska.

PENDING TRADE AGREEMENTS

Mr. JOHANNS. Mr. President, I come to the floor this afternoon during World Trade Week to urge President Obama to submit pending free-trade agreements: Korea, Panama, and Colombia. I hope this is the last time I come to the floor on this issue until we are actually debating these job-creating agreements, but I must admit I feel as though I am holding my breath.

Mr. President, 1,420 days have passed since the U.S.-Korea Free Trade Agreement was signed; 1,422 days have passed since we signed an agreement with Panama, and it has been 1,640 days since we completed negotiations with our close ally, Colombia.

We have heard the administration tout the job-creating benefits of the agreements, so why more roadblocks? Our unemployment rate is nearly 10 percent. Our workers deserve a consistent message on job creation from this administration. It has been over a month since President Obama and the President of Colombia made an announcement. The announcement was that negotiations had been completed, I might add, yet again. I was relieved that President Obama finally announced there was an agreement and that there was a need to complete the long overdue agreement.

I am confident the agreement brought to the Senate and the House would finally win bipartisan support, and I still am today. In fact, over a month ago, in the Wall Street Journal, my colleagues, Senators BAUCUS and KERRY, called for Congress to ''restore a broadly-shared bipartisan consensus on trade.'' Now the administration seems to be moving the goalposts, suggesting continued delay. They are trying to hold up these agreements to force us to make spending increases that were contained in the ill-fated economic stimulus bill.

During the challenging economic times that our Nation has endured, we should all be doing all we can to exert every single ounce of energy to get our economy moving again and create jobs. This is not done by heavyhanded government, massive new spending, and new entitlements when our current programs are unsustainable. It is accomplished by lowering and removing barriers to our job creators so they can flourish. Korea, Panama, and Colombia all have much higher barriers to our exports than we have to their imports. These three bipartisan votes should have been near the top of the agenda 2 years ago. By now we should be voting on new agreements that this administration has negotiated, not the leftovers from the previous administration.

We will need an even greater focus on leveling the playing field through trade agreements if we are going to double our exports in the next 5 years, which is the goal the President has set. Yet the administration, claiming that reopening negotiations with Korea, Colombia, and Panama was necessary, continues to talk through these agreements. I am not saying every single agreement before us, or hopefully before us, is perfect. No agreement ever is. However, let's not forget that these agreements were originally negotiated in good faith between allies. What does this delay do to our reputation as a reliable negotiating partner?

Back where I come from in Nebraska, a lot of business is still done with a handshake. We trust our neighbors because they are good people with good values. But if one makes a deal with someone and shakes on the deal and they keep changing the terms or delaying the followthrough, one tends to stop dealing with those people. I sure hope that does not happen to us.

The fastest growing opportunities for American businesses, farms, and ranches are outside of our borders. Our greatest opportunities are overseas in rapidly developing countries. I fear that these long delays have hurt our ability, the ability of our government to negotiate high-quality trade agreements. But, most importantly, it has hurt the ability of Americans to compete in these growing marketplaces.

Let's not pretend this delay has not cost American workers. Since the Colombia agreement was initially signed all those days ago, our businesses and our agricultural producers have paid nearly $3.5 billion in tariffs for goods exported. That is enormous, especially when we consider that the U.S. International Trade Commission estimates that an American job is supported for every $166,000 in exports.

Instead of wasting money on tariff payments, the U.S. manufacturing and agricultural sectors could have spent billions of dollars creating jobs at home.

I hope we can soon get past the continued delays and the administration can signal to us that they are serious about doubling exports in 5 years.

On July 1, less than 2 months away from now, the trade agreement between the European Union and South Korea goes into effect. It is also the date that the FTA between Canada and Colombia goes into effect. The negotiators for other countries are watching the United States, and they have seen a lack of trade policy. They have seen a change here, and they are doing everything they can to fill that vacuum with negotiated and approved agreements. Now our exporters will face even greater competition when our trade agreements are approved, and hopefully they will be.

The President said it very well in his State of the Union Address:

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

That is exactly what is happening. I will give one example. In 2007 American wheat farmers supplied Colombia with almost 70 percent of the wheat market, even though they faced tariffs of 10 to 35 percent. By 2010 our wheat farmers' share of the market had dropped to 46 percent. Where did that business go?

Meanwhile, Canada's share grew from 24 to 33 percent. That percentage will skyrocket when Canadian farmers can export their products duty free on July 1. Our wheat farmers may effectively be shut out of a market that they dominated at one point in time.

Americans who are out of work know firsthand that an opportunity is being missed. Nebraska farmers, businesses, workers, those across the country know we can compete with anyone given a level playing field. After the absence of leadership on trade in Washington during the last 2 years, though, the job of competing is harder and harder.

In proclaiming this week as World Trade Week, the President noted the connection between the global economy and prosperity in our own country. ''To ensure our success,'' he called for ''a robust, forward-looking trade agenda that emphasizes exports and domestic job growth.'' It is disappointing that the positive steps forward we have seen over the past few months have slowed in recent days, and we just cannot afford more setbacks.

I look forward to working with the administration over the next 2 years on forward-looking trade efforts. Real progress forward would produce great opportunity in our country, but we have to get this work done first. Therefore, it is my hope that the President will bring to us, without delay, the Korea, Panama, and Colombia Trade Agreements for us to vote yes.

I yield the floor.

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. BROWN of Ohio. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

FREE-TRADE AGREEMENTS

Mr. BROWN of Ohio. Mr. President, I appreciate the words of the Senator from Nebraska about these trade agreements. I take them at face value. I know he means well. I know he believes these trade agreements help the American people.

I also know every time there is a major trade agreement in front of this Congress—the Presiding Officer's first one, I believe, and mine, was something called the North American Free Trade Agreement. They promised and promised, saying there would be all kinds of jobs and our trade surplus would grow; that it would be not just more jobs but better paying jobs. It did not quite work out that way with NAFTA.

Then they did the same kind of promise and overpromise with PNTR, normal trade relations with China. In Mexico with NAFTA we had a trade surplus not too many years before NAFTA was signed, and it turned into a multibillion-dollar trade deficit.

With China we had a small trade deficit. A deficit in trade means we buy more from that country than we sell to that country. President Bush said a $1 billion trade surplus or deficit turns into—he had different estimates, but between 13,000 and 19,000 jobs is what he used to say. Whether or not that is precise is a bit beside the point. The point is, if we are selling a lot more than we are buying, it is going to create jobs in our country. If we are buying a lot more than we are selling, we are going to lose manufacturing jobs.

We went to literally hundreds of billions of dollars in trade deficit with China after PNTR. If we go into any store in the country we see the number of products made in China that used to be made in Vermont or Ohio or Michigan or Pennsylvania or Mississippi or wherever. So we know with these trade agreements, every time they come to the floor the promise is they are going to create jobs for Americans. They did it with NAFTA. They did it with PNTR with China. They did it with the Central American Free Trade Agreement. Now they are saying the same thing with South Korea, Panama, and Colombia, that it is going to create American jobs. Well, it doesn't ever. Maybe the theory is good. I don't think the theory is very good, but maybe it is, but it doesn't seem to work out that way.

I urge my colleagues to listen to what these supporters of trade agreements say, to be sure; trust but verify. Ask the tough questions: Why is this going to create more jobs? We know the cost of the South Korea trade agreement is literally $7 billion. It is going to cost us a lot of money. They are not paying for it. These fiscal conservatives here don't want to take away the subsidies from the oil industry. They also don't want to pay for the trade agreement that is going to cost us $7 billion, plus the lost jobs that come about as a result.

We know what these lost jobs mean to Mansfield, OH. We know what they mean to Sandusky and Chillicothe and Cleveland and Dayton, proud cities with a proud middle class that have seen these manufacturing jobs so often go straight to Mexico, go straight to China, go straight to countries all over the world after we sign these trade agreements or after we change these rules about trade.

At a minimum, I have asked the President of the United States by letter, with 35 or so Senators who also signed this letter—and we will release it and send it to the President tomorrow—underscoring the President's commitment and the commitment of the U.S. Trade Representative, Ambassador Kirk, and the President's economic adviser, Gene Sperling, who said they will not send these free trade agreements to the Congress until the President has had an opportunity to sign trade adjustment assistance.

Trade adjustment assistance simply says when you lose your job because of a trade agreement, you at least are eligible for assistance for job retraining. To me, the problem is the trade agreements and they are costing us jobs. But at a minimum, the great majority of Democratic Senators here understands, along with the President, that we don't pass these trade agreements without helping these workers who are going to lose their jobs.

To me, it is a little bit counterintuitive: Why pass these trade agreements at all if we expect job loss to come from them. But the other side of the argument is that jobs will increase overall, although it doesn't seem to work that way. But everybody knows some people are going to lose jobs as a

result of these trade agreements. That is a bit of circular thinking that I don't particularly buy. But at a minimum, because so often when these trade agreements pass, conservative Republican—sort of pro corporate interest—Senators, will say, Well, we want to take care of these workers and let's pass a trade agreement, and then they don't get around to taking care of the workers. That is why we have to do trade adjustment assistance first and to begin to enforce these trade rules.

We saw in Ohio alone in the last 3 or 4 years, because we enforced some trade rules—because the President of the United States, President Obama, and the Commerce Department and the International Trade Commission stood up and enforced trade rules on China's gaming the system on tires, on oil country tubular steel, and less so, but on coded paper—we have seen jobs in the United States come back because we are leveling the playing field so they can't game the system as much.

That is why it is important that we take care of workers before these trade agreements come to the Congress and then we will debate trade agreements. I hope we can defeat them—I think it is going to be hard—and we make sure we do the enforcement of these trade rules that are now in existence that are now part of the law and get that in place and strengthen that before we pass these trade agreements.

It is a pretty simple thing to do, but it is important. In one of the trade agreements the Senator from Nebraska mentioned, he was talking about the Colombia Free Trade Agreement. I could speak on each of the three to the point of perhaps boring some of my colleagues. But on the one trade agreement that is particularly egregious with the country of Colombia, just last year, 50 trade unionists, 50 labor activists in Colombia were murdered—50 murders. They are saying, the supporters of these trade agreements say yes, but they are getting better in Colombia and fewer trade activists are getting murdered so it is getting better.

Not that long ago, a labor rights lawyer was shot. He did not die. He survived, was injured badly. There is something a bit untoward about saying to this country, because you are getting better and fewer trade unionists are getting murdered, we ought to give them free trade, we ought to do a free trade agreement. I hope we will stand back. If we care about justice and human rights and about the values we embody of democracy and fair play, we shouldn't be passing a trade agreement with a country where the labor environment is such that these labor union activists who believe in collective bargaining and free association, collective bargaining—such as the consensus we have in this country around collective bargaining—at least we did until some radicals in Ohio and Wisconsin tried to write and pass legislation that unwinds some of that which has helped create a middle class. But if we believe in collective bargaining, if we believe in free association, if we believe in the right of the people to voluntarily organize and then bargain collectively, we shouldn't be passing a trade agreement with a country that has an environment where so many labor activists have been murdered.

I wish to remind my colleagues again how important this trade adjustment assistance is before we pass these trade agreements.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

NLRB

Mr. BLUMENTHAL. Thank you, Mr. President.

I rise today to voice my concerns about a great deal of controversy surrounding a complaint issued under the National Labor Relations Act against the Boeing Company. Boeing recently decided to open a new plant in South Carolina. The National Labor Relations Board's acting general counsel issued a complaint because of evidence that this decision was made in retaliation for recent strikes at the Boeing plant in the Puget Sound area.

I hope there is no dispute about a couple of points. First, Boeing is a highly reputable company that produces great products valued around the world, and great jobs. Not just jobs but good jobs. There should be no doubt also about the importance of public debate, robust criticism of government agencies, including the National Labor Relations Board, when it makes decisions that spark disagreement. I have the greatest of respect for my colleagues on both sides of the aisle who may have been critical of NLRB decisions in the past and of this action in the present. There should be no doubt also about the importance of the integrity of the NLRB process which begins with a complaint, which is all we have here against Boeing, and then has a procedure for consideration by an administrative law judge of the facts and the law, then to the full board of the NLRB, and a right of appeal to the Court of Appeals for the District of Columbia circuit.

Here, in this instance, there has been a series of attacks on the complaint and the acting general counsel that involve apparent efforts to impede or derail that process and to prejudge and even preempt that process. The effect is to politicize and potentially stop what should be a legal proceeding handled under the appropriate rules and laws and statutes by an independent government agency. This issue is about the integrity of the process.

At this point there is only a complaint against Boeing. This complaint was issued on the basis of statements and documents and actions by the company itself. There is certainly evidence, including at least one Boeing executive's statements, that the company may have retaliated against workers. The NLRB and Lafe Solomon, the acting general counsel, have not only the right but the responsibility to investigate and act where the facts and the law establish a right and obligation to do so. So no one should be trying to prejudge this case before it goes before the administrative judge, and no one should be seeking a pass from the appropriate process, and no one should be seeking to intimidate or to interfere with this lawful proceeding. I come to the floor today because of the prospect of exactly that danger occurring.

On May 12, Chairman DARRELL ISSA, representing the House Committee on Oversight and Government Reform, sent a letter to the acting general counsel of the NLRB requesting that it produce virtually all internal documents relating to this case. Indeed, the letter has a number of specific paragraphs that are sweeping in their scope, requesting, for example—demanding—that all documents and communications referring or relating to the Office of General Counsel's investigation of Boeing, including but not limited to all communications between the Office of General Counsel and the National Labor Relations Board. The House committee, with all due respect, is not a court. It is not the administrative judge. It is not a proper party to be demanding these documents in the course of a lawful judicial proceeding. The chairman's attempt to insert the committee into this case by conducting its own round of discovery at this point would interfere with the NLRB's ability to prepare and present its case before a real judicial officer.

These actions and some others are an attack on the integrity of the NLRB, an attack on its ability to make decisions and enforce the law as the Congress has instructed it and required it to do based on decisions involving the facts and the law alone. The NLRB is part of our justice system, and it should be given the opportunity to do justice in this instance. It should be given the opportunity to protect fairness and peace at the workplace, which is ultimately its mandate and its very solemn responsibility, and its tradition. Its mandate from the Congress is to protect jobs and foster economic growth by maintaining peace and fairness at the workplace. These priorities should be shared by all of the country. I certainly believe and hope that the people of Connecticut want fairness and peace in the workplace, as we do in our workplaces.

The NLRB, very simply, should be given that opportunity to do justice without improper or inappropriate interference by Members of the Congress or anyone else. My hope is that it will be vindicated and the attacks will cease, and that it will be given the opportunity to go forward lawfully and appropriately and properly.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. McCASKILL.) Without objection, it is so ordered.

Mr. PRYOR. Madam President, are we in morning business?

The PRESIDING OFFICER. We are.

FEMA RECOUPMENT

Mr. PRYOR. I rise to speak for 10 minutes on an issue that is very important to not just my State but really important to the country.

We know flooding is going on around the country. This is a picture from Arkansas, and clearly there are people all over the country or all over the South along the Mississippi River who are underwater. You can see the very end here; this little end is a lawn mower that is sticking up out of the water. The water is coming up to the bottom of the windowsill in this home over in east Arkansas. So we certainly send our prayers and any sort of assistance we can to people in my State, in Louisiana, Mississippi, other places, Missouri—obviously in Missouri they have had a lot of water up there—and Tennessee and other places that are really underwater right now.

What I want to talk about today, though, is not this flooding the country is experiencing right now but a flood in my State that happened 3 years ago. We had a situation 3 years ago where we had some flooding on the White River near a town called Mountain View, and FEMA paid out some money to flood victims there. It turns out some of that money was paid out wrongly.

I want to talk about that in just a minute, but let me start with June 1, 1865. In President Lincoln's Gettysburg Address, he described our government as a government of the people, by the people, and for the people. I like President Lincoln's description of our government, and I firmly believe our government was created by our citizens to protect our citizens. It is there for the benefit of our citizens. That is what I want to talk about today.

Many of you have heard me talk about FEMA's disaster assistance recoupment process, which, by the way, I am 100 percent for recoupment. Our Federal agencies make mistakes, and they send out things in error. There is some double-dipping. There is some lack of oversight. There are poor systems in place from time to time. There is some fraud, some dishonesty out there. I think the Federal Government owes it to the taxpayers to go out and recoup as much of that money as possible. I want to focus on one sliver of that, and even within that sliver, a very small piece of that small sliver; that is, FEMA's disaster assistance recoupment process.

I have a bill on this subject, and since the last time I have spoken about this on the floor, we have taken our bill, we have been in the Homeland Security Committee, and it has been reworked and modified. Our staff and many other staffs on the committee worked on this late last week and over the weekend and early this week, and I think they spent over an hour with FEMA on the telephone to make sure they understand all of FEMA's processes and how this really works.

But the bottom line is, yesterday in Homeland Security, I was able to offer my new substitute bill, which was adopted in the committee, the substitute was adopted—the amendments were adopted to the bill. So we now have a new bill in terms of the text of the bill. The changes were negotiated. Again, we spent a lot of time talking to staff and Members from both sides of the aisle, both sides of the committee.

Basically what it does is very simple, and it is much simpler than what we were doing a week ago. It is very simple. What our bill does is it gives the FEMA Administrator the authority to waive disaster assistance recoupment efforts if three conditions are met. You have to meet all three conditions. First, the disaster assistance must have been distributed based solely on a FEMA error. So there can be no fault on the part of the person but solely on a FEMA error. Second, there cannot be any fraud or any misrepresentation on the part of the debtor. Third, the collection of the debt would be against equity and good conscience. And the reason we chose that phrase, ''equity and good conscience,'' is not because we made it up but because that is the standard that is in current law. The Department of Defense uses that language when they talk about recoupment, the Social Security Administration uses that language, but also OPM has that language in their law as well. So this is not setting a precedent; this is basically applying other standards, recognized standards in the Federal Government, to FEMA.

The reason this is important is FEMA technically has discretion right now. FEMA can't tell us the statistics because they don't keep the statistics, but basically what we hear over and over from FEMA and other folks who are familiar with this process is that they cannot—or they are very reluctant to waive these debts. They feel they have a mandate to go recoup this money and collect this money, and that is what they do.

Quite frankly, in some circumstances what they will do is they will force someone to go through this appeal process, they will make a determination that maybe that person may have $100 a month in disposable income, and they will basically take that $100 a month from that person every month for, say, 5 years.

In the case in Arkansas I want to talk about here in just a moment, the people supposedly owe back, according to FEMA, $27,000. So if they did that and they took all of their disposable income—let's just say it is $100, and we don't know what it is because we do not know all of the facts. They are in the process of going through the process, but we don't know all of the facts. I am not trying to get in their personal financial information. But the bottom line is, let's say it is $100 a month, the disposable income. These folks are on Social Security, so you know it is not going to be a whole lot more than that, if that. But for 5 years, FEMA taxes all of their disposable income. At the end of 5 years, FEMA has collected $6,000 on a $27,000 debt. I mean, are we really getting what we want out of this? Are we trying to squeeze blood out of a turnip?

I have been working on this legislation for 2 months. All we are trying to do is give FEMA clearly in the statute some discretion to let them make decisions, again, when equity and good conscience would dictate that there ought to be a waiver. And it is not that hard.

I know that right now in the Congress—and this is a good thing—people are very money-conscious. That is good. We are pinching pennies. That is good. We are trying to recover every Federal dollar we can. That is good. I know the Presiding Officer right now has been leading the charge on that, and that is good, and we applaud her. We are cheering for her to continue to do that. We want her to do that. We want that for the government. But one of the things our government should do in dealing with its citizens is consider the equity and consider doing things in good conscience.

I want to talk about the situation here in Arkansas. I want to talk about one family who has received one of these letters from FEMA. There are not very many. We don't know the exact number, but we know there are not very many who will fall under this statute we are trying to address.

But in this one family, they are in their seventies. They are on Social Security. They bought or built this home—I am not sure which—years and years ago on the White River near Mountain View. When they purchased the home, they bought flood insurance. They knew they were on a river. They knew it might flood. It is a river, for crying out loud. It is in Arkansas. It rains a lot from time to time. They knew it might flood, so they bought flood insurance.

Well, after so many years, the flood insurance company said: We are not going to do any more flood insurance. We are not even offering that line anymore.

They went to Lloyd's of London and they bought flood insurance. They went overseas to buy flood insurance so they would have protection. They carried that for a number of years. Finally, Lloyd's of London said: We are not doing flood insurance anymore.

So then they tried to buy flood insurance through the National Flood Insurance Program. They could not do that because the county where they reside

had not passed an ordinance that FEMA had approved. Now, I don't know why they had not, haven't gotten into the merits of that, but the bottom line is that FEMA knew this county did not pass this ordinance. They knew it. They had to know it because FEMA keeps it all by ZIP Code. They keep it all by county. They keep it all by flood zone maps. They knew this. Nonetheless, they show up at her house a day or two after the disaster, they take photos, they give her the paperwork, and they assure this couple—they assure them—that they are entitled to this money, and they walk them through the process. The people did it. They got $27,000 from FEMA in this individual assistance money. Those people took every dime of it and put it back in their home—every dime, put it back in their home. They played by the rules from the very beginning to the very end.

Then, 3 years later—3 years later—FEMA writes them a letter and says: Oh, by the way, we made a mistake. We should have never given you that money in the first place because your county had not passed this ordinance. So you owe us $27,000. You have 30 days to pay it back or you are going to face penalties and interest.

Well, again, this couple is in their seventies. They are on Social Security. They don't have much else. They have their home. That is about it. This could ruin them financially—probably will ruin them financially. I do not know how in the world they would ever pay this, anywhere close to the $27,000. But nonetheless FEMA says: Look, our hands are tied. We have to pursue this. We have to squeeze everything we can get out of these folks.

My view is that this was completely FEMA's mistake. That is why I opened with the quote that we are supposed to be a government of the people, by the people, and for the people. This doesn't sound as if FEMA is acting like that type of government right now. FEMA has caused these people harm. Our government should never harm its own people—should never harm its own people—but that is exactly what they have done here. Because of FEMA's incompetence back 3 years ago, they are harming these people.

These people, 3 years ago, had they known they were not eligible, had they known they shouldn't apply for this, had they known FEMA shouldn't have given them this money, would have taken a different course. They would have made decisions based on the circumstances they had at the time. Who knows if they can ever pay this money back. Who knows if they can ever borrow any money. Who knows how this is going to work out.

I feel as if, if we gave FEMA the discretion in this particular case, you would see a different result; you would see FEMA say: OK, we will waive this entirely, and we are just not going to pursue you because it was all our fault.

I think FEMA clearly needs to have discretion in the statute. Again, if you look at their regs, look at some of their law, look at their practices, they do technically on paper have this discretion, but apparently they are very reluctant to use it, and their inspector general is really pressuring them to collect every dime they can. So FEMA feels as if their hands are tied.

Let me say a couple more words about this. I have asked the Homeland Security Committee to allow us to reconsider this in the committee. There was a little bit of an odd circumstance in the committee yesterday. We had the votes, but some of the Senators who were there and for this either had to leave or were on the way when we voted, and we ended up not having enough to pass it. If everyone was there, we would have passed this. Now we are asking them to reconsider, that we be allowed to bring this back up on the next markup, which I think is going to be next week. We would like to do that. We think it is a matter of fairness.

The reason I am asking this and I am so insistent on this is because this is not limited to my State. I am not just trying to help a few people in the State of Arkansas. I think there are very few in number here in my State. But what is happening around the country is—I saw it today. There were two stories; I believe one was from Tennessee, one was from Mississippi. The same thing is happening in those States. People are starting to get these letters from FEMA. What is going to happen is all of my colleagues are going to start coming to the Homeland Security Committee, and they are going to say: Do something about this. We have these hardship cases in our State that need to be addressed.

Trust me on this, this is going to happen for most people in this Chamber in their home States because FEMA has a backlog of 165,000 of these cases. They have only gone through a little over 5,000 of them to send these back—process these and send these letters out. They have 165,000. They have done about 5,000, and they have 160,000 to go. You can bet your bottom dollar most Senators in this Chamber will have people in their home States who need a little equity, a little grace, and need to have their government stop beating up on them.

Again, I feel very strongly that, in this particular case, FEMA has done these people harm. They have put them in a very dangerous position financially. They gave them some money, and now they are trying to jerk the rug out from under them and take it back. I think that is unfair. I think that once these cases—and there will not be many of them; there may be a couple hundred around the country—but once people get into these cases, they are going to want FEMA to clearly have this discretion. The first numbers we ran—it was only about three-tenths of 1 percent, but now probably it may be a little higher, but we don't know because FEMA doesn't keep accurate statistics.

One last thing on FEMA. I feel like FEMA has fixed this for the present time and going forward. When Director Fugate came in, this is one of the many cleanups he had to do from the previous FEMA administration. I think they have done that, and they have better systems in place. I think their competence level has gone up in the last couple years. I don't agree with him on everything, but I think he has done a pretty good job. We have asked questions of him before the committee. He took over an agency that was in distress, and he is trying. Generally, he has done a great job, and he thinks he has fixed this. As far as I know, he has. I think they have their act together much more than they did back then.

My point is, hopefully, we will not see these kinds of cases come from the flooding we are seeing right now. These are legacy cases from the previous FEMA administration.

I thank my colleagues for being aware of this. I ask my colleagues on the Homeland Security Committee to allow us to bring this back up, put this back on the markup, and let's get it out of the committee.

One of the great things about Homeland Security is that very seldom do we have party-line votes in that committee. That committee is very nonpartisan. The chairman and the ranking member insist on that. When we sit in that committee, we actually sit around the table, Democrat, Republican, Democrat, Republican. It is a great committee to serve on. I love being on that committee. I hope my colleagues on the committee and also in the Chamber will encourage us to move this through the committee next week and try to get this done to help a lot of people around the country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KIRK. Madam President, I ask unanimous consent to be recognized as in morning business.

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

NAVY OPERATIONS OFF THE COAST OF SOMALIA

Mr. KIRK. Madam President, I rise to commend the work of our Navy operating off the coast of Somalia.

Over the weekend, the USS *Stephen W. Groves* encountered a pirate mothership, a captured Taiwanese fishing vessel, the *Jih Chun Tsai*. The pirates aboard exchanged fire with the *Stephen W. Groves*. Once the firefight ended, a boarding party found that the Taiwanese captain had been murdered along with three pirates. The crew of

the *Groves* captured 19 surviving pirates, but, unfortunately, by much higher command, was instructed to return them directly to Somalia.

I recently visited the *Groves*, shortly after a previous engagement with the *Jih Chun Tsai* in April. I, personally, commend CDR Matthew Rick and his crew aboard the *Stephen W. Groves* for the work they have done fighting piracy in the Gulf of Aden. Their actions over the weekend eliminated the pirate threat of one mothership, but, unfortunately, there are many more to take out.

Also, on Monday, a helicopter from the USS *Bulkeley* responded to a distress call from the M/V *Artemis Glory*, a German-owned crude carrier. The helicopter crew from the *Bulkeley* saw the pirates firing on the merchant ship and returned fire, sinking the skiff and killing the four pirates aboard.

Also, on Monday, the USS *Bainbridge* responded to a distress call from a cargo carrier, the MSC *Ayala*. After the crew of the *Ayala* repelled a pirate attack, the *Bainbridge* arrived and located the mothership responsible for the attack. The crew made contact with the pirates, who ultimately agreed to abandon the mothership they had hijacked just 4 days before. Ironically, the skiff the pirates tried to flee in sank, and the pirates were rescued by the *Bainbridge*.

I commend the men and women serving on the USS *Stephen W. Groves*, the USS *Bulkeley*, and the USS *Bainbridge* for jobs very well done. My hope in the future is that we can have far more robust rules of engagement, empowering Commander Rick and his fellow commanders to eliminate the threat of piracy.

Of course, this mission would be in the highest traditions of the U.S. Navy and in the tradition of the Jefferson administration, which so ably handled this threat when it emerged in the early part of the 19th century. My only hope is that, in the coming administration review by Secretary of State Clinton, she adopts a more Jeffersonian policy with regard to this threat, so the sealanes, which control 70 percent of the world's supply of oil, and so the ransoms, one-third of which are now being paid to terrorists who operate the largest terror training camps on Earth, can be eliminated.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

STUDENT VOTING

Mr. MANCHIN. Madam President, I rise today to speak about the importance of getting our young people involved in our electoral process and to highlight a West Virginia school with a standout record for going the extra mile to encourage students to register and participate in voting.

I tell young people all the time: You cannot sit on the sidelines and watch life happen. You have to get in the game and start making the calls. The same can be said about our democracy. If you want results, you have to first become an informed and active voter.

Voting is one of the greatest rights the free people of a free nation possess. Over the course of our Nation's history, many have fought tirelessly to gain voting rights. In fact, it was West Virginia's very own Senator Jennings Randolph who relentlessly pushed for the 26th amendment to our Constitution, ensuring those 18 years of age or older had the right to cast a ballot. It took him almost 30 years to get it passed. He started during World War II. It did not pass until 1971.

Each vote matters and the individuals casting those votes matter even more. I know that firsthand because I was honored to serve as West Virginia's highest elections officer, secretary of state. I served from 2000 to 2004.

During my tenure, we established a program called Saving History and Reaching Every Student Program, which was known as the SHARES Program which promoted democracy in West Virginia schools. We registered 42,000 high school students. In my State, so many of the students, if they are 17 years of age but they turn 18 on election day of November 4 or before, can vote in the primary while they are 17. They did not know that. We started promoting it. We had ambassadors. They were all working and trying to get 100 percent of their class eligible to participate—to register and then vote. Then we rewarded them with a school of excellence. My staff and I traveled the State speaking with high school seniors, encouraging them to complete a voter registration form and to participate in our elections.

A decade after that program began, it gives me great pleasure to stand on the Senate floor today and recognize a school—one school—that truly takes it to a whole other level with their students. They took it very seriously as far as democracy and their right and their responsibility to participate.

Every year for the past decade, the staff and the members of Fayette County's Meadow Bridge High School, with their outstanding principal, have registered 100 percent of each senior class. This is truly a remarkable accomplishment. I am unaware of any other school in our great State or across this Nation that has produced voter registration numbers such as those for 10 years in a row. Think of it: Every student in the senior class of this school for 10 years registered to participate.

The school takes important steps such as explaining the registration form, the election process, and the importance of one's vote—all of which go a long way in opening the minds of young adults and showing them that it is easy to become involved, cast a vote, and make a difference.

I have said this to so many young students and the students who come and work with us every day: The most valuable thing you will ever own in your life is your vote. It belongs to you and nobody else. There is only one—your vote. Nobody can take that away from you.

I applaud Meadow Bridge High School's students, faculty, and staff for their commitment to our democracy. I challenge other high schools to follow Meadow Bridge's example.

Let us work together to encourage our Nation's young adults, even more when it comes to our democracy and national issues. This is not a partisan issue, as so many things might be in this body. This is not. It is all of us working together to continue to lead this great country. It is all of us being Americans and that we should support, for the future of our great Nation, this democracy of ours and the freedom to vote.

I am so proud that West Virginia's own Meadow Bridge High School is such a good example, not only for the State of West Virginia but for young students all over this Nation.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

FREEDOM IN THE MIDDLE EAST

Mr. BLUNT. Madam President, I rise today to talk about President Obama's speech today on the support of the Arab spring, at least what we are calling the Arab spring. I believe and hope, as many of my colleagues do, that it is in the best interests of the United States to advance freedom in the Middle East.

Supporting free people and democratic governments has always guided American foreign policy. Lending our support to people who yearn for freedom is really part of our national DNA. Doing so in a practical and pragmatic way within the context of regional stability is imperative to our own national security.

In recent weeks I have been very supportive of the President's actions as they related to Osama bin Laden and the decisions that were made there. In recent months I thought the President has been a little unsteady in advancing the principles I mentioned earlier. He demonstrated uncertainty in dealing with President Mubarak before withdrawing his support and, if I can say so,

withdrawing his support suddenly. After hesitating for several weeks and allowing Mr. Qaddafi to regroup, we then authorized U.S. participation in a NATO air operation with a confusing mission that does not have the kind of U.S. leadership that it might have benefited from.

Then in Syria we stood on the sidelines for weeks while terrible things happened to profreedom demonstrators before we finally announced a series of sanctions just this week.

Of course, we all recall that in 2009, the Iranian regime possibly could have been unseated by proponents of freedom. At that time the President and the United States barely lifted a finger to support those elements.

Indeed, the President's entire narrative has been unclear since he took office, from the time of his Cairo speech in 2009. I think that speech has left our friends in the Arab world both disillusioned and confused.

Nobody, from the American people to the Arab street, seems sure of what our policy is in support of freedom. So I was very interested in the President's speech regarding a new American policy in the region targeted toward rapidly changing situations in the Middle East.

The President laid out a plan for an AID program for some Middle Eastern countries whose internal stability is challenged by recent events. The plan would consist of a combination of grants, of loans, of debt forgiveness, and the President's plan, I believe, has merit and there is value to a robust role for the United States to support certain governments at a critical time.

However, it is important that we recognize that any support given to these emerging or existing Arab governments can only be helpful to them if they are helpful to themselves. I believe Congress must be a partner in the development of this package for it to work. Congress will have to ensure that whatever aid is given is both targeted toward an outcome that is in the national security interests of the United States and does not increase the U.S. deficit. It will be a matter of looking at where we can find resources to use them in this new and different way.

My support for the President's idea will also be contingent on several principles being met by the government that receives any U.S. aid. As a member of the Foreign Operations Appropriations Committee I am going to be looking for things where the President would certify that the following conditions are being met to proceed further with this plan he outlined today.

First, I think the government and its leaders must reject all forms of terrorism if they expect to receive this kind of assistance from us.

Second, they must demonstrate a credible plan for economic development and poverty reduction. Lack of access to economic opportunity has been the driving force behind what has happened in these countries. It was not about us; it was not about Israel; it was about jobs and food and economic opportunity. So that has to be one of the criteria that these governments would be looking at.

Third, they need to demonstrate a record of support for the rule of law, a prerequisite for ensuring that U.S. aid dollars will not be used to subvert the system of justice or to veil opponents or undermine constitutional government.

Fourth, they must respect minority and religious freedoms, including women's rights.

Fifth, they must have a sustained commitment to democratic reform and institution building. Nobody believes that democratic societies spring up overnight, but recent months remind us that failing to demonstrate commitment to more open systems of government can end in upheaval and force change.

Sixth, these governments, if we help them, must respect international norms such as honoring their treaty obligations and respecting universal human rights.

Last, but certainly not least, any government participating in the aid package like the one the President talked about today must be committed to regional peace. In particular, that includes peace with Israel. Israel has both the most to gain and the most to lose as new attitudes toward freedom and democracy spread throughout the Middle East. Leaders who are tempted to bait their populations with anti-semitism and then respond to their passions may be even more dangerous to Israel than the regimes they are replacing. But an adage of international relations is that truly free and democratic societies respect one another's existence, recognize one another's right to peace, and resolve their conflicts through peaceful resolution, not violence, not threats, not terror.

As nations throughout the Middle East undergo change, we should closely monitor their attitude toward Israel. Only nations that are constructive in their attitudes and policies toward our ally, Israel, should be eligible for the kind of aid the President discussed in his speech.

None of these conditions are meant to suggest these governments must be identical or that their leaders must always agree with the United States. I believe, for example, the Kingdom of Jordan currently meets these standards. I am hopeful Egypt's new leaders will commit to these principles as well. Leaders in the Palestinian Authority should look to them as a model for receiving aid from the United States and other western governments.

The President also addressed the need for a peace settlement between the Israelis and the Palestinians. It would be hard to find anyone in this body who does not agree with that concept. We need peace, the Israelis need peace and the Palestinians need peace. But we need to be very careful that we do not set expectations so high that we create deep challenges not only for that process but also for the kind of regional acceptance of Israel that must occur in order to achieve peace.

In particular, I am concerned that the President believes that unilateral concessions by Israel, including redefining its borders, are a pathway to peace. I simply do not think that makes sense. There does not even appear to be a Palestinian partner capable of making the hard decisions that must occur in order to get an agreement.

Do we really think that Hamas, which has recently joined the government, is going to be a party to a peace deal with Israel? The Palestinian Authority has made real progress on the West Bank in recent years, while Hamas has brought chaos to Gaza.

A Palestinian Authority that cannot recognize Israel cannot make peace. That is why any financial relationship the United States has with the Palestinian Authority needs to be based on the principles I just described.

In his famous Westminster speech in 1982, President Reagan told the world the following:

> While we must be cautious about forcing the pace of change, we must not hesitate to declare our ultimate objectives and to take concrete actions to move toward them. We must be staunch in our conviction that freedom is not the sole prerogative of a lucky few, but the inalienable and universal right of all human beings.

I believe those words are no less true today, 30 years later, than they were then. We are at an extremely important moment as we watch a movement toward freedom unprecedented in the history of the Arab world unfold. It is important to note that those taking to the streets are not burning American flags or shouting anti-Western slogans. It is also probably important to note that they are not waving American flags. It is simply not about us; it is about them.

Their passions are driven by generations of economic stagnation and a lack of political and economic freedom that has left them behind much of the free world's prosperity. These freedoms are exactly what the United States stands for. America's role is to support responsible leaders committed to peace and sustainable democratic change. I am hopeful the President will work with my colleagues in the Congress to extend a helping hand to those leaders who are truly committed to these values. If he does, I hope to be part of that process as well.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

FOR-PROFIT EDUCATION COMPANIES

Mr. HARKIN. Mr. President, over the past 6 months, I have come to the floor several times to discuss the findings of an ongoing investigation by the Health, Education, Labor, and Pensions Committee into the for-profit education sector, and the growing role they play in higher education. This investigation has been now ongoing for over a year.

Today, I want to focus my remarks on our men and women in uniform and how the for-profit schools are focusing on recruiting them to their schools, and what this means for the taxpayers of America.

The first GI bill made it possible for many of the servicemembers returning from World War II to go to college and get ahead in life. In the process, that ushered in a new era of American prosperity. That GI bill continued, of course, with Korea, through the Cold War, and through Vietnam. I myself used the GI bill after my service time so I could go to law school.

Over the decades, we have built on that success by extending Federal financial aid to active-duty members of our Armed Forces, and indeed to all Americans who seek to build a better life through higher education. On the whole, this has proved to be one of the Federal Government's smartest investments—an investment in human capital that has produced huge dividends for our Nation. We in Congress have been eager to ensure that this new generation of veterans returning from Iraq and Afghanistan—those who sacrificed so much for our country—are getting the education benefits they earned and the quality of education they deserve.

Led by Senator WEBB and others, we have enacted new laws and expanded existing programs to provide generous new educational benefits to veterans, to active-duty servicemembers, and to their families. This is a historic achievement, and I am sure all of us were proud to support it.

Implemented in August of 2009, the post-9/11 GI bill provides that veterans who serve 90 days or more on active-duty effort, after September 10, 2001, are eligible for up to 36 months of educational benefits; and for the first time ever in history, veterans can transfer these benefits to a spouse or to a child. Over the last decade, the Department of Defense has also expanded aid available to active-duty soldiers, sailors, and airmen through its tuition assistance program. This program will pay up to a maximum of $4,500 a year toward a servicemember's classes.

Also in 2009, Congress created the military spouse career advancement account, designed to expand employment and career opportunities for active-duty spouses, and that provides for a grant of $4,000 over a 3-year period of time.

When the Congress acted to give new and better benefits to veterans and active-duty members and their families, we fully expected that for-profit schools might have an important role to play in providing higher education. Obviously, they are flexible, and some of the primary work done is suited to veterans and active-duty soldiers and students juggling work and family obligations.

During my time in the military, of course, we had the University of Maryland, which still obviously provides a lot of online work. At that time, it was called ''distance learning,'' and you did it by mail. The University of Maryland provided a lot of educational benefits for many years to active-duty personnel serving in far-flung places around the world. Of course, that was not a for-profit school; that was a nonprofit school.

Unfortunately, when we enacted this whole new benefits package for servicemembers and veterans and their families, we didn't anticipate what would happen by opening up a new stream of funding to the for-profit schools. We didn't foresee that the for-profit sector, which is eager to please Wall Street investors, would go after student funding aggressively, in ways not in the best interests of veterans and servicemembers. We didn't recognize that by allowing servicemembers to combine, transfer, and borrow against these various Federal benefit packages we were giving for-profit schools an opening to enroll servicemembers, veterans, and family members in very expensive educational programs.

My committee's investigation over the past year has revealed an industry dominated by the very same Wall Street companies and equity investors who brought about the subprime mortgage crisis. These investors are focused on rapid growth and quick profits. In relatively short order, for-profit colleges and universities have succeeded in enrolling 10 percent of the students and claiming fully 25 percent of the Federal financial aid budget, including $7 billion a year in Pell grants. So the for-profit sector has 10 percent of all of the students in the country and gets 25 percent of all Federal financial aid.

Many of these companies generate big profits, and there is a big problem. The committee has compiled data for 30 companies that own for-profit schools, including the 15 largest publicly traded ones, showing that more than half of the students these institutions enroll drop out within the first year. Two-thirds of the students who are there for a 2-year program drop out in the first year. Some of the worst performing institutions have been the most aggressive to enroll servicemembers and veterans.

Because profitability and the for-profit education industry is driven by enrollment growth, my committee's investigation has focused largely on the extraordinarily aggressive marketing and recruitment practices at these schools. Building on the findings of last year's undercover investigation by the GAO, which found abusive recruitment practices at each of 15 campuses visited, we have uncovered additional evidence that misleading and deceptive recruiting tactics are not the exception but the norm.

Several months ago, on the floor of the Senate, I spoke about documents uncovered in my investigation. Those documents instruct recruiters in tactics designed to manipulate and emotionally exploit potential students in order to convince them to enroll. As I will demonstrate later in my speech they are going after the military by exploiting fear, uncertainty, and doubt.

We should be concerned that Congress may have unintentionally created an opening for the current generation of veterans and active-duty servicemembers to be victimized by these abuses simply because of their eligibility for expanded Federal aid that we enacted in the Congress.

My committee found evidence that large for-profit schools are aggressively recruiting active-duty servicemembers and veterans expressly because of their generous educational benefits packages. It is not just that these military benefits provide a new revenue stream for the companies. The point is that it is an especially valuable kind of revenue stream for these companies—more valuable than even going after nonveterans and non-GIs. Why is that?

Well, military money helps these for-profit schools to meet a key statutory requirement that no more than 90 percent of their revenue can come from Federal financial programs. That is in the law. No more than 90 percent of the income coming into a for-profit school can be from Federal financial programs. If a school is getting close to that 90 percent, guess what they do. They go after military people. Why is that? Because a military person, active duty or veteran, enrolled in a for-profit school doesn't count towards the 90 percent; it counts towards the 10 percent. So the school could actually have—and there are some—92 or 94 percent of all their money coming from Federal financial programs, even though the law says you can only get 90 percent, because military doesn't count. So you can see why, when close to 90 percent, they would want to go after the military. And that is exactly what is happening.

With their eyes on this 90/10 ratio, the for-profit schools have moved aggressively to exploit this opportunity. They have created marketing plans and a sales force specifically designed to target and enroll as many veterans, servicemembers, and family members as possible. Schools spend billions on sophisticated marketing campaigns and large sales teams to get those students in the door. Documents obtained by the HELP Committee paint a picture of an industry with a laser-like focus on enrolling military students.

For example, I have a 56-page document from Kaplan. This lays out their strategy for recruiting military students. If you go through it, you will see

their objective. As I said, they have a laser-like focus on enrolling military students.

Objective No. 1:

Grow our military enrollments to 9,000 per year by 2011.

At the time, Kaplan signed up about 2,200 military students each year. They were aiming at more than a four-fold increase in the military. The document goes on to lay out the marketing and sales plan for achieving this enormous growth. This is in this document:

Drive awareness via print advertising in key military publications and targeting key military installations.

To do this, the document suggests that Kaplan plans to spend $30 million over 3 years for new military-specific recruiting staff, advertising, and public relations—just on the military.

In a later brainstorming exchange between Kaplan executives, the No. 1 item on the list of initiatives to deal with Kaplan's 90/10 because they were getting close to that 90 percent was:

Accelerate military billings/collections. Go to DC and pick up the check if you have to.

Go get that military money so we do not go over that 90-percent limit.

At Education Management Corporation—another for-profit school—the story is similar. Let me quote from a 2010 memorandum prepared by a consultant to the CEO of EDMC, Education Management Corporation. The memo begins:

Thanks for the call outlining the interest of EDMC in learning more about potential areas of funding that could add revenue that would also address the 90/10 issue.

No. 1 on the list says:

Probably one of the most important potential short and long-term targets for EDMC are the 800,000-plus military spouses who have been authorized—

And this is in italics—

for the first time in history, for a one-time entitlement of up to $6,000 . . . An aggressive effort to reach these spouses at the military bases with various career fairs, direct communications, and visibility with the Office of Military Families in Washington would be very important.

A subsequent e-mail message between EDMC's executives recommends that the company should be ''leveraging military spouse benefits to the fullest extent possible'' in order to overcome the 90/10 regulation.

Executives of for-profit schools are candid about the value of military students in trying to ease investors' concerns about regulatory compliance. The CEO of Bridgepoint Education told investors:

Our military enrollment grew from 1 percent in 2007 to 17 percent at the end of September 2009.

He went on to say:

We believe that when we are able to report our 90/10 for 2009 that it should decrease due to our penetration in particular into the military market.

We know these for-profit schools, in their own words, are aggressively pursuing military personnel and their families. How are they enticing them to enroll? A Kaplan training manual entitled ''Military Learning Modules'' tells recruiters how to utilize fear, uncertainty, and doubt in the sales process with regard to competitors' offers and teaches them to overcome objections that potential students may raise in signing an enrollment agreement.

This is the one from Kaplan:

Fear, uncertainty, doubt. This technique was originally created within the computer hardware industry and uses these emotions to attempt to influence perceptions or beliefs. The technique is especially effective when prospects introduce the ''need'' to examine other online schools.

In other words, a Kaplan recruiter calls up a veteran or a military person on Active Duty and wants to get them to enroll. If that person says: I have seen some ads for Phoenix, I have seen ads for ITT and others, maybe I will look them up, they want to use fear, uncertainty, and doubt when prospects introduce the need to examine other online schools.

Statements such as the following:

instill fear, uncertainty and doubt regarding the features of competitors' programs.

It is one thing if you are selling a keyboard or hard drive. That is one thing. But when you are doing it to enroll a young man or woman whose family may never have gone to college—they enlisted in the military out of a patriotic sense of duty; they have had no college experience whatsoever; maybe they did not do all that well in high school, but now they are thinking about what they are going to do, and they get hit with this. And I find really objectionable when these for-profit schools exploit fear, uncertainty, and doubt in our young military people.

I will have more to say about how onerous it is when they do this to get them to sign up with their school, to get students take taxpayers' money and turn it over to the school, only to find out they do not have any support, nothing to help them, and they drop out within a year. They have debt. They went through all their military benefits, which they can never get back, and the for-profit schools have the money.

A military recruiter at Colorado Technical University—another for-profit school—owned by the publicly traded Career Education Corporation, told the New York Times:

There is such pressure to simply enroll more vets—we knew that most of them would drop out after the first session . . . Instead of helping people, too often I felt like we were almost tricking them.

Robert Songer, the coordinator of all education programs for servicemembers at Camp Lejeune Marine Corps Base in North Carolina, expressed his reservations to the Bloomberg news service.

Some of these schools prey on Marines . . . Day and night, they call you, they e-mail you. These servicemen get caught in that. Nobody in their families ever went to college. They don't know about college.

These recruiting tactics are nothing short of disgraceful. When students are enrolled through deception or fear, not only are they being tricked, they are also more likely to be unprepared for the challenges of college. These strong-arm, emotionally abusive tactics are indicative of schools that see students strictly as a means to an end of higher profits. They appear to have little or no interest in providing students the academic help and support they need to succeed. The end result is that servicemembers, veterans, and their spouses end up enrolling in high-cost programs, dropping out in staggering numbers, often winding up with a mountain of student debt. This often happens despite the availability of similar or better quality programs in the public and nonprofit sectors of higher education.

The tactics have certainly paid off for the company's bottom line. I released a report last December documenting the absolutely tremendous increase in the amount of money these companies are receiving from military education programs. Building on the already substantial growth in revenues generated from the traditional financial aid programs—which went, by the way, from $14 billion in 2005 to $29 billion in 2009—the relentless focus for-profits have brought to military recruiting has yielded an astonishing growth in the funds they get both from the Department of Defense and the Department of Veterans Affairs. Again, keep in mind we are talking about two entities: Active-Duty personnel and veterans.

As the new post-9/11 GI bill was implemented, 18 large for-profit operators pushed their intake of VA dollars from $26 million in 2006 to an astonishing $286 million in 2010. This is what happened. This chart illustrates what happened in VA. Here we are at $26 million in 2006; $25 million in 2007; $27.6 million in 2008; and in 2009, when we passed the bill, it goes up to $55 million. Look what happened in 1 year, 2009, $55 million up to $285.8 million in 1 year. That is the amount of money they took in. That is just the Veterans Affairs funds.

The same companies increased their collection of Department of Defense benefits by 337 percent—$40 million in 2006 to $175 million in 2010. Again, this is for Active Duty. We see the steady increase all the way into 2010—$40 million in 2006 to $175 million in 2010.

This did not just happen; it happened because the for-profit companies decided they were going to go after the military because they were getting close to their 90-percent threshold. Keep in mind, these dollars do not count towards the 90-percent, so they can keep under the threshold by getting more military students.

Let's be clear. These exorbitant amounts of Federal dollars are not going to small, family-owned institutions. They are going to some of the largest Wall Street-owned companies. Out of the $640 million in post-9/11 GI benefits that flowed to for-profit schools just in 2009 and 2010—that is $½ billion; $640 million, $½ billion in 1

year—$439 million went to the 15 publicly traded companies. This amount is equal to 69 percent of the military money going to for-profit schools and 25 percent of all post-9/11 GI bill benefits.

Let me repeat that. Let's just say this: 25 percent—one-fourth—of all of the GI bill benefits post-9/11 went to 15 publicly traded companies. It would be one thing if the for-profit schools were using this for educational expenses, but unfortunately the lion's share of that money—taxpayers' dollars—went into profits, marketing, and—guess what—Wall Street executive salaries and bonuses.

What are we getting in return for this enormous investment of taxpayers' dollars? We are getting a lot of questions.

We know student outcomes for the general population at for-profit schools are pretty dismal. On average, 55 percent of students who attend these schools drop out within a year, and there is no evidence that military students are faring better. Eight of the ten top recipients of VA dollars see more than half of the associate degree students they enroll drop out within the year, and five of the schools see more than a 60-percent drop.

This is what our investigation revealed. Here are the 10 schools receiving the most Department of Veterans Affairs funds. You see ITT, and they got the most—$79.2 million, and that is a 1-year amount. Of those who enrolled for a 4-year degree program, 44 percent withdrew; of those who signed up for a 2-year program, 53 percent withdrew. We look down here to Kaplan, and they got $17.3 million. On their bachelor's degree, 68.2 percent withdrew—69 percent of the 2-year students withdrew in the first year.

Here is with what is startling. That is bad enough as it is, but our investigation showed that neither the Department of Defense nor the Department of Veterans Affairs has any method to assess what is happening to these students. The money flows out, and neither the Department of Veterans Affairs nor the Department of Defense has any way to assess whether they are getting a good education.

I might also add, Senator CARPER has looked into this in his subcommittee. He has looked into this, and we have discussed the possibility of working on something to get the Department of Defense to start taking better care of their Active-Duty personnel and the Department of Veterans Affairs to take better care of veterans. We need to have better assessment of what is happening to these students, how much debt they are accumulating, and what is happening to their education.

We are basically handing over huge and growing sums of military money to for-profit schools without any ability to assess whether these schools are giving our Active-Duty members or veterans the kind of a quality education they deserve.

The complaints I have gathered in the course of our investigation point to a deeply disturbing willingness on the part of for-profit schools to exploit veterans. I repeat, our investigation shows clearly that a number of these for-profit schools are out to exploit veterans. I received this letter from a veteran who attended ITT Technical Institute, the greatest recipient of VA funds. Here is what he said:

> Unlike other institutions I reached out to, as soon as I expressed interest in ITT Tech, they began to actively and aggressively pursue me. Minutes after I filled out an online form, a recruiter called me. He then called every day, telling me it was urgent for me to enroll.

The letter writer notes that due to the high cost of tuition, he had to take out loans. But he writes:

> The expensive tuition did not seem to go toward a quality education.

He concludes with this:

> Within 2 months of leaving ITT Tech, they sent me a bill for $2,000 and a transcript that showed clear signs that it was altered in a way to specifically make my positive balance disappear and create a negative balance.

This letter writer ends with these chilling words:

> I regret attending ITT Tech. The institution provided at best an absolute minimum education and left me with nearly insurmountable debt.

This is a veteran.

Here is another veteran who attended Bridgepoint Education Inc.'s Ashford University who wrote the following:

> I was extremely disappointed, confused and angry. I felt I had been misled, deceived or even outright lied to in an effort to gain my contractual agreement.

He was repeatedly assured by Bridgepoint recruiters that his post-9/11 GI bill benefits would cover the entire cost of his degree, only to find out after he was enrolled that he would owe close to $11,000.

Another student, this one at the University of Phoenix, sent this letter to the Arizona attorney general after trying to resolve his complaint with the school:

> I have been a police officer for over 20 years. I am also an Iraq war veteran. I believe that the University of Phoenix is using deceptive practices in order to lure students into the school. The enrollment counselors tell students that they should be complete with their course of study in a short period of time fully knowing exactly how long it is going to take. The enrollment counselors eventually tell the student it is going to take a lot longer to finish their program but not until the student has committed all of his financial aid and invested so much money that it would be senseless to leave and waste his invested time and money.

A letter to the attorney general of Arizona.

What are the consequences for a student who enrolls at one of these schools but is not satisfied with their experience? The post-9/11 GI Bill benefit package can be depleted rapidly. If benefits are used up without completing a program or for credits that can't be transferred, the benefits cannot be recovered. In fact, because of the high tuition, many students, have to apply for additional grants or loans to pay for school. That means many veterans are pressured into signing up for one of these for-profit schools, told they have free money to pay for their tuition and then, all of a sudden, they find that is not quite enough money. Now they have to apply for a loan. They get a loan, they drop out within 1 year or so, the schools keep the money—some of it grant money, some of it loan money—and the GI or the military person is left with debt and no diploma.

Here is a letter addressed to the Ohio for-profit school regulator that just tears your heart out. This is from a mother:

> Normally, a 26-year-old man doesn't need his mom advocating for him. But this is anything but a normal situation. I expected my son to be changed by his tour of duty in Iraq. But I could not have been prepared for the reality of those changes. My son struggles on a daily basis with symptoms from PTSD (post-traumatic stress disorder) and TBI (traumatic brain injury). He suffers from bouts of depression, anxiety, headaches, nightmares, vision problems, mental confusion, insomnia, and many other symptoms. You have to pretty much ''bottom-line'' your conversations with him. He can't mentally process a lot of details. If you continue with your details, he is done with the conversation, unless you can return to a quick ''bottom-line.''

The mother goes on:

> It is my belief that the ITT Representative may have quickly figured this out and taken advantage of the opportunity. I remember when he called from ITT because I was on my way out to an important occasion. He said the Representative told him he needed a co-signer just so he could start school immediately, but not to worry about it, because the military was going to pay for everything, even give him money to live on and pay his expenses. He sounded so hopeful, something I hadn't heard from him since before the war. It was really hard for him to admit he couldn't continue going to school. He said he just couldn't retain the material. It became too stressful for him to continue. My son is a proud, young man. He is not looking for pity or charity. He is embarrassed that he believed what he was told by the ITT Rep. He could hardly come around me when he found out that Sallie Mae was calling me for payment of his loan. Veterans with PTSD commonly isolate themselves from family and friends. This made it even worse. As a mother and a human being, I am outraged this kind of predatory lending tactic is used on anyone, but especially on an American soldier who gave everything he had and almost lost his life many times, and who continues to suffer. I will pursue this, on my son's behalf, until someone listens and forgives these loans. Thank you all for all of your effort, it is very much appreciated.

This situation is unacceptable. It is unacceptable that Active-Duty military personnel and veterans using their hard-earned benefits are becoming victims of these kind of high-pressure tactics of the for-profit schools—enticing them to enroll, taking their money, causing them to go even further into debt, and then not giving them any support whatsoever.

As I said before, the agencies distributing this money do not investigate or

act on the reported abuses of for-profit schools. They just don't. Earlier this month, the GAO released a report concluding that the VA still faces numerous challenges in implementing a program to start to begin interventions. Many for-profit schools have succeeded in building a highly profitable business structure while failing to provide the student services, a learning environment, and career services that would enable their students to graduate and succeed.

The Federal Government must be vigilant to ensure that poor performing for-profit schools with huge dropout and student default rates are not allowed to continue to receive billions of dollars in Federal taxpayer money every year. We owe this to taxpayers, but we also owe this to the men and women who served and sacrificed for our Nation in uniform. That is why I wanted to take the time on the floor today to point out this new and disturbing finding of our committee, how much these schools are targeting military personnel, how they are using high-pressure tactics to get them to enroll because they know they can get the money to help keep them below the 90-percent threshold.

It is shameful that these for-profit schools are allowed to get by with this. They continue it today. They continue reaping huge profits, paying their CEOs and their executives enormous amounts of money. Yet our men and women in uniform, our GIs, who are taken in are not provided any help or support but now are saddled with a lot of debt or have used up their GI bill benefits. Maybe now they want to go to a community college, somewhere to really get a good education, and they find out they cannot get any more GI bill money. They are done. They gave it all to one of these for-profit schools.

Mr. HARKIN. I ask unanimous consent to have the documents I referred to printed in the RECORD.

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

(See exhibit 1.)

Mr. HARKIN. I am delighted to yield to my friend from Illinois, who has been a strong fighter for students and also, I would say, over the last several years has focused a lot of attention on these abuses of the for-profit schools.

EXHIBIT 1

Excerpts from KHE 267362 Kaplan Military University Agenda Objectives Our Military Value Proposition The Pricing Pilot The phases of the military strategy plan Field team deployment Staffing Plan Appendix A. Pricing Analysis B. Marketing Elements C. Public Relations Marketing D Web Strategy E. American Military University Objectives Grow our military enrollments to 9K per year by 2011 2009 increase from 2.2.K to 6K enrollments 2010 8.8K enrollments 2011 10.5 K enrollments Over 3 years: Bring retention rate on par with traditional students (28 to 34) Improve 90/10 by 5% Provide incremental revenue of $XYZ in year 3 Objectives Transition Kaplan into a ''top of mind'' educator within the active duty & veteran military segments, penetrating the key decision maker and influence (education service officers) Evolve our product offering to attract, retain, and better educate military students Transition current low converting lead & poor retaining student base into highly profitable segment Engage DOD/DHS in custom development of Kaplan Inc. solutions Our Military Value Proposition We have dedicated ourselves to serving our military students with advisors at each step who understand military challenges (admission/FA/Academic Advising/Career Counseling) We have designed our educational platform to help you take full advantage of your military training, experience and any previous college credit We are integrated into military educational system, making it easier for you to enroll and attend Kaplan Go Army Ed, SOC, AEX Portal, Air force ABC program We've built in the flexibility a military lifestyle demands Military Friendly LOA and coursework extension policies We're committed to your success and provide innovative tools to help you succeed in your studies and career such as Kaplan MyPath helping you customize your education We value the sacrifice you have made to our country and provide all active duty and veterans tuition packages, so you can get the quality education you deserve and books are included so there are no unforeseen expenses along the way We recognize that serving is a family commitment, and also offer reduced tuition rates to military spouses We support your lifetime learning needs, including an online high school completion programs, professional development programs, and higher degree programs Tactics Drive awareness via print advertising in key military publications and targeting key military installations ESO Relationship Manager ESO outreach effort leveraging, phone, web, DM, and supporting key military events and periodic base events Target veteran and spousal community via key publications and including military elements in traditional student marketing Continuous development of military offerings, providing tools for high conversion and referral rates Leverage MSG field team in regional areas to drive military events Community College Partners Educational Liaisons to attend military events Business Development efforts at Federal and DOD level Business Development Activities DoD Activities Representing All of Kaplan, Inc. Meeting with High Level Pentagon Officers Pursue Deeper Relationships with branches Veteran Associations Financial Plan Growth Projections Enrollments/Rev 2009 2010 2011 Expense Enrollment Total 6,196 8,848 10,526 MSGField Marketing Expense Total $7,247,975 $10,139,450 $11,632,550 MSG Marketing Net Revenue—Total $4,277,301 $7,957,358 $11,768,938 MSG Lead Generation MSGField NonAggregation Marketing 20082009 Military Marketing Impressions Total Investment Print Out of Home Marketing eNewsletter Direct Mail Total Impressions Operational (Events/Sponsorships) CollateralBase & ESO Booth & Graphics Web Integration and Landing Pages Development Costs Research Pricing Analysis $1,596,050 Marketing Staffing Plan Roles & Definitions Director of Military Marketing & Strategy Oversight over all military marketing including: Lead Generation Web strategy DM/EM Print Collateral Campaign management B2B Marketing (ESO/DOD etc) Product Marketing Direct Product Development Efforts Feasibility on new programs SOCAD/SOCGUARD/SOCMAR etc Develop Sales Tools VA & other military student programs Single Course Offerings Alternate Delivery Modes Military Newsletter Coordinate Military Research Field Support Marketing Operates on shared services and with 1 direct report Military marketing manager

Excerpts from KHE 271429 From: [High-level Executive] Sent: Wednesday, November 11, 2009 4:55 PM To: [High-level Executive]; [High-level Executive] Cc: [High-level Executive]; [High-level Executive]; [High-level Executive]; [High-level Executive]: RE: KU 90/10 Issue [High-level Executive], This has been an area of intense focus over the last 30 days. In mid October we ([High-level Executive], [High-level Executive] and I) projected our 90:10 at year end based on current run rates to be 89.6%. We shared our analysis and actions plans with [High-level Executive], [High-level Executive] and [High-level Executive] and the decision was made to switch SES from an automatic submission process to a manual process. We needed the ability to throttle our submissions based on our cash intake. Although we have implemented a number of initial steps that will help us increase our cash intake in the future, we have a larger list of additional initiatives that we are continuing to move forward and I could walk you through those at your convenience. In response to your suggestions we have added comments below: Accelerate military billings / collection at KU. We have streamlined our internal process on timely billings for our military students. The population of military folks that are awaiting TA vouchers is approximately $400K. Although our records indicate that we are current, we are currently reconciling the entire military group to see if we have any legacy items that were not billed correctly. From: [High-level Executive] Sent: Wednesday, November 11, 2009 12:07 PM To: [High-level Executive]; [High-level Executive] Cc: [High-level Executive]; [High-level Executive]; [High-level Executive]; [High-level Executive]; [High-level Executive] Subject: KU 90/10 Issue Importance: High Other areas to look at quickly/aggressively before yearend: 1. Accelerate military billings / collection at KU. Go to D.C. and pick up the check if you have to.

Excerpts from EDMC916000228224 Memorandum Confidential TO: [Director] FROM: [Outside Consultant] DATE: July 8, 2010 SUBJECT: Possible Opportunities for EDMC ''90:10'' Thanks for the call outlining the interest of EDMC in learning more about potential areas of funding that could add students and revenue that would also address the ''90:10'' issue. In light of that dual set of interests, let us briefly review the opportunities we see among recurring sources of government funding, plus some other prospects to consider. THE FEDERAL GOVERNMENT There are a number of emerging opportunities that may present short, medium, and longerterm opportunities that should also be carefully considered, given their size and scale. The Military 1. Military Spouses. Probably one of the most important potential short and longterm targets for EDMC are the 800,000 plus military spouses who have been authorized, for the first time in history, for a onetime entitlement of up to $6,000 that can be used for training, as well as for counseling and other ways to assist them in finding work. We are told by the DOD that the largest demand among the spouses is for healthcare related training, although it can also cover almost all other occupational areas. The Department of Defense has also informed military personnel and their spouses that under the most recent G.I. Bill, they can authorize up to 50 percent of his/her education benefits for the spouse to continue their education. Therefore, in theory, every spouse has access to two separate sources of funding. As you probably know, military spouses are a particularly attractive group of prospective students. Nearly twothirds have at least some college education. The average age is 36, they have strong support systems with the military bases and operations and, of course, they tend to be very stable. The big issue that is driving these new training funds is that

when the military do their surveys, the primary reason people give for leaving the military is that their ''spouse is not happy.'' When the military spouses are surveyed, they say the reason they are not happy is that they cannot find a job or, more often, they cannot find a good job for which they believe they are qualified with their background and experience. This is the reason for the focus on providing training and other forms of assistance: so that they can get better jobs and, in turn, encourage their spouses to stay in the military. The ''My CAA'' (My Career Advancement Account) program for the $6,000 entitlement for all 800,000 spouses, however, has been thoroughly bungled. The entire webbased system for enrollment literally collapsed in January. Therefore, the DOD is not authorizing any new CAAs at the moment, and they have spent months trying to restore the system. At least 100,000 military spouses had gained eligibility when the system ''crashed.'' Those are approved for their training. Once My CAA gets up and running, one can safely assume an enormous demand will follow, given all the interest that has been shown by the spouses. EDMC was provided information on becoming a ''Military Spouse Friendly School'' in the past. We would strongly encourage this to be a first step since that is the first stop the spouses see on their websites. No doubt, EDMC is already benefiting from some of this, but an aggressive effort to reach the spouses at the military bases with various career fairs, direct communications, and visibility with the Office of Military Families in Washington would be very important. 2. Enlisted Personnel. Of course, there is the longstanding tuition and other support for most members of the military as an entitlement. 3. Veterans also have a variety of tuition and other benefits, plus preferred eligibility for almost all other Federal programs.

Excerpts from EDMC916000228222 From: [High-level Executive]: Friday, July 30, 2010 9:22:51 PM To: [High-level Executive] Subject: FW: Possible Opportunities for EDMC ''90:10'' Attachments: [High-level Executive] 0708 re Opportunties.doc Hi I attended the call yesterday with [Director] [High-level Executive] and [High-level Executive] (Strategic Partnerships). The call as expected was to review the areas that had been highlighted on the report as potential opportunities for 90/10 impacting funding sources. The outcome of the call was a followup call with [High-level Executive] and [High-level Executive] on opportunities on the local Workforce Boards and I took the action item for a followup discussion on ensuring we are leveraging the military spouse benefits to the fullest extent possible. I plan to include [High-level Executive] in the next discussion Do you recommend anyone else? [High-level Executive] Original Message From: [High-level Executive] Sent: Monday, July 12, 2010 6:47 PM To: [High-level Executive]; [High-level Executive] Subject: FW: Possible Opportunities for EDMC ''90:10'' [High-level Executive] and [High-level Executive], After you have had a chance to review please give me a call. I know you are probably wondering why the two of you. [High-level Executive] because of the potential match with BMC and [High-level Executive] because of the impact on OHE. [High-level Executive]

Excerpts from KHE 094984 LEARNING OBJECTIVES Define and demonstrate (through role play) each step in the A.C.T.I.O.N. model Differentiate between Outcome Based and Process Based Selling Utilize Outcome Based Selling language effectively Differentiate between Feature, Advantage and Benefit (FAB) Differentiate between Needs and Wants Utilize Open Ended Questioning and Active Listening techniques Utilize Fear, Uncertainty and Doubt (FUD) in the sales process Handle and overcome objectives Utilize trial close techniques KAPLAN UNIVERSITY A.C.T.I.O.N. FOCUSED SALES MODEL ACTIVATE INTEREST (Introduction) Recognize, Acknowledge, Congratulate Establish rapport and credibility Ask effective questions CONNECT AND DISCOVER Ask open ended questions Dig for motivators Establish needs and wants Listen actively TIE IN THE SOLUTION Satisfy needs and wants Use Feature, Advantage, Benefit technique Use Fear, Uncertainty, Doubt technique Make the solution fit INITIATE AND EXPLAIN THE PROCESS Recognize buying signals Trial close Outline next steps OVERCOME OBJECTIONS Use LISTEN model Use Outcome Based language Show empathy Active listening involves taking note of key points that you can further explore, asking questions, investigating, digging deeper, resulting in longer, more meaningful conversations. For example, the prospect says she is worried about her financial position. The advisor might ask, ''Do you think in a few years, when you decide you want to pursue an education, you will be in a better or worse financial position?'' TRANSITION STATEMENT Confirm your understanding of what the student has told you. ''So if I understand you correctly . . .'' or ''Let me summarize what I've heard.'' TIE IN THE SOLUTION How the Solution Fits Listen for specific information about the prospective student's dissatisfaction with life as it is now, and tailor solutions specifically for him or her. Pique the prospect's interest and arouse enthusiasm! Feature, Advantage, Benefit Feature WHAT IS IT Advantage WHAT IT DOES Benefit WHAT IT DOES FOR ME The Benefit is Important! The features and advantages of individual schools can often look alike. The key is the value. The advisor must address the benefit each feature brings to the students. Not every feature has a benefit for every student. When showing benefits, choose the features that are meaningful and relevant. Presenting benefits paves the way to what the solution offers. INITIATE AND EXPLAIN THE PROCESS It is at the point in the ACTION sales model where the advisor closes the sale. An effective closer pays attention to buying signals, trial closes, outlines next steps and moves toward gaining commitment. OVERCOME OBJECTIONS An objection is generally a reason or argument presented in opposition or a feeling or expression of disapproval. People usually object when they encounter: A misunderstanding Incorrect information Lack of information Fear or doubt Something which is keeping them from making a commitment to move forward. The Admission Advisor's role is to help prospective students overcome objections when making the decision to achieve their educational goals. Types of Objections As a general rule, objections fall under one of five categories: TIME I don't have time in my life to fit school into it. MONEY I can't afford the deposit, much less the tuition. SUPPORT My friends and family don't think I need to go back to school. COMPETITION XXX school is cheaper, faster, easier. FEAR I doubt that I'd be able to succeed

Expect Objections Objection management is an integral part of the advisor's job. Objections may happen during every step of the admissions process. Advisors encounter objections of varying kinds. Successful advisors are able to approach objections systematically. Overcome Objections with Fundamental Skills Listen Actively—to the student's objections and concerns. Interpret the Objection Repeat objection, then empathize. ''I understand your concern about finding 20 hours a week to study.'' Solve Together Jointly find a solution. Ask probing questions to divulge the true nature of the person's objection. ''How do you spend your time?'' ''Can you walk me through a typical day?'' ''What are you willing to sacrifice to fulfill you dream? Get the student involved in overcoming his own objection. Establish Buy in Gain the student's commitment. Ask reaffirming questions. ''Which of these solutions would work best for you?'' ''Do you feel more comfortable now?'' Move person forward. ''Great, let's move on to the next step.'' Don't hesitate! Next Step Lead student to the next step with confidence.

Excerpts from ITT00007708 Dear This letter is in response to the concern you filed regarding ITT Technical Institute (''ITT''). In your complaint, you voiced concern over your financial obligation and in particular the Montgomery GI Bill funding you thought you would be receiving. The Board initiated an investigation into this matter and reviewed all of the financial documents involved in your enrollment. In response to the Board's request for information, ITT submitted the attached response to the concerns you raised. The documentation submitted by ITT shows that you completed one term with the school and withdrew late in the second term. When a student withdrawals from school, the school is required to calculate a tuition refund in accordance with Ohio Revised Code §3332110 and the school may also be required to calculate a refund of federal loan money in accordance with applicable federal regulations. According to the refund calculations, your total financial obligation to the school for those two terms equaled $10,709.68. This tuition charge was financed through two loans for your education, one for $5,760.80 and one for $4,417.00. In addition to the loans that were used to pay your tuition costs, it appears that between March 2007 and July 2007, you received a total of six payments for veteran's education benefits in accordance with the Montgomery GI Bill to subsidize your tuition costs, totaling $6,808.33. For students who receive Montgomery GI Bill funding, It is standard procedure for a school to set up loans or other funding mechanisms for a student before they begin classes. This is due to the fact that the GI Bill funds are dispersed directly to the student after the student has already begun classes. The school cannot control whether the student uses that money to reduce their student loan obligations or whether it is used for other purposes. As such the loans that you applied for while you were enrolled at ITT were properly attributed to your tuition charges and it was within your discretion to use your GI Bill funds to reduce your loan obligations. There is no evidence that ITT is in violation of any law or rule under the jurisdiction of this Board. Finally, I would also note that ITT has served 155 veterans during the last two years and during a visit to the school in December, the State Approving Agency for Veterans Training conducted a review of the ITT's administration of veteran's benefit and nothing out of the ordinary was noted. ITT has offered to meet with you and your mother and assist you in exploring any deferment or forbearance options you may have with your lenders. If you wish to accept their offer, you may contact [Campus Director], School Director, to set up an appointment. Sincerely,

Excerpts from ITT00007722 I am writing in response to your August 4, 2008 correspondence. I appreciate you bringing your concerns related to your enrollment at our campus to my attention. I am sorry to hear of your difficulties following your service in our nation's military. However, after reviewing the available information, the facts do not substantiate the refund or waiver of the tuition and fees related to your enrollment in the Information Technology Computer Network Systems program. In your letter,

you claim you were told that the military would pay for your schooling. This statement cannot be substantiated. While our institution assists students in seeking financial aid for which he or she may qualify, we do not represent to a student that he or she will have their education paid for by a particular entity. The Catalog you received at the time you enrolled at our campus outlined this further. Specifically, the Financial Assistance section of the Catalog states in pertinent part: The school may, from time to time, provide the student with (I) information on federal, state and other student financial aid for which he or she may apply to receive and/or (II) estimates of the amount of federal, state and other student financial aid for which he or she may qualify, but: (a) the federal, state and other authorities, and not the school, determine the student's eligibility for any federal, state or other student financial aid; (b) the federal, state and other authorities, and not the school, determine the amount of any federal, state or other student financial aid the student may receive. . . . As this language states, the school makes no representation or promise of aid which a student will receive. Rather, such a final determination is that of the agency providing the aid. In speaking with the Financial Aid Administrator (FAA) who assisted you, the FAA does not recall any discussions that the military would be paying the full cost of your education. Rather in assisting you with the financial aid process, there were discussions pertaining to your possible eligibility to receive benefits from the Veterans Administration (VA). For your information, I have enclosed a copy of your Enrollment Agreement and related Cost Summary and Payment Addendum (CSPA). The CSPA provides an outline of the expected cost and funding for your first three quarters of attendance at the campus. Further our records also indicate that you did apply for VA benefits. Any such benefits would have been paid directly by the VA to you. Our school does not receive these funds on your behalf. Again I appreciate you bringing your concerns to my attention for review and response. While I sympathize with the circumstances you have endured since leaving the military, I must review each matter based upon its own merits. In this instance, the facts do not substantiate a refund or waiver of tuition and fees. If you have any questions or wish to provide any further information, please do not hesitate to contact me. Sincerely, [Campus Director]

Mr. DURBIN. I thank the Senator from Iowa. He has led the way. His committee investigation on this industry is a clarion call to every Member of the Senate of both political parties. Are we going to continue to waste taxpayers' money? Are we going to continue to allow these schools to exploit veterans and students across America?

You cannot turn on the local television here in Washington, DC, where there are a lot of military families, without running into ITT ads trying to lure these young veterans into their programs that are virtually worthless, that end up saddling many of them with debt, if not saddling the government with debt before it is all over.

I ask the Senator from Iowa, is it not a fact that when the new leadership came into the new House of Representatives, that in the first few weeks of activity, one of the first things they did was to attempt to stop the Department of Education from regulating this for-profit school industry?

Mr. HARKIN. The Senator is right on the mark. The House wanted to keep the Department of Education from issuing what we call a gainful employment rule, which basically is a rule saying, if you are going to take all this money and you are supposed to be educating kids to get a job or career, what is happening to them? We want to know if they are actually getting jobs. What could be more innocent than that? We want to know how they are doing. Yet the Republican leadership in the House of Representatives wanted to stop the Department from issuing that rule.

Mr. DURBIN. I might ask the Senator from Iowa, at the end of the day is it not true that while these for-profit schools have about 10 percent of the students in America, they take in almost 25 percent of all Federal aid to education?

Mr. HARKIN. The Senator is absolutely right.

Mr. DURBIN. Is it not also true that we requested, I think together, that the GAO do a study of the amount of money that was being spent on behalf of our veterans at for-profit schools, and did we not find that the cost to the Federal Government was often two or three times as much for the same education that was being offered at community colleges and public colleges? Isn't it true that the for-profit industry, by all objective measures, is exploiting our GI bill at the expense of our taxpayers, our government in debt, and these veterans who are unwittingly signing up for these worthless courses?

Mr. HARKIN. I say to my friend, yes, we did. On December 8, our committee issued a report, December 8, 2010, a report on, partially—what the Senator is saying now, how much more expensive these programs are in these schools compared to what they could get, say, at a community college or a nonprofit school in their States. The Senator is right, it is three to four times as much.

Plus there is one other thing, I say to my friend. He knows this. When these students go to a small not-for-profit school that you would have in Illinois or the colleges I have in Iowa, such as Simpson or Graceland or Central College—a number of our small private colleges—they do a great job. They do a wonderful job in helping poor students who need a lot of Pell grants. What these colleges do when students come in and they borrow money and use Pell grants, is provide a lot of support from the university. The university is there to help them with their studies, to make sure they get the kind of help and support they need. A lot of these students come from families who have never gone to college, they never had that kind of experience. They come to college, and they get that support. What the for-profits do is they sign the kids up, and once they get the money, good luck in ever getting any help or support from the for-profit colleges.

Mr. DURBIN. I might say to the Senator from Iowa, the next time you are in Chicago and headed out to O'Hare Airport, right before the O'Hare exit, look to your right. You will see a tall office building, and on the top it says ''Westwood College.'' This has been one of my favorites because I have met many of their so-called students, despite their best efforts, who have been exploited by Westwood College. I want to share with the Senator one story to show it can go from bad to worse in Westwood College.

There was a veteran named Carlos. He served in Iraq, came home, and wanted to get a degree. He saw the ad for Westwood College on television. He went to sign up, and they said: Don't worry about it, Carlos, because at the end of the day, your GI bill is going to pay for everything. He signed up and started going out to this Westwood College and was disappointed at how awful the courses were and how the teaches didn't teach anything. He didn't feel he was learning anything.

After a year, Westwood called him in and said: Carlos, you are on the road to your degree, but we have run into a problem—the GI bill will not cover all the expenses.

If I am not mistaken, I ask the Senator from Iowa, doesn't the GI bill pay about $17,000 a year?

Mr. HARKIN. That is right. Starting in August, that's about how much the GI Bill will pay per year.

Mr. DURBIN. They said to Carlos: You need to take out student loans on top of the GI bill.

He ended up taking out the GI loans, going $21,000 in debt over and above the GI bill, and he couldn't finish. He didn't want to go further into debt.

I might say to Carlos that he got off easy. I had a young woman who went to Westwood College for a criminal justice degree. After 5 years of extra effort to get her diploma, she ended up with a worthless diploma that she couldn't turn into a job anyplace, at any sheriff's office or anyplace related to criminal justice. I might say to the Senator from Iowa, she was $90,000 in debt at the age of 26, with a worthless diploma from Westwood College, this for-profit school. She is living in her parents' basement because she cannot get a job that pays anything, and whatever she makes goes to the student loans, and she cannot borrow a nickel now to get a real education.

Mr. HARKIN. Of course not.

Mr. DURBIN. Think about this poor girl. She was doing the right thing.

I will say something to the Senator from Iowa and ask him to comment on this. I think the Federal Government is at fault here too. Somewhere along the way, Westwood College ended up qualifying for college student loans and Pell grants. Who said they are qualified? I would challenge that based on these experiences.

Are we doing our job as a Federal Government to make sure these are truly accredited colleges and universities? I ask at this point, is there more we can do to make sure these are real

schools teaching real courses that can lead to jobs?

Mr. HARKIN. I say to my friend, first of all, Westwood was one of the schools that the GAO had an undercover investigation into that had one of the most deceptive programs of getting students to sign up. That is all documented on film.

Second, the accrediting agency that accredits Westwood was out at Westwood about the same time. Yet they found none of the things the GAO found. I talked to them. I had a hearing. I had them before our committee. I asked the accrediting agency: How could it be that on the one hand the GAO finds out all this, yet you say they are fine and they get accredited?

They did admit there was some laxness or some loopholes, some things they were not paying attention to, that they needed to do a better job in accrediting.

I say to my friend, what the Federal Government does is we say to a school: To be able to be eligible for Federal financial aid so you could accept Pell grants and get the guaranteed student loans, you would have to be accredited. The Federal Government doesn't do that accrediting. That is done by private agencies.

Here is another one, I say to my friend from Illinois, that we need to look into. Get this. The accrediting agencies that accredit let's say a Westwood, do you know where they get their funding? From the schools they accredit. Talk about a fox in the chicken coop. They go out to accredit Westwood, but it is Westwood that is paying them to accredit them.

This is something that I think we as a Federal Government have to get into. To me, this is a system that has kind of run amok, this whole accrediting system. I think there needs to be a better system of accrediting schools. I can assure my friend this is something else our Committee on Education will be looking at in the future.

Mr. DURBIN. I ask the Senator from Iowa, is it not true that when our GAO undercover agents went out to look at 15 for-profit colleges along the lines the Senator discussed, they found all 15 made deceptive or questionable statements to potential applicants, including recruiters at the so-called Westwood College? Investigators found admissions representatives at Westwood misstating the cost of the program, failing to disclose the graduation rates, even suggesting falsification of Federal financial aid forms.

As with the experience of the young veteran I described, the GAO report found the recruiters overstated what it would cost to go to public college. On film, as you said—this is on videotape—when asked the cost, this recruiter from Westwood said: Well, it depends on the program. Usually with a bachelor's program, coming in with no college credits, this could be—it could range from $50,000 to $75,000, he said. Most schools, more traditional schools, you are looking at $100,000, $150,000, $200,000.

I might say to the Senator from Iowa, isn't it true that to obtain the same degree he was offering at Westwood from a public university degree in Texas would cost $36,000? Isn't that what the GAO came in and said?

These people are deliberately misleading these youngsters and new veterans trying to make a life for themselves, piling debt on them with a worthless diploma and ripping off the taxpayers. Why don't we have a sense of some rage here in Congress that this is going on?

I would say to the Senator, it strikes me first and foremost that we should protect the young people in America and we ought to make an equally high, if not higher, priority of protecting our veterans. We created the GI bill with a great source of pride—I know you are a Navy veteran yourself—great source of pride that we were standing up for this generation of veterans. Senator JIM WEBB led the way on that. We were good about keeping our word to veterans. Now these same veterans are being ripped off because we are not doing our job in Congress.

I say to the Senator, when it comes to some of these recruiting practices that are being used by Kaplan University, what you have disclosed here on the floor is embarrassing, that we allow this to occur to our veterans.

Mr. HARKIN. I say to my friend it is. It is embarrassing, and it is just shameful.

I said earlier this is from Kaplan's recruiting. They call it their military learning module. They call it ''Fear, Uncertainty, and Doubt.'' As I said earlier, they say—now, this is an internal document. This is for the recruiters. This is not something they hand out through the public. We got this through our investigation. They say: This technique was originally created within the computer hardware industry and uses these emotions to attempt to influence perceptions or beliefs—and on and on.

As I said earlier, it is one thing to use high pressure tactics to sell someone a hard drive or a new computer or something, but when they are exploiting fear, uncertainty, and doubt on a GI who may have post-traumatic stress disorder, who may have served in Iraq, who didn't go to college, that is another thing. Young people now, they are worried about their future and what is going to happen to their future. Then these people come in and put the pressure on them with fear, uncertainty, and doubt to get them to sign a contractual agreement and turn over their GI bill benefits. It is just disgraceful.

Mr. DURBIN. Mr. President, I ask the Senator again, this is Kaplan University, which owns the Washington Post?

Mr. HARKIN. I think it is the other way around. The Washington Post owns Kaplan University.

Mr. DURBIN. I see. I also think, for the record, that Kaplan University makes more money than the newspaper, but be that as it may, they are linked economically.

Mr. HARKIN. Yes, they are.

Mr. DURBIN. I have always respected this newspaper. I just wonder how they can rationalize this sort of activity—the exploitation of students and the exploitation of veterans.

I am sure the Senator has been visited by so many people who have called and said: Senator HARKIN, I loved your speech. I loved your hearing. I have to get in to talk to you because we are the good guys. We are the good school. We are the ones who don't exploit students.

You know what. I found a couple of them I believe. There are some that are good.

Mr. HARKIN. That is right.

Mr. DURBIN. But the rest of them, at this point it is an embarrassment to me. As a person who couldn't have gone to college without a student loan—and I have voted reflexively now in the House and the Senate to give the next generation the same chance—I have to say to the Senator the party is over as far as I am concerned. The next time we have a debate on Pell grants and college loans, I want this issue front and center. They are ripping off the taxpayers and ripping off the students and ripping off the veterans and we are fools to ignore it.

The House Republicans have announced that they want no part of reform, that they are going to take this power away from the Department of Education. I think we have to send a different message.

Mr. HARKIN. I say to my friend, the Senator is right on target. What has happened as we have looked at this over the last year and a half now is even the good actors are being sucked into this vortex because the business model itself is bad.

For example, how many times has my friend heard from the for-profit industry: Well, the reason we have these high dropout rates—for example, here is Westwood; 57.6 percent dropped out in the first year. Here is Kaplan; 69.1 percent dropped out in the first year—the reason we do is because, see, we serve a lot of low-income students. These are low-income people we serve, and they have a lot of problems in their lives. That is why we have such a high dropout rate.

What they are not telling us is, because of the business model, that is exactly who they go after to recruit. Why do they do that? Because the lowest income student gets the highest Pell grant and the most guaranteed student loan. So if you are in the for-profit business and you want to make the most money, you don't want to recruit Senator DURBIN's son or daughter. You want to recruit somebody whose parents never went to college, who is probably a minority, maybe doesn't even speak English all that well, who can get the maximum Pell grant and the maximum student loan, and once they

get the money—well, if they stay, fine; if they don't, no big deal.

Mr. DURBIN. Let's stay on that point for a second. I ask the Senator from Iowa, how long does the student have to stay at the school for the school to get the Federal money? If they left and didn't finish, would the school still get paid?

Mr. HARKIN. This is something else we have to look into. Right now, the Federal laws are that a student has to be in for at least 60 percent of the term. If they are in for 60 percent of a term, then the school can keep the money.

Now, I ask my friend from Illinois, what is a term? I ask people that, and they say: well, isn't that a semester? Well, a term is whatever the school says it is. Some of these schools have a term that is 6 weeks long. So you sign up, you turn over your money, you spend 4 weeks there, you fulfill 60 percent of the term. If you leave, they keep the money.

Mr. DURBIN. And you end up with the student loan.

Mr. HARKIN. And, by the way, as the Senator fully knows, these student loans are not dischargeable in bankruptcy. They are around your neck forever.

Mr. DURBIN. I might also add, I think Congress made a serious error in saying that the private loans from the same schools will be treated the same way. They are not dischargeable in bankruptcy.

Here we have someone who could be 19 or 20 years old signing up for $4,000, $5,000 or $10,000 worth of student loans. Have they really thought and reflected on the fact that that debt they have incurred is going to be with them for a lifetime and, at some point in their lives, when they can no longer borrow money to go to school, and they are still facing default on their student loan, they could have their income tax returns attached, they could be prohibited from Federal employment? They cannot discharge this loan in bankruptcy. They are stuck with it.

That poor girl living in her parents' basement with a $90,000 debt for Westwood College, a rip-off institution, is stuck. She has nowhere to turn. The college president wrote to me and said I am just being totally unfair with him about her experience. Well, I know her experience inside and out.

I said: You want fairness? You step in and forgive her loan. You pay it back. You have the money. You pay it back. Never heard back from him.

They don't have the interests of the students at heart. They have the interests of money at heart. That is why I am glad the Senator is investigating, and we will continue to speak out.

Mr. HARKIN. I thank the Senator for his great work on this.

I just want to add one other thing about the school and about the debt of these students. Some have likened what the for-profit school industry is doing to the subprime bubble we had. But there is a big difference. Even as bad as the subprime mortgages were, a person who had a house they couldn't pay for could walk away from that house. They could always walk away from it, and that is the end of the debt. You can't walk away from this. No way. That is the difference.

This is not a dischargeable debt, and these students, as the Senator points out, might end up alone. They might not be able to go to a legitimate school because they can't get any money for that. They could be barred from Federal employment. This will follow them for the rest of their lives until they pay it off. Yet these companies are making almost obscene profits and paying their CEOs tremendous salaries and benefits.

As I pointed out earlier, many of these for-profit schools are owned by the same investment firms on Wall Street that brought us the subprime problem.

Well, I say to my friend, we just cannot let this go. There is too much at stake not only for the taxpayers of this country but for these students, these young kids, these poor kids who are being preyed upon. So whenever we hear these schools say: Well, the reason we have this problem is because we are servicing all of these poor kids—don't forget. That is who they prey on. That is who they go after because they get the most Pell grants and the most student loans out of the poor kids. Then after they get the money, hey, if they leave, no sweat. They don't care. It is not a problem with them.

I thank my friend from Illinois.

Mr. DURBIN. I thank the Senator from Iowa.

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

Mr. DURBIN. I ask unanimous consent to speak as in morning business.

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

THE DREAM ACT

Mr. DURBIN. Mr. President, we have been speaking on the Senate floor about students who are being exploited by for-profit colleges. I think about turning on the television in Washington and the ad that really troubles me which shows a lovely young woman who says: You can go to college in your pajamas. You don't even have to get out of bed to go to college. And she has a computer on the bed.

It strikes me that—I don't believe anybody should fall for that, but some must, and they end up signing up for these for-profit schools, getting deep in debt, with a worthless diploma when it is all over. The exploitation of veterans, Senator HARKIN is bringing that out. I hope the people who are going to give the patriotic speeches in this Chamber about our love of country and our love for the men and women in uniform will love them enough to put an end to this exploitation.

I wish to speak about the DREAM Act. It is legislation which I first introduced 10 years ago and came to my office when we were approached by a Korean-American woman in Chicago whose daughter was brought to the United States when the little girl was 2 years old. She was brought on a visitor's visa. Her mom stayed, had other children, started a business. Eventually, she became a naturalized citizen. The other brothers and sisters were born in the United States, but this young girl who was brought from Korea literally had no papers filed.

Well, she turned out to be an amazing concert pianist. She was accepted at the Julliard School of Music. When she went to apply and was asked about her citizenship, her mom realized she had never done anything about her daughter's citizenship. So they called our office. We checked, and the laws of the United States were very clear. They said this young girl who had never remembered ever being in Korea was told to return to Korea and wait at least 10 years to try to get back into the United States. I thought that was unfair. It turns out she wasn't alone.

Young people all across the United States, who were brought here by their parents, undocumented, have lived their lives here, have gone to school here, have grown up here, have pledged allegiance to the flag in the classrooms here, have known no other flag or National Anthem, and then they learn as they graduate from high school they are without a country. They have no place to go.

For many of them, it is a rude awakening, after all the effort they put into school, to realize they can't do anything. They can't qualify for student loans even at good schools. They can't qualify for a lot of jobs they might otherwise have if they graduate—engineers, nurses, doctors, teachers—because they have no citizenship.

So I said: Let's at least agree on something basic. You shouldn't hold a child responsible for the wrongdoing of their parents. I hope we all agree on that.

Secondly, if we have spent so much time and resources in giving this young person a chance to be educated, and they have paid us back by working hard at graduating, isn't it in the best interests of America to give them a chance to help our country move forward?

That is why I introduced the DREAM Act. It says: If you graduated from high school—if you came to this country under the age of 16 and you graduated from high school, you have had no serious problems with the law, you have had no issues of moral character, and you go on to do one of two things—either serve in our military or finish at least 2 years of college—we will give you a chance to become legal in America. It is called the DREAM Act. We have been considering it for 10 years.

Last December, the Senator from New Mexico knows we voted on it.

Fifty-five votes on the Senate floor—a majority but not enough. There was a Republican filibuster requiring 60 votes. We fell short. We had three Republicans join us in voting for it. We lost a handful of Democrats. We are going at it again.

I have reintroduced the bill. The reason I have done it is because the challenge is still there. These young people are still out there, and their lives are still hanging in the balance. I think it is time to give these young people a chance. I don't want to give them amnesty. I want them to earn everything they are going to get. If they have to pay a fine or tax on the way, so be it. They will pay it. They are determined to become part of America. These are young people who have become superstars in their own rights.

By every account they are the leaders of tomorrow but for the fact that they don't have citizenship or legal status in America. The DREAM Act is supported by Defense Secretary Robert Gates. He believes it will bring diversity to our Armed Forces. It is also supported by General Colin L. Powell, a man I respect very much, who believes, as I do, that we should give these young people a chance.

This DREAM Act will stimulate our economy with a lot of new people in professions we need to have filled, including nurses and teachers, engineers, doctors, and lawyers. That is why the DREAM Act has the support of such a diverse group, including Rupert Murdoch and the CEOs of companies such as Microsoft and Pfizer.

Every day I get contacted by these students across America. They keep looking to us and wondering if the day will come when we will give them their chance.

I wish to share two stories very quickly this evening. This is Elier. I will show his photo because he is a handsome young man. Elier's parents brought him to the United States in 1994 when he was 4 years old. He is a computer wizard. In high school he won awards for outstanding achievement in science and information technology. He graduated in the top 5 percent of his high school class. He was named Tech Prep Student of the Year in Cincinnati, OH. He has even started a computer repair business.

Now, Elier is a 19-year-old honors student at the University of Cincinnati majoring in information technology with a 3.8 GPA. Here is what one of his professors said about Elier:

> I have worked with thousands of students over the past 30 years and Elier Lara is that student who comes along every 10 years or so who just makes your heart sing.

Elier sent me a letter, and here is what he said in the letter:

> Technology and computers is where I want to spend the rest of my life. I'm sure I'll find my place on the forefront of the technological frontier, implementing and discovering the new technologies of the future. I am dreaming big and will continue to do so.

Can we use a person with those talents in America? You bet we can—in Illinois, in New Mexico, in Ohio. Look at leading American technology companies such as Google, Yahoo, Intel, and eBay. They were founded by immigrants to the United States. That could be Elier's future and part of America's future.

Here is the sad part of the story of this otherwise amazing young man. Elier is in deportation proceedings. After having won all the awards for a great academic background and demonstrating the kind of leadership we need in America, our government has officially decided it is time for him to leave. Here is what he said about being deported:

> I have been living in the United States for the last fourteen years of my life. The most important years of my life were spent here in America. I cannot speak, read or write . . . Spanish. I have never been back to Mexico since the day we moved here.

At the age of 4.

> Mexico is not home for me and I fear going back.

So would it be a good use of taxpayer dollars to deport this young man and send him back to a country where he can barely speak a few words of the language—a place he can never remember?

Elier has asked the Department of Homeland Security to grant him a stay, and I am going to work hard to make sure he gets it. I do not know if I will be successful. It makes no sense for us to lose Elier. He has so much to contribute, and we need to have him here.

In the past, I have spoken about Oscar Vazquez. Oscar is a student from Arizona. I would like to update you on Oscar's situation because while we take our time addressing this issue, the lives of these young people go on.

Oscar Vazquez was brought to Phoenix, AZ, by his parents when he was a child. He spent his high school years in Junior ROTC, as we can see from his uniform. He dreamed of enlisting in the military. Here is a picture of him in his uniform.

But at the end of his junior year, a recruiting officer told Oscar he was ineligible to serve in our military because he was undocumented. Oscar found another outlet for his talent. He entered a college-level robot competition sponsored by NASA. Oscar and three other DREAM Act students—the four of them—worked for months in a storage room in their high school. They were competing against students from MIT and other top universities. Oscar's team won first place.

This is Oscar today. I show you an updated photo—a good-looking young man.

In 2009, he graduated from Arizona State University with a degree in mechanical engineering. He was one of the top three students in his class at Arizona State.

Following his graduation, he took a brave step. He voluntarily returned to Mexico—a country where he had not lived since he was an infant—and he said:

> I decided to take a gamble and [try to] do the right thing.

Last year, the Obama administration granted Oscar a waiver to reenter the United States. Without this waiver, Oscar would have been barred from returning to the United States for at least 10 years. He would have been separated from his wife Karla and their 2-year-old daughter Samantha, both of whom are American citizens.

When Oscar returned to the United States last year, he did two things. He applied for citizenship, and he enlisted in the U.S. Army. He is in basic training right now. He wants to be an Apache helicopter pilot.

In June, Oscar will complete basic training and be sworn in as an American citizen. The story of Oscar Vazquez is the story of America, and it is the story of the DREAM Act. This young man, determined to serve in our military, was turned away as undocumented. He went on and earned a college degree, with no help from Federal programs, graduating at the top of his class. He then went to Mexico and took a chance that he could get back here so he could enlist in the Army, and he made it. Tell me, what is fairness and justice for Oscar Vasquez? That is what the DREAM Act is all about.

I introduced this bill in 2001. I have met so many young students such as these who are my inspiration to come to this floor regularly and remind those who follow the Senate this is an issue that will not go away—as these lives will not go away. We need these young people.

I wish to call on other students all across America—who were lucky enough to be born in America, who never had to question their own citizenship or future—I am asking them to stand in solidarity with these young men and women, people who may be sitting next to them in a lecture hall or just across the aisle at a desk. They are like you, and they need you to stand for them. If we can have students across America mobilize on behalf of DREAM Act students, we can create a force for change—a force that can pass, even with 60 votes, this DREAM Act in the Senate.

I need my colleagues to not forget the DREAM Act, not forget these young people, and not forget what America is all about.

Just a few steps from here is my office, and right behind my desk is a certificate that I have had displayed as long as I have been in the Senate. It is my mother's naturalization certificate. She was an immigrant, and she came here at the age of 2. She would have been one of the DREAM kids of her generation. It was not until after she was a parent and had two children that she finally took the classes and was naturalized as a U.S. citizen. She was a young mom in East Saint Louis, IL, and I have her picture right there on the naturalization certificate to remind me not only who I am but to remind me of her and her journey.

Her journey to America is the same journey these young people made: coming as an infant and striving to succeed in a place which did not always welcome immigrants. But, thank goodness, this Nation of immigrants, from time to time, will rally and celebrate our diversity, celebrate the length and breadth of the American family and all the cultures and all the ethnic backgrounds it comprises.

I am so proud of this great Nation, and I am proud of who we are and what we are. This Nation of immigrants should remember that fine young people such as these DREAM Act students deserve a chance. Given a chance, they will continue to prove to America that this is, indeed, a great and noble experiment in our country, bringing together people from all over the world.

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that morning business be extended until 7 p.m. tonight, with Senators permitted to speak for up to 10 minutes each during that period of time.

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

PATRIOT SUNSETS EXTENSION ACT OF 2011—MOTION TO PROCEED

Mr. REID. Mr. President, I ask unanimous consent that it be in order to proceed to S. 1038, introduced earlier today.

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

Mr. REID. I move to proceed then to S. 1038.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

Motion to proceed to the bill (S. 1038) to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until June 1, 2015, and for other purposes.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 1038, a bill to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until June 1, 2015, and for other purposes.

Harry Reid, Dianne Feinstein, Bill Nelson, Amy Klobuchar, Jeff Bingaman, Richard Blumenthal, Mark R. Warner, Sheldon Whitehouse, Benjamin L. Cardin, Kay R. Hagan, Kent Conrad, Charles E. Schumer, Joe Manchin III, Sherrod Brown, Mark L. Pryor, Jeanne Shaheen, Joseph I. Lieberman, Kirsten E. Gillibrand.

The ACTING PRESIDENT pro tempore. By unanimous consent the mandatory quorum call has been waived.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that upon the conclusion of morning business on Monday, May 23, the Senate resume consideration of the motion to proceed to S. 1038 and that at 5 p.m. the Senate proceed to the vote on the motion to invoke cloture on the motion to proceed; further, that the time for debate on the motion to proceed be equally divided and controlled between the two leaders and their designees.

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

NATIONAL POLICE WEEK

Mr. REID. Mr. President, this week is National Police Week. During National Police Week we pay tribute to the brave men and women who serve the U.S. as law enforcement officers and take note of their selfless dedication to keeping our communities safe. Last week, peace officers from across the Nation traveled to Washington to honor those who have made the ultimate sacrifice and given their lives in the line of duty. This year, two of the names that were added to the National Law Enforcement Officers Memorial belong to law enforcement officers from Nevada: Nye County Deputy Ian Michael Deutch and Nevada Department of Corrections officer Sergeant Vincent Tyrone Tatum.

Last April, 27-year-old Ian Michael Deutch was shot and killed while investigating a domestic disturbance call in Pahrump, NV. When the deputies arrived, the suspect opened fire on them with a high powered rifle. Deputy Deutch was struck three times in the abdomen and the bullets penetrated his bullet-proof vest. Sadly, Deputy Deutch had just survived a yearlong deployment in Afghanistan with the Nevada Army National Guard and was shot and killed on his second day back to work with the Nye County Sheriff's Office. He is survived by his wife Vicky, son Jonathon, daughter Savonya, his parents, his two brothers and his sister. Deputy Deutch's life of public service was tragically cut short, but we honor his sacrifice and know that he will serve as an example of selfless service for generations to come.

In 1982, Sergeant Vincent Tyrone Tatum was abducted, beaten and shot four times in the head after he finished his shift at the Southern Desert Correctional Center. He had been conducting an internal investigation involving contraband being smuggled into a southern Nevada correctional facility by employees, and it is believed he was murdered to hinder the investigation. The murder of Sergeant Tatum is a stark reminder of what law enforcement officers risk day in and day out, and we are grateful for his sacrifice.

Police week is held once a year, but we should remember the important and often dangerous work our public safety officers perform every day. America could not exist without them, and I am grateful for all they do. This year we honor those courageous Nevadans, and reflect on the sacrifices made by all law enforcement officers every day. We will never forget what they do for our communities, and we will forever be indebted to them for their dedication and service.

CATHOLIC CHARITIES OF SOUTHERN NEVADA

Mr. REID. Mr. President, I rise today to honor the Catholic Charities of Southern Nevada, which is celebrating its 70th anniversary.

Since 1941, the Catholic Charities of Southern Nevada has provided crucial services to southern Nevada's neediest families. From the first diocesan director, Father Thomas F. Collins, to today's chief executive officer, Monsignor Patrick R. Leary, this community service center has focused on addressing the essential needs of a rapidly growing community.

As times have changed, so has the need to augment the services for seniors, children, refugees and the homeless. The Catholic Charities of Southern Nevada has not skipped a beat in this effort. Today, it services more than 2 million residents as one of the largest private, nonprofit social service providers in the State. It works hard to treat all who seek its help with dignity and respect, while bringing them one step closer to self-sufficiency.

I am pleased to stand today and commend the Catholic Charities of Southern Nevada on this important milestone of 70 years of public service to a community that is eternally grateful for its continued charity and kindness.

BOYS AND GIRLS CLUB OF LAS VEGAS

Mr. REID. Mr. President, I rise today to honor the 50th anniversary of the Boys and Girls Club of Las Vegas.

As someone whose life was transformed by youth development programs, public education and athletics, I am proud to share in this momentous occasion for the Boys and Girls Club of Las Vegas. Young people in the Las Vegas valley have benefited from their excellent programs and services that help develop productive, caring and responsible citizens.

They offer robust services in leadership development, education and career development, the arts, sports and other

important life skills. To build on their efforts to develop the next generation of responsible and active citizens, they offer many services that equip parents with information about community resources, such as food, housing, and GED classes. They also do an exemplary job of addressing the many interests and needs of young people, whether it's a t-shirt design contest, tech training or tutoring during their homework hour. The Boys and Girls Club of Las Vegas helps Nevada children excel as young people in countless ways, and the lessons last a lifetime.

In 2007 alone, the Boys and Girls Clubs of Las Vegas served more than 15,000 youth across the valley. From Mount Charleston to Boulder City and many points in between, the clubs continue to reach youth in a positive way.

I am proud to stand with the Boys and Girls Club of Las Vegas to congratulate the organization for 50 years of helping Las Vegas families and young people.

HAITI REFORESTATION ACT OF 2011

Mr. DURBIN. Mr. President, I have had the opportunity to visit Haiti on a number of occasions and have always been moved by the kindness and generosity of the Haitian people who live under such hard conditions.

I have traveled for hours into rural Haiti to visit impressive programs such as Partners In Health's health clinic, which provides HIV/AIDS treatment and clean water for nursing mothers.

Unfortunately, despite such programs and the efforts of U.N. peacekeeping forces to bring some measure of security to Haiti, the living conditions for average Haitians remains deeply troubling.

An already weak political system and weak government were then confronted last year with a devastating earthquake that struck Haiti's densely populated capitol of Port au Prince and several surrounding towns.

A staggering number of houses and buildings simply collapsed, virtually destroying Haiti's fragile infrastructure.

More than 200,000 people were killed and an estimated 1.5 million more were displaced.

Americans and people from all over the world donated money, organized shipments of medicine, food and water, and traveled to Haiti as emergency relief workers to help rescue and treat earthquake victims.

Prior to the earthquake, Haiti was already the poorest country in the Western Hemisphere.

Today, Haiti suffers from widespread unemployment, with 80 percent of the population living under the poverty line.

Historically, Haiti has also been devastated by tropical storms. In 2004, Hurricane Jeanne struck Haiti, killing approximately 3,000 of its residents, and displacing over 200,000 more.

Just last year, Haiti narrowly missed being struck by Hurricane Thomas, while hundreds of thousands of Haitians were living in temporary tents camps suffering from the spread of cholera.

While we cannot undo the terrible damage of the January 2010 earthquake, we can show the best of American compassion, generosity, and ingenuity in helping the Haitian people rebuild their nation by addressing one of the underlying causes of the country's problems—the deforestation of Haiti's once plentiful tropical forests.

When you look at the lush green of the Dominican Republic and compare it to the stark desolation on Haiti's side of the border, it is easy to see why Haiti is so much more vulnerable to soil erosion, landslides, and flooding than its neighbor.

It was not always that way. In 1923, Haiti's tropical forest covered 60 percent of the country.

Today, less than 2 percent of those forests remain. In the past 5 years, the deforestation rate has accelerated by more than 20 percent.

Since 1990, Haiti has lost 22 percent of its remaining forest and woodland habitat.

This deforestation has had terrible, unintended consequences. The soil erosion that has resulted from cutting down all of these trees has made the island more vulnerable to floods and mudslides—substantially reducing Haiti's already scarce agricultural land and rendering what remains less productive.

Haiti's tropical forests, if protected and regrown, would fight the destructive effects of soil erosion.

Saving old and growing new tropical forests would help protect Haiti's freshwater sources from contaminants, would safeguard Haiti's remaining irrigable land, and would save lives during hurricane season.

Helping Haiti deal with its deforestation problems is not only the right thing to do for our nearby neighbors, it is the smart thing to do with our limited assistance dollars.

Senators COLLINS and KERRY join me in introducing the Haiti Reforestation Act to reverse the deforestation challenge. The bill aims to end within 5 years deforestation in Haiti and restore within 30 years the tropical forest cover in existence in Haiti in 1990.

While it is important to start putting trees in the ground, this bill is about more than just planting trees. Our government has tried that approach in the past and it has proven to be ineffective.

This bill empowers the U.S. Government to work with Haiti to develop forest-management programs based on proven, market-based models. These models will be tailored to help Haiti manage its conservation and reforestation efforts in ways that can be measured, and it does so without authorizing any new funding.

In last year's supplemental we provided $25 million for reforestation programs in Haiti. This bill would make sure such existing funds are spent wisely and productively.

Haiti's former Prime Minister, Michele Pierre-Louis, sized up the problem in Haiti perfectly:

> The whole country is facing an ecological disaster. We cannot keep going on like this. We are going to disappear one day. There will not be 400, 500 or 1,000 deaths [from hurricanes]. There are going to be a million deaths.

We must act to ensure that that day never comes. I urge my colleagues to support the Haiti Reforestation Act of 2011.

TRIBUTE TO CHRIS GRIGSBY

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to the incredible endeavors of a hardworking and extremely talented Kentuckian, Chris Grigsby of Laurel County, KY. Chris's lifetime of experience has taken him to many places, but he has always been proud to call Kentucky home.

Chris Grigsby graduated from Laurel County High School in London, KY. At the age of nine he taught himself how to play the guitar, mandolin, bass, and the fiddle, and continues to play and teach them to his family, stating that music is a major part of his life. After graduating high school, Mr. Grigsby enrolled in the Marine Corps.

Mr. Grigsby's passion for his position in the Marine Corps grew as he continued to travel the world and experience the endless opportunities that it provided. He was stationed for 2 years at Camp David where he was able to work closely with President Ronald Reagan. As his years in the Marine Corps came to a close, Grigsby found talent in other professions including, auctioning, truck driving, as well as being a police and security officer.

After working as a truck driver for 3 years, then as an officer with the London Police Department, as well as conducting his own truck hauling service, Grigsby came to realize his true passion was to be closer to home with his wife Bobbie and their family of five. As he set aside his traveling days he was offered a job at the U.S. Courthouse where he continues to be the lead court security officer. This August 17, Chris and Bobbie will celebrate their 21st marriage anniversary.

Chris Grigsby is a man who gives so others can prosper, and leads by setting an example. His life stands as an illustration that kindness does go a long way. A wonderful article about Mr. Chris Grigsby appeared recently in the Sentinel Echo, and I ask unanimous consent that the full article be printed in the RECORD.

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

[From the Sentinel Echo, May 2, 2011]

ALL THAT HE'S DONE, HIS CHILDREN ARE HIS NUMBER ONE

(By Sue Minton)

If gas prices were as high in 1968 as they are today, then 2-year-old Chris Grigsby and

his family may have been residents of Rockcastle County instead of Laurel County.

Grigsby likes to joke about how his family came to Laurel County.

''They were originally from Perry County. My grandparents and parents were part of the migration north to find jobs in the late 50s and early 60s,'' he said.

In 1968 his parents decided to come back to Kentucky from Michigan. ''I joke, they were moving back to Hazard and ran out of gas in London and just stayed,'' Grigsby said. ''But they didn't.''

Before the Pomp and Circumstance of his 1984 graduation played out, Grigsby had joined the Marines. He graduated from Laurel County High School in June and reported to boot camp on Halloween Day.

He referred to his stay in the Marine Corps as the ''best worst'' thing that has ever happened to him.

''It gave me the opportunity to get out and see a little bit of the world,'' he said. ''I always wanted to be a part of something. If I was going to do anything, I wanted to be the best at it that I could. And the Marines have the reputation of being the toughest 'the elite.' You join the Army, you join the Navy, but you become a Marine.''

While at Parris Island in boot camp he was selected for the Yankee White Program.

''I was stationed at Marine Barracks '8th and I' in Washington, D.C., the oldest post in the Marine Corps,'' he said. ''While waiting on White House security clearance I got selected to go to the Pentagon. I was there for three months working with Casper Weinberger on a security detail for the secretary of defense,''

Once Grigsby received his clearance he was stationed at Camp David for two years.

''We primarily worked internal security for the camp,'' he said. ''I worked my way up through the ranks to the position of platoon sergeant. And that put me in direct contact with President Ronald Reagan.''

Grigsby recalls eating lunch with President Reagan once and remembers how nice the event was. ''He was the most wonderful person. There was no faultness to him. Sometimes you meet people and they put on this air of caring, but I felt like he genuinely cared about the people.''

In 1988 Grigsby was discharged from the Marines and considers himself lucky.

''I remember vividly, in 1990 we were in the middle of Operation Desert Shield. My trucking partner and I were going to Union City, Tenn., to get a load of tires for Toyota. We were about Elizabethtown when the radio announced that we were taking fire and that was the start of Desert Storm. I was very fortunate that I got in and out before it began.''

After his stay in the Marines, Grigsby worked as an auctioneer, long-haul truck driver, police officer and a security officer.

''While in the marines I attended auctioneer school and tried my hand at that,'' he said. ''Vernon Holt, a local agent with Century 21, sponsored me to get my apprentice license. I went to California to help a cousin get his auction business started. But I never really pursued it.''

But, while 'trying his hand' at it Grigsby met his wife, Bobbie.

''I was working as an auctioneer at the stockyard in Richmond, trying to get my foot in the auctioneer door. She was there with her family buying horses and I met her at the diner, On August 17, we will be married 21 years.''

When auctioneering didn't work out, Grigsby decided he would like to learn how to drive a tractor-trailer. He went to truck driving school and long-hauled for about three years traveling to any place that was east of Denver, Colo., delivering mostly Toyota parts.

After being laid off from truck driving, he was hired as an officer for the London Police Department. While there he was one of the first officers to implement the narcotics K–9 Unit.

After leaving the London Police Department he once again decided to truck. This time buying his own vehicle.

''I went back on the road for financial opportunities,'' he said, ''hauling whatever needed to go wherever for seven years. My claim is I've hauled everything from asbestos to zucchini.''

''I liked seeing the country, but it was difficult for me. By this time we had two of our five children, and we were a close family. It was hard to be gone. There were things at home that needed my attention. In 2002 I got out of the trucking business and went to work at the United States Courthouse.''

Currently Grigsby is the lead court security officer. He is the supervisor of a crew of men that are special deputies U.S. Marshals. ''We primarily provide security for the courthouse, the judges and visitors.''

Grigsby said on a couple of occasions they have had some excitement.

''We have been fortunate. It is not something that occurs every day. But there is a chance that it could happen,'' he added. ''Security work is not what we do, it is what we can do and what we will do. We put our lives on the line every day. It is kind of like police work, but then it is not. In security you have to be ready to go from zero to all out in a split second. But, I like the job. it has all the necessities—pay is good, home time is good.''

Grigsby spends some of what spare time he has playing music.

''I have played music since I was nine years old,'' he said. ''Music is a major part of my life and my family's lives.''

Grigsby, a self-taught musician, plays the guitar, fiddle, mandolin and bass. His older children, Emily and Charlie, who have had a few lessons but are taught mostly by their Dad, play several instruments.

''And it will just be a matter of time before Sarah and Grace start playing,'' he said. ''They, Emily and Charlie, along with Sarah sing and Grace does some,'' he said. Grigsby and Bobbie also sing. They perform a wide variety of different music, but mostly gospel.

''Music has always been a part of my life. Some families play sports—basketball, baseball, cheerleading—we play music. And through our music we have been to Laurel Heights, Laurel Village, and assisted living homes playing and singing for the people. We also play at festivals, schools and our church, Corinth Baptist.''

Grigsby feels his biggest achievement is his children—Emily, Charlie, Sarah, Grace and 10-month-old Danica.

When the interview was almost over, Grigsby referred to a scene in the movie ''Evan Almighty.''

''God contacts Evan to build an ark. There is one part where his wife, Joan, is upset because they are having to leave, and God appears to her and says ''If someone prays for patience, do you think God gives them patience? Or does he give them the opportunity to be patient? That stuck with me. The world would be a much better place if we were kinder to each other. We live in such a traumatic world. If we would just take the time to speak to someone at the store or on the street and just be friendly, that would be the difference. That's what I try to do, just be kind to others.''

ENDANGERED SPECIES DAY

Mr. CARDIN. Mr. President, tomorrow, on the sixth annual Endangered Species Day, we as a nation have a twofold opportunity. First, we have the chance to celebrate the successful recovery of a remarkable number of plant and animal species worldwide. Second, we have the opportunity to pause in acknowledgement of the hard work that still lies ahead of us on behalf of the nearly two thousand species that are endangered or threatened today.

Since its enactment in 1973, the Endangered Species Act, ESA, has helped to recover such iconic species as the gray whale, the peregrine falcon, and the bald eagle. In 1967, the bald eagle, one of our Nation's most recognizable symbols, was in danger from environmental contaminants, human intrusion, and other risk factors, and was listed for protection under the ESA. Through its careful, science-based approach, ESA management ultimately resulted in the successful recovery of bald eagle populations across the country. The bald eagle was delisted in 2007 and is now thriving. In the State of Maryland, the Patuxent Wildlife Research Refuge in Maryland is home to a healthy, flourishing bald eagle population. More recently the gray wolf, which was completely extirpated from our Northern Rockies States, is now recovering thanks to the careful protective management of the Fish and Wildlife Service under the Endangered Species Act.

The ESA provides resources and structure that are critical to our ability to improve the outcomes for threatened and endangered species. Since becoming law 38 years ago, with overwhelming support in the House of Representatives and unanimous support in the Senate, the ESA has been one of our Nation's most successful environmental statutes. The ESA not only improves outcomes for endangered and threatened species, it also improves local and regional economies. According to a 2006 Fish and Wildlife Service survey, wildlife-related recreation—meaning hunting, fishing and wildlife watching—generated more than $122 billion in revenues in 2006. In my home State of Maryland, wildlife watching generated over $1 billion in revenues in 2006, according to the same survey. This wildlife-related spending supports hundreds of thousands of jobs.

The Endangered Species Act, with its proven record of success in restoring species to health, remains a critically important tool in the protection of our natural environment. At this moment, nearly 2,000 animal and plant species are endangered or threatened worldwide—the protections of the ESA are therefore as important as ever. This Endangered Species Day, even as we celebrate the successes of our Nation's conservation efforts, let us also remember and pledge to protect the robust, science-based legislation that made those successes possible.

OFFSHORE PRODUCTION AND SAFETY ACT

Mr. TESTER. Mr. President, I rise today to discuss the importance of responsibly increasing our domestic drilling and energy production in order to secure America's energy future. Montana is home to the Bakken oil and gasfield, the largest technically recoverable onshore oilfield in the United States. In 2007, production from Elm Coulee field in Richland County averaged 53,000 barrels per day—more than the entire State of Montana a few years earlier. That number is expected to rise significantly as new pathways to market are put in place. Advancements in oil and gas technology are also making it possible for us to extract resources that just 5 years ago no one thought was possible.

I will continue to push responsible development of the Bakken Field. Oil and gas development in the Bakken region has applied new technology originally designed to enhance natural gas development and turned a small field into the largest onshore field in the United States. Our job in the Senate should be to encourage these kinds of innovations. Our job in the Senate should be to make sure that in places like the Bakken, where it makes all the sense in the world to develop, government agencies approve and permit exploration and development in a timely fashion. The Bakken is a strong example of where Montana is contributing to increasing American-made energy.

The Outer Continental Shelf is another good example. We can and should encourage investment in this area so that we increase production to meet our needs as the consumer of 25 percent of the world's produced oil. We must also continue to explore for new resources—and prove those—since as of now we only have 3 percent of the world's reserves.

Unfortunately, there are a number of proposals supported by my colleagues across the aisle who do not responsibly balance the U.S. energy needs with our responsibility to protect our coastal communities and other economic livelihoods. Specifically, S. 953 does the exact opposite of what we need to safely and responsibly increase American production.

The systemic lack of oversight in the Minerals Management Service was a critical component of last year's Deepwater Horizon explosion and 3-month oil disaster in the Gulf of Mexico. The failure of BP, Halliburton and others to follow safety requirements, and the failure of the Federal Government to enforce these requirements, has cost our country tens of millions of dollars. These irresponsible oversights caused significant economic and environmental harm to an entire region.

In response to this disaster, the National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling stated as their first finding that ''the explosive loss of the Macondo well could have been prevented.'' The report key findings also state, ''Fundamental reform will be needed in both the structure of those in charge of the regulator oversight and their internal decision making process to ensure their political autonomy, technical expertise, and the full consideration of environmental protection concerns.''

S. 953 does the exact opposite of what the offshore drilling commission recommended by encouraging lax oversight by setting an arbitrary timeline of 60 days, allowing insufficient time for in-depth analysis. Let's be honest: the practical effect of that policy would be for certain administrations to approve permits that they should not approve while other administrations reject permits that could ultimately have been approved. This kind of rush to judgment will only inject even more politics into our energy debates. As the Senate has shown time and again, that is the last thing we need.

No, it is time for a little less politicking and a little more common sense in our energy policy. Yet this bill also forces the Department of Interior to reissue leases without any environmental review—the opposite of the full environmental consideration the BP oilspill commission suggested. When a group of folks get together and tell you how to prevent another Gulf of Mexico disaster, the commonsense thing to do is listen to them.

I believe there are responsible measures we can take and should take to increase domestic protection, which makes us more energy secure and helps to insulate us from unpredictable ups and downs in world production. We need to dedicate resources to efficiently and effectively processing drilling applications. But tying the agencies' hands behind their backs with arbitrary deadlines or forcing them to hold lease sales and not process environmental reviews does not address the problem.

If the Deepwater Horizon disaster proved anything, it is that cutting corners doesn't promote our economy or protect our environment. Encouraging regulators to look the other way or deny permits because they cannot fully consider them is antithetical to good governance. That is not good for American production, American jobs or American energy security.

PANCREATIC CANCER RESEARCH AND EDUCATION ACT

Mr. CASEY. Mr. President, I wish to speak about a devastating illness, pancreatic cancer, and what we in the Senate can do to address this serious problem. Winston Churchill once said, ''Healthy citizens are the greatest asset any country can have.'' I could not agree more.

Pancreatic cancer is a serious disease that affects over 42,000 Americans each year. We have made great strides to expand cancer research and improve treatments, but unfortunately pancreatic cancer research is where breast cancer research was in the 1930s. The survival rate for pancreatic cancer today is the same as it was 30 years ago. We have little understanding of the causes, no methods of early detection, few effective treatments, and single-digit survival rates.

Pancreatic cancer is the fourth-leading cause of cancer death in the United States, and 75 percent of pancreatic cancer patients die within a year of diagnosis; the 5-year survival rate is barely 5 percent.

According to a recent report on cancer trends, death rates for pancreatic cancer are increasing while death rates for all cancers combined, including the four most common cancers, prostate, breast, lung and colorectal, continue to decline. It is time to do something about this tragedy, this death sentence for tens of thousands of Americans.

It is time to make a serious commitment to ensure that advances in pancreatic cancer research keep up with the progress we have seen in fighting other types of cancers. That is why I am proud to be a cosponsor of S. 362, the Pancreatic Cancer Research and Education Act, introduced by the Senator from Rhode Island, Mr. WHITEHOUSE. This legislation is designed to address the shortfalls in pancreatic cancer research by developing a comprehensive, strategic annual plan for pancreatic cancer research and awareness activities.

The Pancreatic Cancer Research and Education Act would better target research, develop a cadre of committed scientists, promote physician and public awareness and require accountability for these efforts. The bill creates a 5-year pilot project for the highest mortality cancers, defined as those with 5-year survival rates below 50 percent. It builds upon the Specialized Programs of Research Excellence, SPOREs, that exist for breast and prostate cancer by designating at least two additional pancreatic cancer SPOREs.

Finally, the bill promotes physician and public awareness through partnerships between the National Institutes of Health, NIH, and Centers for Disease Control and Prevention, CDC, and patient advocacy organizations to develop a primary care provider education program.

The most important thing that we in Congress can do for those who have pancreatic cancer is to resolve to find new ways to improve treatments for those suffering from this devastating disease.

The health of our citizens is not a Democratic or Republican issue, it is an American priority and one we must all champion. The well-being of our country depends on the well-being of our citizens.

I urge my Senate colleagues to join me in supporting S. 362, the Pancreatic Cancer Research and Education Act.

ADDITIONAL STATEMENTS

TRIBUTE TO MELANIE AH SOON

• Mr. AKAKA. Mr. President, I wish to congratulate an outstanding educator from my State, Melanie Ah Soon from Sacred Hearts Academy, for receiving the Presidential Award for Excellence in Mathematics and Science Teaching.

This award, administered by the National Science Foundation on behalf of the White House Office of Science and Technology Policy, is the highest recognition that a mathematics or science teacher may receive. Since the program's inception in 1983, more than 4,000 educators nationwide have been recognized for their contributions to mathematics and science education. As a former educator and principal, I know firsthand about the countless hours that go into creating curricula, and it makes me proud to see outstanding teachers receive recognition for their hard work.

The dedication of Melanie to her field and to the children of Hawaii is undeniable. I applaud her for receiving this outstanding recognition, and I wish her the very best in her future endeavors.•

REMEMBERING GEORGE ROGERS

• Mr. BEGICH. Mr. President, today I wish to memorialize one of Alaska's greatest pioneers and statesmen, Mr. George W. Rogers. Born to immigrant parents in 1917, George Rogers died on October 3, 2010, in the Juneau home he designed. By his side were Jean, his wife of 68 years, their children, and several close friends.

Often described as a ''Renaissance man,'' George devoted his adult life to the spirit of the Territory and State of Alaska. As an economist, politician, educator, author, architect and artist, his contributions shaped the state and he will always be part of Alaska's story.

Armed with a B.S. in economics from University of California at Berkeley, George began his long and historic Alaskan career in 1945. With the hope of feeding U.S. troops with less expense, the Office of Price Administration sent him up to negotiate reduced prices for raw fish. The job ended with the close of WWII, but George stayed on to advise several territorial governors, among them Ernest Gruening, who later would become one of Alaska's first U.S. Senators. It was Governor Gruening who encouraged George to attend Harvard for an MPA and a Ph.D.

Dr. Rogers saw in economics the effects of dynamic forces of change, largely those related political, bureaucratic, and technical conditions. To George, Alaska was the perfect petri dish to study his ''real world'' of economics, and to that study he devoted his life.

At Governor Gruening's request, George created a revenue system for the Territory of Alaska. Later, during the fight for statehood, Territorial Governor B. Frank Heintzelman sent him as a consultant to the Alaska Constitutional Convention where he also served as the stand-in for the convention's secretary. He considered his greatest contribution to the convention his work on apportionment to ensure Alaska's rural people are fairly represented.

Of the convention he said:

> We had been through a decade-long . . . worldwide depression. We had World War II, and so Republicans and Democrats both realized that we've got to put aside political differences and look at the construction of our government. And it was such a wonderful, uplifting experience to have the two competing parties sit together and work this out. . . . it's one of the high points of my whole life because it was a period of great hope.

George applied this experience of hope and optimism to the rest of his professional and personal life. Believing in the possible, he influenced the fair development and treatment of Alaska's fisheries, timber, and oil for the benefit of all. He was involved in circumpolar research, the development of the Alaska Permanent Fund, and he helped to establish the Institute of Social and Economic Research at the University of Alaska. The Institute observes its 50th anniversary this year, dedicating the celebration to Dr. Rogers.

Much of George's personal time was shared with the city of Juneau. Elected to the assembly both before and after statehood, he served on numerous committees and as a member of the Juneau Rotary Club. His architectural skills provided the design for the Zach Gordon Youth Center, a vibrant recreation facility dedicated exclusively to Juneau's youth.

George was a great enthusiast and supporter of the arts. He designed sets for local productions, created the art for program covers and posters, and acted and sang on the stage. His abilities and openness of heart encouraged others to greater heights. He was a lifetime member of the Juneau Symphony Foundation, a member of the Juneau Lyric Opera, and the Juneau Arts and Humanities Council.

A loving and caring husband and father, George and his wife Jean were a unit. With the addition of six adopted children, George redesigned and expanded their two-room, 1948 miner's cabin until it became a five-bedroom, two-bath home. The house burned in 2000, but the irrepressible George began designs for the new one the following day.

As we bid farewell to his physical presence, George's many contributions live in perpetuity. Whether through his advisory work, his scholarly work, or the seven books he wrote—some of which have been adapted as educational textbooks—he made a lasting difference.

George's friends not only realize the depth of his impact on Alaskan life, they will also always remember the twinkle in his eye, his quick wit, his honesty, and his ability to best them at dominos.

George Rogers was a great man, a role model, an Alaskan, and he has left an enduring legacy.•

GRANADA HILLS CHARTER HIGH SCHOOL

• Mrs. BOXER. Mr. President, I ask my colleagues to join me in recognizing the remarkable accomplishments of Granada Hills Charter High School's Academic Decathlon team, which won the 2011 Academic Decathlon and its first national championship. Members of the national championship team include: Austin Kang, Harsimar Dhanoa, Elysia Eastty, Joon Lee, Shagun Goyal, Riki Higashida, Eugene Lee, Sindhura Seeni, and Celine Ta. The team is coached by Matt Arnold, Nick Weber, and Spencer Wolf.

Each year, hundreds of high schools throughout the Nation compete for the honor of becoming Academic Decathlon national champions. This year, Granada Hills Charter High School earned the distinction of winning its first national championship, as well as California's 9th consecutive national title and 18th overall championship.

Competing in an Academic Decathlon is a daunting task. Students spend many hours studying, practicing, and competing, often away from their family and friends. The Academic Decathlon's intense 2-day national final competitions include testing at seven different events, speeches, essay writing, and interviewing exercises. As the Granada Hills community celebrates the hard work and achievement of the Granada Hills Decathlon team, I invite all of my colleagues to join me in congratulating California's Granada Hills Charter High School Academic Decathlon team on becoming the 2011 National Academic Decathlon Champions.•

MECCA ELEMENTARY SCHOOL STUDENTS

• Mrs. BOXER. Mr. President, it is with great pleasure that I welcome the students from the 6th grade class at Mecca Elementary School, who are visiting Washington, DC. I am particularly honored to have these students visit the U.S. Capitol because they know firsthand how important it is to speak up and be heard to make government officials aware of vital issues that affect their community.

Like all Americans, the residents of Mecca, CA, have the right to expect that the air they breathe is clean, and that the Federal and State government will enforce the Nation's environmental laws to protect them from dangerous pollution. Unfortunately, some residents in Mecca became sick from overpowering air pollution coming from a nearby waste recycling facility. The noxious odors posed a public health risk to the two schools located

near the site, Mecca Elementary School and Saul Martinez Elementary School.

I became involved because local citizens, including teachers and students at the two schools, spoke out about the public health threat in Mecca that needed to be addressed immediately. I am so pleased that the Environmental Protection Agency stepped up its efforts to clean up the air pollution in and around the community of Mecca.

I give special thanks to the residents of Mecca, including the students at Mecca Elementary School, for speaking up and telling the truth about the troubling conditions nearby. It is an example to all Americans that we have a stake in our communities and that by fighting for what is right, we can make our country a better, safer and healthier nation.●

HANKINSON, NORTH DAKOTA

● Mr. CONRAD. Mr. President, today I am pleased to recognize a community in North Dakota that is celebrating its 125th anniversary. From July 1–4, the residents of Hankinson, ND, will gather to celebrate their community's founding.

The town of Hankinson was founded in 1886, and was named after COL Richard Henry Hankinson. At the time, Colonel Hankinson was promoting a townsite called Kelly a few miles to the south, but development shifted to the new site, which had just been reached by both the Great Northern Railroad and the Soo Line Railroad. Both of these railroads were trying to establish control in the area. The post office was established on December 6, 1886, with Colonel Hankinson as the postmaster, and the town was named in his honor.

Today, Hankinson is the home of Hankinson Renewable Energy, which is one of the largest ethanol facilities in the United States. The facility began operations in 2009 and produces approximately 110 million gallons of ethanol per year. Great facilities such as this one show the future of energy in the United States, and help ease our dependence on foreign oil.

The citizens of Hankinson are proud to mention the many reasons their community is so strong. The city offers genuine small town living with a public library, city park, the ''Caboose'' Museum, and the Jack L. Bopp Memorial Football Field. The Hankinson area is also known for excellent hunting and fishing.

In honor of the city's 125th anniversary, community leaders have organized a golf tournament, car and bike show, flea market, children's tractor pull, street dances, a parade, a fireworks display, and other celebratory events.

I ask that my colleagues in the U.S. Senate join me in congratulating Hankinson, ND and its residents on their first 125 years and in wishing them well in the future. By honoring Hankinson and all other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Hankinson that have helped shape this country into what it is today, which is why this fine community is deserving of our recognition.

Hankinson has a proud past and a bright future.●

OAKES, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I am pleased today to recognize a community in North Dakota that will be celebrating its 125th anniversary. On June 10–12, the residents of Oakes will gather to celebrate their community's history and founding.

Oakes is a vibrant community located in Dickey County. This Northern Pacific Railroad, NPRR, townsite was founded in 1886. The town was named for Thomas Fletcher Oakes, who was the NPRR president from 1888–1893. Its first mayor, Thomas Frank Marshall, later became a U.S. Representative. Oakes is also the hometown of former NFL player, Phil Hansen.

Citizens of Oakes are proud of their community and what it has to offer. They boast that their town is the hub of southeastern North Dakota, with an excellent school system, a well-established clinic, and a new hospital facility. While a strong agricultural community, Oakes also has a booming business sector. Its citizens are honored to call Oakes their home and know that it is a great place to live and raise a family.

The residents of Oakes have already begun celebrating their town's anniversary. They gathered for a family night the first day in January to kick off their 125th year. They have also planned numerous activities for the weekend of June 10–12 to continue the celebration, including a walk/run, an all-school reunion, a parade along Main Avenue, and two evenings of live music and street dances.

I ask the U.S. Senate to join me in congratulating Oakes, ND, and its residents on their first 125 years and in wishing them well in the future. By honoring Oakes and all other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Oakes that have helped shape this country into what it is today, which is why this fine community is deserving of our recognition.

Oakes has a proud past and a bright future.●

RUGBY, NORTH DAKOTA

● Mr. CONRAD. Mr. President, today I wish to recognize a community in North Dakota that will be celebrating its 125th anniversary. On July 1–3, the residents of Rugby will gather to celebrate their community's history and founding.

Rugby is a vibrant community in North Dakota that was founded in 1886. This Great Northern Railroad station was platted as Rugby Junction, but since its founding has been simply called Rugby, for Rugby, Warwickshire, England.

Today, Rugby is home to almost 200 businesses in a variety of fields including craftsmanship, manufacturing, agriculture, retail, food services, and health care. Rugby is also part of the North Dakota Wind Power Project which consists of several wind turbines that produce clean, renewable energy. In addition, Rugby is recognized as the geographic center of North America.

In order to preserve the history of the city, Rugby has established museums including the Dale & Martha Hawk Museum and the Prairie Village Museum. Both of these museums are dedicated to the pioneering families and ancestors of the local community. Rugby is also home to a beautiful golf course, the Northern Lights Tower, the historic Pierce County Courthouse, and is near the scenic International Peace Gardens.

The citizens of Rugby are proud of all of their accomplishments over the past 125 years and have planned a celebration that will include, among other things, golf tournaments, a softball tournament, a 5K run/walk, local entertainment, a car show, a parade, and food and craft vendors.

I ask the U.S. Senate to join me in congratulating Rugby, ND, and its residents on the first 125 years and in wishing them well through the next century. By honoring Rugby and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Rugby that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Rugby has a proud past and a bright future.●

TOWNER, NORTH DAKOTA

● Mr. CONRAD. Mr. President, today I am pleased to recognize a community in North Dakota that is celebrating its 125th anniversary. From July 1–4, the residents of Towner, ND, will gather to celebrate their community's founding.

Towner, the ''Cattle Capital of North Dakota,'' was founded in 1886. The town was named after Colonel Oscar M. Towner, who was a Confederate veteran of the Civil War and played major roles in the development of Grand Forks and McHenry Counties. Towner established a post office on December 11, 1886.

Located in north central North Dakota, Towner is a vibrant community and the county seat of McHenry County. Today, Towner is home to many local businesses, such as Anderson Funeral Home, Farmers Union Elevator, Gunter Honey, Johnson Clinic, McIntee Law Firm, Towner Foods, Ranch House Restaurant, and Western State Bank.

In honor of the city's 125th anniversary, community leaders have organized a number of fun activities. There

will be live music, a street dance, pancake breakfast, golf tournament, rodeo, fireworks, a classic car show, and a parade.

I ask that my colleagues in the U.S. Senate join me in congratulating Towner, ND, and its residents on their first 125 years and in wishing them well in the future. By honoring Towner and all other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Towner that have helped shape this country into what it is today, which is why this fine community is deserving of our recognition.

Towner has a proud past and a bright future.●

TRIBUTE TO KRISTINE SCHUMAN

● Ms. SNOWE. Mr. President, this week marks the 48th annual celebration of National Small Business Week, a time to honor the enormous contributions of small businesses to our nation's economy. We know that small firms are truly our country's greatest job creators, responsible for two-thirds of new jobs annually, and they have consistently led us out of economic downturns historically.

Presently, we have thousands of servicemembers returning from Iraq and Afghanistan each month. As these proud veterans attempt to reenter civilian life, many seek to start their own business. For the past several years, veterans in the midcoast region of Maine have had a counselor and advocate named Kristine Schuman helping them achieve their goals. In recognition of her outstanding commitment to these brave men and women, Kristine recently received the Maine Veteran Small Business Champion of the Year award from the U.S. Small Business Administration. Today I applaud Kristine for her selfless service, and offer my sincerest thanks for her work.

A resident of Topsham, Kristine is the manager of the Base Realignment and Closure, or BRAC, Transition Center at Naval Air Station Brunswick, or NASB. The town of Brunswick has been home to NASB since 1943, when it was constructed to assist in the Allied effort during World War II. Over the years, thousands of Navy officers and civilians have worked and trained at NASB, contributing to a sense of community at the base. Regrettably, NASB was recommended for closure by the 2005 BRAC Commission, and is expected to close later this year.

As the local community undertakes efforts to redevelop the base, many who have served at NASB over the years have stayed in the Brunswick area and now call it home. Indeed, Maine boasts the second highest per capita veteran population in the Nation, and those looking to start their own business or learn new job skills have a phenomenal counselor in Kristine Schuman. Since 2008, Kristine and her staff have assisted in the retraining and transitioning of over 1,000 servicemembers and their family members, as well as civilian workers, in the midcoast region. Furthermore, Kristine has served as the project manager for the military spouse career advancement account at the base, helping close to 200 military spouses receive the training necessary for placement in new employment opportunities.

Our Nation owes our veterans in Maine, and throughout the country, a debt of gratitude that can never be fully repaid. Regrettably, the unemployment rate for veterans returning from Afghanistan and Iraq is 12.5 percent—a full 3.5 percent higher than the national unemployment rate for the overall population. That is what makes the work of Kristine Schuman and people like her all the more critical. I thank Kristine for her incredible work, and wish her success in future endeavors.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MEASURES DISCHARGED

The following concurrent resolutions were discharged from the Committee on the Budget pursuant to Section 300 of the Congressional Budget Act, and placed on the calendar:

S. Con. Res. 18. A concurrent resolution setting forth the President's budget request for the United States Government for fiscal year 2012, and setting forth the appropriate budgetary levels for fiscal years 2013 through 2021.

S. Con. Res. 19. A concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2012 and setting forth the appropriate budgetary levels for fiscal years 2013 through 2021.

S. Con. Res. 20. A concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2012 and setting forth the appropriate budgetary levels for fiscal years 2013 through 2016.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1022. A bill to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until December 31, 2014, and for other purposes.

The following concurrent resolution was read, and placed on the calendar:

S. Con. Res. 20. Concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2012 and setting forth the appropriate budgetary levels for fiscal years 2013 through 2016.

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–1786. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Naval Air Station Corpus Christi Air Show, Oso Bay, Corpus Christi, TX'' ((RIN1625–AA00) (Docket No. USCG–2011–0139)) received in the Office of the President of the Senate on May 17, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1787. A communication from the Associate Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Implementation of Section 224 of the Act; A National Broadband Plan for Our Future'' (RIN3060–AJ64) received in the Office of the President of the Senate on May 17, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1788. 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; Cable Union, WI'' ((RIN2120–AA66) (Docket No. FAA–2010–1169)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1789. 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; Kokomo, IN'' ((RIN2120–AA66) (Docket No. FAA–2010–0605)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1790. 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; Carizzo Springs, Glass Ranch Airport, TX'' ((RIN2120–AA66) (Docket No. FAA–2010–0877)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1791. 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; Point Lookout, MO'' ((RIN2120–AA66) (Docket No. FAA–2010–1172)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1792. 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; Bedford, IN'' ((RIN2120–AA66) (Docket No. FAA–2010–1026)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1793. 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; Hamilton Sundstrand Propellers Model 247F Propellers'' ((RIN2120–AA64) (Docket No. FAA–2009–0113)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1794. 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 7X Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–1306)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1795. 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 7X Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–1207)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1796. 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; Airbus Model A340–200, –300, –500, and –600 Series Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0386)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1797. 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; DG Flugzeugbau GmbH Glaser-Dirks Model DG–808C Gliders'' ((RIN2120–AA64) (Docket No. FAA–2011–0409)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1798. 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; Airbus Model A330–300, A340–200, and A340–300 Series Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–1309)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1799. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Model DC–9–14, DC–9–15, and DC–9–15F Airplanes; and DC–9–20, DC–9–30, DC–9–40, and DC–9–50 Series Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–0958)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1800. 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; Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 and 440) Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–0436)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1801. 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; Sicma Aero Seat 9140, 9166, 9173, 9174, 9184, 9188, 9196, 91B7, 91B8, 91C0, 91C2, 91C4, 91C5, and 9301 Series Passenger Seat Assemblies; and Sicma Aero Seat 9501311–05, 9501301–06, 9501311–15, 9501301–16, 9501441–30, 9501441–33, 9501311–55, 9501301–56, 9501441–83, 9501441–95, 9501311–97, and 9501301–98 Passenger Seat Assemblies; Installed on Various Transport Category Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2010–0027)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1802. 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; Reims Aviation S.A. Model F406 Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2011–0058)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1803. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery; Framework Adjustment 45'' (RIN0648–BA27) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1804. A communication from the Deputy Assistant Administrator for Operations, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; 2011 Sector Operations Plans and Contracts, and Allocation of Northeast Multispecies Annual Catch Entitlements'' (RIN0648–XY55) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1805. A communication from the Deputy Assistant Administrator for Operations, 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; 2011 Atlantic Bluefish Specifications; Regulatory Amendment'' (RIN0648–BA26) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1806. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Summer Flounder Fishery; Quota Transfer'' (RIN0648–XA371) received in the Office of the President of the Senate on May 17, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1807. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Opening Directed Fishing for Pacific Cod by Catcher Vessels Less than 60 Feet'' (RIN0648–XA405) received in the Office of the President of the Senate on May 17, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1808. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Reopening of Commercial Harvest of Vermillion Snapper in the South Atlantic'' (RIN0648–XA360) received in the Office of the President of the Senate on May 17, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1809. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Reallocation of Pacific Cod in the Bering Sea'' (RIN0648–XA404) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1810. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XA364) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1811. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''2011 Accountability Measures for the Commercial and Recreational Harvest of Greater Amberjack'' (RIN0648–XA353) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1812. A communication from the Administrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report entitled ''National Airspace System Capital Investment Plan Fiscal Years 2012–2016''; to the Committee on Commerce, Science, and Transportation.

EC–1813. A communication from the Secretary of Commerce, transmitting, pursuant to law, the National Oceanic and Atmospheric Administration (NOAA) Chesapeake Bay Office Biennial Report to Congress; to the Committee on Commerce, Science, and Transportation.

EC–1814. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Importation of Swine Hides and Skins, Bird Trophies, and Ruminant Hides and Skins; Technical Amendment'' ((RIN0579–AC11) (Docket No. APHIS–2006–0113)) received in the Office of the President of the Senate on May 18, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1815. A communication from the Chief, Planning and Regulatory Affairs Branch, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Direct Certification and Certification of Homeless, Migrant and Runaway Children for Free School Meals'' (RIN0584–AD60) received in the Office of the President of the Senate on May 18, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1816. A communication from the Deputy Director, Court Services and Offender Supervision Agency for the District of Columbia, transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred within the Court Services and Offender Supervision Agency; to the Committee on Appropriations.

EC–1817. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the Department's purchases from foreign entities for

Fiscal Year 2010; to the Committee on Armed Services.

EC–1818. A communication from the Assistant General Counsel, General Law, Ethics, and Regulation, Department of the Treasury, transmitting, pursuant to law, a report relative to a vacancy in the position of Assistant Secretary (Economic Policy), received on May 18, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1819. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Federal Home Loan Bank Investments'' (RIN2590–AA32) received in the Office of the President of the Senate on May 18, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1820. A communication from the Associate General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Truth in Savings'' (RIN3133–AD72) received in the Office of the President of the Senate on May 18, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1821. A communication from the General Counsel of the Federal Housing Finance Agency, transmitting, pursuant to law, the report of a rule entitled ''Freedom of Information Act Implementation'' (RIN2590–AA44) received in the Office of the President of the Senate on May 19, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1822. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the continuation of the national emergency with respect to the stabilization of Iraq; to the Committee on Banking, Housing, and Urban Affairs.

EC–1823. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC–1824. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Singapore; to the Committee on Banking, Housing, and Urban Affairs.

EC–1825. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month report on the national emergency that was originally declared in Executive Order 13159 relative to the risk of nuclear proliferation created by the accumulation of weapons-usable fissile material in the territory of the Russian Federation; to the Committee on Banking, Housing, and Urban Affairs.

EC–1826. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Montana Regulatory Program'' (Docket No. MT–031–FOR) received in the Office of the President of the Senate on May 19, 2011; to the Committee on Energy and Natural Resources.

EC–1827. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Alabama Regulatory Program'' (Docket No. AL–076–FOR) received in the Office of the President of the Senate on May 19, 2011; to the Committee on Energy and Natural Resources.

EC–1828. A communication from the Acting Assistant Secretary, National Park Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Historic Preservation Certifications for Federal Income Tax Incentives'' (RIN1024–AD65) received in the Office of the President of the Senate on May 19, 2011; to the Committee on Energy and Natural Resources.

EC–1829. 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 ''Treatment of Property Used to Acquire Parent Stock or Securities in Certain Triangular Reorganizations Involving Foreign Corporations'' (RIN1545–BG96) received in the Office of the President of the Senate on May 19, 2011; to the Committee on Finance.

EC–1830. A communication from the Director of the Advance Pricing Agreement Program, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Announcement and Report Concerning Advance Pricing Agreements'' (Announcement 2011–22) received on May 19, 2011; to the Committee on Finance.

EC–1831. A communication from the Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Listing of Color Additives Exempt From Certification; Reactive Blue 69'' ((21 CFR Part 73) (Docket No. FDA–2009–C–0543)) received in the Office of the President of the Senate on May 19, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–1832. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Health, United States, 2010''; to the Committee on Health, Education, Labor, and Pensions.

EC–1833. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2010 through March 31, 2011; to the Committee on Homeland Security and Governmental Affairs.

EC–1834. A communication from the Secretary, Smithsonian Institution, transmitting, pursuant to law, a report relative to the Institution's audited financial statements for fiscal year 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–1835. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–59 ''Closing of a Portion of Anacostia Avenue N.E., abutting Parcel 170/14 S.O. 11–3689, Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–1836. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled ''International Terrorism Victim Expense Reimbursement Program Report to Congress 2009''; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 350. A bill to require restitution for victims of criminal violations of the Federal Water Pollution Control Act, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 623. A bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 890. A bill to establish the supplemental fraud fighting account, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. 1024. A bill to designate the Organ Mountains and other public land as components of the National Wilderness Preservation System and the National Landscape Conservation System in the State of New Mexico, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself and Mr. GRAHAM):

S. 1025. A bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes; to the Committee on Armed Services.

By Mr. ENZI (for himself, Mr. JOHNSON of South Dakota, Mr. GRASSLEY, and Mr. TESTER):

S. 1026. A bill to amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BARRASSO (for himself, Mr. ENZI, Mr. LEE, and Mr. HATCH):

S. 1027. A bill to provide for the rescission of certain instruction memoranda of the Bureau of Land Management, to amend the Mineral Leasing Act to provide for the determination of the impact of proposed policy modifications, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CORNYN (for himself and Mr. KYL):

S. 1028. A bill to increase transparency regarding debt instruments of the United States held by foreign governments, to assess the risks to the United States of such holdings, and for other purposes; to the Committee on Finance.

By Mr. UDALL of Colorado (for himself and Mr. BROWN of Massachusetts):

S. 1029. A bill to amend the Public Utility Regulatory Policies Act of 1978 to provide electric consumers the right to access certain electric energy information, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. SNOWE (for herself, Mr. COBURN, Mr. ENZI, Ms. AYOTTE, Mr. MORAN, Mr. THUNE, Mr. BARRASSO, Mr. COATS, and Mr. ISAKSON):

S. 1030. A bill to reform the regulatory process to ensure that small businesses are free to compete and to create jobs, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. COBURN (for himself, Mr. BURR, and Mr. CHAMBLISS):

S. 1031. A bill to empower States with programmatic flexibility and financial predictability to improve their Medicaid programs and State Children's Health Insurance Programs by ensuring better health care for low-income pregnant women, children, and families, and for elderly individuals and disabled individuals in need of long-term care

services and supports, whose income and resources are insufficient to meet the costs of necessary medical services; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. 1032. A bill to provide for additional Federal district judgeships; to the Committee on the Judiciary.

By Mr. WYDEN:

S. 1033. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the City of Hermiston, Oregon, water recycling and reuse project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER (for himself, Mrs. GILLIBRAND, Mr. LIEBERMAN, Mr. CARDIN, Ms. MIKULSKI, and Mr. CARPER):

S. 1034. A bill to amend the Internal Revenue Code of 1986 to equalize the exclusion from gross income of parking and transportation fringe benefits and to provide for a common cost-of-living adjustment, and for other purposes; to the Committee on Finance.

By Mr. CARPER (for himself, Ms. COLLINS, and Mr. LAUTENBERG):

S. 1035. A bill to amend the Internal Revenue Code of 1986 to include automated fire sprinkler systems as section 179 property and classify certain automated fire sprinkler systems as 15-year property for purposes of depreciation; to the Committee on Finance.

By Mr. CARDIN (for himself and Mr. VITTER):

S. 1036. A bill to amend title 40, United States Code, to ensure that job opportunities for people who are blind and people with significant disabilities are met by requiring the application of the Javits-Wagner-O'Day Act to certain lease agreements entered into by the Federal Government for private buildings or improvements; to the Committee on Environment and Public Works.

By Mrs. HUTCHISON (for herself and Mr. CORNYN):

S. 1037. A bill to amend the Intermodal Surface Transportation Efficiency Act of 1991 with respect to the identification of high priority corridors and the inclusion of certain route segments on the Interstate System, and for other purposes; to the Committee on Environment and Public Works.

By Mr. REID (for himself and Mr. MCCONNELL):

S. 1038. A bill to extend the expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until June 1, 2015, and for other purposes; read twice.

By Mr. CARDIN (for himself, Mr. MCCAIN, Ms. AYOTTE, Mr. BEGICH, Mr. BLUMENTHAL, Mr. DURBIN, Mr. JOHANNS, Mr. KIRK, Mr. KYL, Mr. LIEBERMAN, Mr. RUBIO, Mrs. SHAHEEN, Mr. WHITEHOUSE, and Mr. WICKER):

S. 1039. A bill to impose sanctions on persons responsible for the detention, abuse, or death of Sergei Magnitsky, for the conspiracy to defraud the Russian Federation of taxes on corporate profits through fraudulent transactions and lawsuits against Hermitage, and for other gross violations of human rights in the Russian Federation, and for other purposes; to the Committee on Foreign Relations.

By Mr. LIEBERMAN (for himself and Mr. MCCAIN):

S. 1040. A bill to enhance public safety by making more spectrum available to public safety entities, to facilitate the development of a public safety broadband network, to provide standards for the spectrum needs of public safety entities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. JOHNSON of South Dakota:

S. Res. 191. A resolution designating June 2011 as ''National Aphasia Awareness Month'' and supporting efforts to increase awareness of aphasia; to the Committee on the Judiciary.

By Mr. UDALL of Colorado (for himself, Mr. BURR, Mr. BINGAMAN, and Ms. MURKOWSKI):

S. Res. 192. A resolution designating May 21, 2011, as ''National Kids to Parks Day''; considered and agreed to.

By Mr. MERKLEY (for himself and Mr. WYDEN):

S. Res. 193. A resolution honoring the bicentennial of the City of Astoria; considered and agreed to.

By Mr. SESSIONS:

S. Con. Res. 18. A concurrent resolution setting forth the President's budget request for the United States Government for fiscal year 2012, and setting forth the appropriate budgetary levels for fiscal years 2013 through 2021; placed on the calendar.

By Mr. TOOMEY:

S. Con. Res. 19. A concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2012 and setting forth the appropriate budgetary levels for fiscal years 2013 through 2021; placed on the calendar.

By Mr. PAUL:

S. Con. Res. 20. A concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2012 and setting forth the appropriate budgetary levels for fiscal years 2013 through 2016; placed on the calendar.

ADDITIONAL COSPONSORS

S. 165

At the request of Mr. VITTER, the names of the Senator from South Dakota (Mr. THUNE) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 165, a bill to amend the Public Health Services Act to prohibit certain abortion-related discrimination in governmental activities.

S. 214

At the request of Mr. MENENDEZ, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 214, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full cost of oil spills, and for other purposes.

S. 251

At the request of Mr. VITTER, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 251, a bill to prohibit the provision of Federal funds to State and local governments for payment of obligations, to prohibit the Board of Governors of the Federal Reserve System from financially assisting State and local governments, and for other purposes.

S. 312

At the request of Mrs. HUTCHISON, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 312, a bill to amend the Patient Protection and Affordable Care Act to repeal certain limitations on health care benefits.

S. 319

At the request of Ms. SNOWE, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 319, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

S. 384

At the request of Mrs. FEINSTEIN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 384, a bill to amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research.

S. 406

At the request of Mr. WYDEN, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 406, a bill to modify the Foreign Intelligence Surveillance Act of 1978 to require specific evidence for access to business records and other tangible things, and provide appropriate transition procedures, and for other purposes.

S. 542

At the request of Mr. BEGICH, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 542, a bill to amend title 10, United States Code, to authorize space-available travel on military aircraft for members of the reserve components, a member or former member of a reserve component who is eligible for retired pay but for age, widows and widowers of retired members, and dependents.

S. 547

At the request of Mrs. MURRAY, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 547, a bill to direct the Secretary of Education to establish an award program recognizing excellence exhibited by public school system employees providing services to students in pre-kindergarten through higher education.

S. 570

At the request of Mr. TESTER, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 570, a bill to prohibit the Department of Justice from tracking and cataloguing the purchases of multiple rifles and shotguns.

S. 618

At the request of Mr. RUBIO, his name was added as a cosponsor of S. 618, a bill to promote the strengthening of the private sector in Egypt and Tunisia.

S. 623

At the request of Mr. KOHL, the name of the Senator from California (Mrs.

FEINSTEIN) was added as a cosponsor of S. 623, a bill to amend chapter 111 of title 28, United States Code, relating to protective orders, sealing of cases, disclosures of discovery information in civil actions, and for other purposes.

S. 632

At the request of Mr. SCHUMER, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 632, a bill to amend the Magnuson-Stevens Fishery Conservation and Management Act to extend the authorized period for rebuilding of certain overfished fisheries, and for other purposes.

S. 696

At the request of Mr. TESTER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 696, a bill to amend title 38, United States Code, to treat Vet Centers as Department of Veterans Affairs facilities for purposes of payments or allowances for beneficiary travel to Department facilities, and for other purposes.

S. 705

At the request of Mr. CARPER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 705, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 707

At the request of Mr. DURBIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 707, a bill to amend the Animal Welfare Act to provide further protection for puppies.

S. 720

At the request of Mr. THUNE, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 720, a bill to repeal the CLASS program.

S. 723

At the request of Mr. VITTER, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 723, a bill to amend section 301 of the Immigration and Nationality Act to clarify those classes of individuals born in the United States who are nationals and citizens of the United States at birth.

S. 833

At the request of Mr. WHITEHOUSE, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 833, a bill to provide grants to States to ensure that all students in the middle grades are taught an academically rigorous curriculum with effective supports so that students complete the middle grades prepared for success in secondary school and postsecondary endeavors, to improve State and district policies and programs relating to the academic achievement of students in the middle grades, to develop and implement effective middle grades models for struggling students, and for other purposes.

S. 838

At the request of Mr. TESTER, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 838, a bill to amend the Toxic Substances Control Act to clarify the jurisdiction of the Environmental Protection Agency with respect to certain sporting good articles, and to exempt those articles from a definition under that Act.

S. 866

At the request of Mr. TESTER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 866, a bill to amend title 10, United States Code, to modify the per-fiscal year calculation of days of certain active duty or active service used to reduce the minimum age at which a member of a reserve component of the uniformed services may retire for non-regular service.

S. 913

At the request of Mr. ROCKEFELLER, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 913, a bill to require the Federal Trade Commission to prescribe regulations regarding the collection and use of personal information obtained by tracking the online activity of an individual, and for other purposes.

S. 949

At the request of Mrs. SHAHEEN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 949, a bill to amend the National Oilheat Research Alliance Act of 2000 to reauthorize and improve that Act, and for other purposes.

S. 979

At the request of Mr. DURBIN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 979, a bill to designate as wilderness certain Federal portions of the red rock canyons of the Colorado Plateau and the Great Basin Deserts in the State of Utah for the benefit of present and future generations of people in the United States.

S. 982

At the request of Ms. AYOTTE, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 982, a bill to reaffirm the authority of the Department of Defense to maintain United States Naval Station, Guantanamo Bay, Cuba, as a location for the detention of unprivileged enemy belligerents held by the Department of Defense, and for other purposes.

S. 1002

At the request of Mr. SCHUMER, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1002, a bill to prohibit theft of medical products, and for other purposes.

S. 1023

At the request of Mr. DURBIN, the names of the Senator from Indiana (Mr. LUGAR), the Senator from Vermont (Mr. LEAHY), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Vermont (Mr. SANDERS), the Senator from Ohio (Mr. BROWN), and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 1023, a bill to authorize the President to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes.

S. CON. RES. 4

At the request of Mr. SCHUMER, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Con. Res. 4, a concurrent resolution expressing the sense of Congress that an appropriate site on Chaplains Hill in Arlington National Cemetery should be provided for a memorial marker to honor the memory of the Jewish chaplains who died while on active duty in the Armed Forces of the United States.

S. RES. 80

At the request of Mr. KIRK, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of S. Res. 80, a resolution condemning the Government of Iran for its state-sponsored persecution of its Baha'i minority and its continued violation of the International Covenants on Human Rights.

S. RES. 172

At the request of Mrs. FEINSTEIN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Res. 172, a resolution recognizing the importance of cancer research and the contributions made by scientists and clinicians across the United States who are dedicated to finding a cure for cancer, and designating May 2011, as ''National Cancer Research Month''.

S. RES. 175

At the request of Mrs. SHAHEEN, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. Res. 175, a resolution expressing the sense of the Senate with respect to ongoing violations of the territorial integrity and sovereignty of Georgia and the importance of a peaceful and just resolution to the conflict within Georgia's internationally recognized borders.

S. RES. 184

At the request of Mr. DURBIN, his name was added as a cosponsor of S. Res. 184, a resolution recognizing the life and service of the Honorable Hubert H. Humphrey, distinguished former Senator from the State of Minnesota and former Vice President of the United States, upon the 100th anniversary of his birth.

S. RES. 188

At the request of Mr. KIRK, the names of the Senator from Maine (Ms. COLLINS), the Senator from Indiana (Mr. COATS), the Senator from New Hampshire (Ms. AYOTTE), the Senator from Idaho (Mr. RISCH), the Senator from Wisconsin (Mr. JOHNSON), the

Senator from Wyoming (Mr. BARRASSO), the Senator from Florida (Mr. RUBIO), the Senator from Kansas (Mr. ROBERTS), the Senator from Idaho (Mr. CRAPO), the Senator from Alabama (Mr. SHELBY), the Senator from Maine (Ms. SNOWE), the Senator from Mississippi (Mr. WICKER), the Senator from Tennessee (Mr. ALEXANDER) and the Senator from North Dakota (Mr. HOEVEN) were added as cosponsors of S. Res. 188, a resolution opposing State bailouts by the Federal Government.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself and Mr. GRAHAM).

S. 1025. A bill to amend title 10, United States Code, to enhance the national defense through empowerment of the National Guard, enhancement of the functions of the National Guard Bureau, and improvement of Federal-State military coordination in domestic emergency response, and for other purposes; to the Committee on Armed Services.

Mr. LEAHY. Mr. President, today I am proud to introduce the National Guard Empowerment and State-National Defense Integration Act of 2011 along with my National Guard Caucus Co-Chair, Senator LINDSEY GRAHAM. Our bill builds upon earlier reforms proposed and enacted through the work of the Guard Caucus to give the Guard and Reserve a seat at the Pentagon's budget and policymaking tables and to update jurisdictional and operational lines of authority in Guard matters, recognizing that the Guard has evolved to become a front-line, 21st Century force that is still trapped in a 20th Century Pentagon bureaucracy. This bill represents a bipartisan effort to do the right thing by the men and women of our National Guard, and Senator GRAHAM and I hope that it will receive speedy consideration and passage.

Ten years ago, the National Guard of the United States was very different than the Guard protecting our country today. A young private joining the National Guard on September 10, 2001, was joining a force designed to participate in an all-out, no-holds-barred war with the Soviet Union, even though the Soviet Union had ceased to exist a decade before. When that private showed up for drill, he or she found facilities in disrepair, a Guard demoralized by inattention from Pentagon leaders, and equipment that seemed to predate the Cold War. Of course, the life of that private, and of our entire nation, would change dramatically in the days to come.

September 11, 2001, woke us up to new realities. Yes, the United States still faced threats from overseas, and like the rest of us, the National Guard wanted to do its part. But as we began to call on the Guard to deploy, those of us who pay special attention to the Guard started to ask questions. Was the Pentagon actually going to send our Guard overseas to fight with its ancient and decrepit fleet of vehicles? What about training? Who would help get these units ready for the battlefield?

Senator GRAHAM and I wish we could say that every necessary measure was taken to correct these problems before our National Guard deployed. But we are still correcting them, and that's what this piece of legislation is all about. Ever since 9/11, I worked with my friend Senator Bond to make sure that these equipment, staffing, training, and other issues that our National Guard faced would be fixed. Our efforts culminated just a few years ago in the first National Guard Empowerment Act, which accomplished things like getting the Chief of the National Guard Bureau a fourth star—and a louder voice in the Pentagon bureaucracy. Now Senator GRAHAM and I are continuing that work. We will not rest until every soldier and airman in the Guard has the training, equipment, and leadership he or she needs to accomplish the mission.

I would like to highlight a few things the bill will do. It will make the Chief of the National Guard Bureau a statutory member of the Joint Chiefs of Staff, a change we have needed for a full decade to make sure Pentagon decision makers consider the unique nature of the Guard when making decisions. The bill authorizes appropriations for Guard domestic operations. It authorizes the State Partnership Program, which has had such great success in my home state of Vermont. The bill will also help our emergency response operations. During Hurricane Katrina, we saw military forces so confused by state and federal distinctions. This bill includes a section focused on a new unity of effort plan that the Pentagon and the Department of Homeland Security have been working on with the Council of Governors and others. The bill will also clarify the relationship between the National Guard Bureau and the U.S. Northern and Pacific Commands and increase the Guard representation in U.S. Northern Command.

Overall, this bill moves our Guard and our country forward. It makes our Guard more effective in accomplishing the missions assigned to it. We ask so much of our men and women in the Guard. Senator GRAHAM and I are proud today to continue looking out for them and empowering them to get the job done when we call them away from civilian life to put on the uniform. We look forward to many of our colleagues joining us in this effort.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1025

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Guard Empowerment and State-National Defense Integration Act of 2011''.

SEC. 2. REESTABLISHMENT OF POSITION OF VICE CHIEF OF THE NATIONAL GUARD BUREAU AND TERMINATION OF POSITION OF DIRECTOR OF THE JOINT STAFF OF THE NATIONAL GUARD BUREAU.

(a) REESTABLISHMENT AND TERMINATION OF POSITIONS.—Section 10505 of title 10, United States Code, is amended to read as follows:

''§ 10505. Vice Chief of the National Guard Bureau

''(a) APPOINTMENT.—(1) There is a Vice Chief of the National Guard Bureau, selected by the Secretary of Defense from officers of the Army National Guard of the United States or the Air National Guard of the United States who—

''(A) are recommended for such appointment by their respective Governors or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard;

''(B) have had at least 10 years of federally recognized service in an active status in the National Guard; and

''(C) are in a grade above the grade of colonel.

''(2) The Chief and Vice Chief of the National Guard Bureau may not both be members of the Army or of the Air Force.

''(3)(A) Except as provided in subparagraph (B), an officer appointed as Vice Chief of the National Guard Bureau serves for a term of four years, but may be removed from office at any time for cause.

''(B) The term of the Vice Chief of the National Guard Bureau shall end within a reasonable time (as determined by the Secretary of Defense) following the appointment of a Chief of the National Guard Bureau who is a member of the same armed force as the Vice Chief.

''(b) DUTIES.—The Vice Chief of the National Guard Bureau performs such duties as may be prescribed by the Chief of the National Guard Bureau.

''(c) GRADE.—The Vice Chief of the National Guard Bureau shall be appointed to serve in the grade of lieutenant general.

''(d) FUNCTIONS AS ACTING CHIEF.—When there is a vacancy in the office of the Chief of the National Guard Bureau or in the absence or disability of the Chief, the Vice Chief of the National Guard Bureau acts as Chief and performs the duties of the Chief until a successor is appointed or the absence of disability ceases.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 10502 of such title is amended by striking subsection (e).

(2) Section 10506(a)(1) of such title is amended by striking ''and the Director of the Joint Staff of the National Guard Bureau'' and inserting ''and the Vice Chief of the National Guard Bureau''.

(c) CLERICAL AMENDMENTS.—

(1) HEADING AMENDMENT.—The heading of section 10502 of such title is amended to read as follows:

''§ 10502. Chief of the National Guard Bureau: appointment; advisor on National Guard matters; grade''.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 1011 of such title is amended—

(A) by striking the item relating to section 10502 and inserting the following new item:

''10502. Chief of the National Guard Bureau: appointment; advisor on National Guard matters; grade.''; and

(B) by striking the item relating to section 10505 and inserting the following new item:

''10505. Vice Chief of the National Guard Bureau.''.

SEC. 3. MEMBERSHIP OF THE CHIEF OF THE NATIONAL GUARD BUREAU ON THE JOINT CHIEFS OF STAFF.

(a) MEMBERSHIP ON JOINT CHIEFS OF STAFF.—Section 151(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(7) The Chief of the National Guard Bureau.''.

(b) CONFORMING AMENDMENTS.—Section 10502 of such title, as amended by section 2(b)(1) of this Act, is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

''(d) MEMBER OF JOINT CHIEFS OF STAFF.—The Chief of the National Guard Bureau shall perform the duties prescribed for him or her as a member of the Joint Chiefs of Staff under section 151 of this title.''.

SEC. 4. CONTINUATION AS A PERMANENT PROGRAM AND ENHANCEMENT OF ACTIVITIES OF TASK FORCE FOR EMERGENCY READINESS PILOT PROGRAM OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) CONTINUATION.—

(1) CONTINUATION AS PERMANENT PROGRAM.—The Administrator of the Federal Emergency Management Agency shall continue the Task Force for Emergency Readiness (TFER) pilot program of the Federal Emergency Management Agency as a permanent program of the Agency.

(2) LIMITATION ON TERMINATION.—The Administrator may not terminate the Task Force for Emergency Readiness program, as so continued, until authorized or required to terminate the program by law.

(b) EXPANSION OF PROGRAM SCOPE.—As part of the continuation of the Task Force for Emergency Readiness program pursuant to subsection (a), the Administrator shall carry out the program in at least five States in addition to the five States in which the program is carried out as of the date of the enactment of this Act.

(c) ADDITIONAL FEMA ACTIVITIES.—As part of the continuation of the Task Force for Emergency Readiness program pursuant to subsection (a), the Administrator shall—

(1) establish guidelines and standards to be used by the States in strengthening the planning and planning capacities of the States with respect to responses to catastrophic disaster emergencies; and

(2) develop a methodology for implementing the Task Force for Emergency Readiness that includes goals and standards for assessing the performance of the Task Force.

(d) NATIONAL GUARD BUREAU ACTIVITIES.—As part of the continuation of the Task Force for Emergency Readiness program pursuant to subsection (a), the Chief of the National Guard Bureau shall—

(1) assist the Administrator in the establishment of the guidelines and standards, implementation methodology, and performance goals and standards required by subsection (c);

(2) in coordination with the Administrator—

(A) identify, using catastrophic disaster response plans for each State developed under the program, any gaps in State civilian and military response capabilities that Federal military capabilities are unprepared to fill; and

(B) notify the Secretary of Defense, the Commander of the United States Northern Command, and the Commander of the United States Pacific Command of any gaps in capabilities identified under subparagraph (A); and

(3) acting through and in coordination with the Adjutants General of the States, assist the States in the development of State plans on responses to catastrophic disaster emergencies.

(e) ANNUAL REPORTS.—The Administrator and the Chief of the National Guard Bureau shall jointly submit to the appropriate committees of Congress each year a report on activities under the Task Force for Emergency Readiness program during the preceding year. Each report shall include a description of the activities under the program during the preceding year and a current assessment of the effectiveness of the program in meeting its purposes.

(f) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committee on Armed Services and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(2) the Committee on Armed Services and the Committee on Homeland Security of the House of Representatives.

SEC. 5. MEMORANDUM OF UNDERSTANDING BETWEEN DEPARTMENT OF DEFENSE AND DEPARTMENT OF HOMELAND SECURITY ON UNITY OF EFFORT IN RESPONSE OF MILITARY FORCES TO DOMESTIC EMERGENCIES.

(a) MEMORANDUM OF UNDERSTANDING REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Homeland Security shall enter into a memorandum of understanding on coordination between the Department of Defense and the Department of Homeland Security, and between the Departments and the States, in the use of military forces in response to domestic emergencies.

(2) PURPOSE.—The purpose of the memorandum is to ensure, to the maximum extent practicable, a unity of effort within the Federal Government, and between the Federal Government and the States, regarding the use of military forces in response to domestic emergencies.

(b) CONSULTATION WITH THE STATES.—In entering into the memorandum of understanding required by subsection (a), the Secretary of Defense and the Secretary of Homeland Security shall jointly consult with the Council of Governors established by Executive Order No. 13528 for purposes of coordinating plans under the memorandum of understanding with the plans of the States for the use of military forces of the States in response to domestic emergencies.

(c) SUBMITTAL TO CONGRESS.—Upon entry into the memorandum of understanding required by subsection (a), the Secretary of Defense and the Secretary of Homeland Security shall jointly submit to the appropriate committees of Congress a report on the memorandum of understanding. The report shall include the following:

(1) The memorandum of understanding.

(2) A comprehensive description of the manner in which the mechanisms set forth in the memorandum of understanding will ensure a unity of effort within the Federal Government, and between the Federal Government and the State or States concerned, regarding the use of military forces in response to domestic emergencies, including, in particular, the manner in which such mechanisms will ensure a unity of such effort between the Federal Government and the States in the use of such forces in such response.

(3) Such other matters as the Secretaries jointly consider appropriate.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriated committees of Congress'' means—

(1) the Committees on Armed Services, Homeland Security and Governmental Affairs, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Homeland Security, and Appropriations of the House of Representatives.

SEC. 6. REPORT ON COMPARATIVE ANALYSIS OF COSTS OF COMPARABLE UNITS OF THE RESERVE COMPONENTS AND THE REGULAR COMPONENTS OF THE ARMED FORCES.

(a) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a comparative analysis of the costs of units of the regular components of the Armed Forces with the costs of similar units of the reserve components of the Armed Forces. The analysis shall include a separate comparison of the costs of units in the aggregate and of the costs of units solely when on active duty.

(2) SIMILAR UNITS.—For purposes of this subsection, units of the regular components and reserve components shall be treated as similar if such units have the same general structure, personnel, or function, or are substantially composed of personnel having identical or similar military occupational specialties (MOS).

(b) ASSESSMENT OF INCREASED RESERVE COMPONENT PRESENCE IN TOTAL FORCE STRUCTURE.—The Secretary shall include in the report required by subsection (a) an assessment of the advisability of increasing the number of units and members of the reserve components of the Armed Forces within the total force structure of the Armed Forces. The assessment shall take into account the comparative analysis conducted for purposes of subsection (a) and such other matters as the Secretary considers appropriate for purposes of the assessment.

(c) COMPTROLLER GENERAL REPORT.—Not later than 180 days after the date of the submittal of the report required by subsection (a), the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth a review of such report by the Comptroller General. The report of the Comptroller General shall include an assessment of the comparative analysis contained in the report required by subsection (a) and of the assessment of the Secretary pursuant to subsection (b).

(d) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—In this section, the term ''congressional defense committees'' has the meaning given that term in section 101(a)(16) of title 10, United States Code.

SEC. 7. DISPLAY OF PROCUREMENT OF EQUIPMENT FOR THE RESERVE COMPONENTS OF THE ARMED FORCES UNDER ESTIMATED EXPENDITURES FOR PROCUREMENT IN FUTURE-YEARS DEFENSE PROGRAMS.

Each future-years defense program submitted to Congress under section 221 of title 10, United States Code, shall, in setting forth estimated expenditures and item quantities for procurement for the Armed Forces for the fiscal years covered by such program, display separately under such estimated expenditures and item quantities the estimated expenditures for each such fiscal year for equipment for each reserve component of the Armed Forces that will receive items in any fiscal year covered by such program.

SEC. 8. FISCAL YEAR 2012 FUNDING FOR THE NATIONAL GUARD FOR CERTAIN DOMESTIC ACTIVITIES.

(a) CONTINUITY OF OPERATIONS, CONTINUITY OF GOVERNMENT, AND CONSEQUENCE MANAGEMENT.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2012 for the Department of Defense amounts as follows:

(A) For National Guard Personnel, Army, $11,000,000.

(B) For National Guard Personnel, Air Force, $3,500,000.

(C) For Operation and Maintenance, Army National Guard, $11,000,000.

(2) AVAILABILITY.—The amounts authorized to be appropriated by paragraph (1) shall be available to the Army National Guard and the Air National Guard, as applicable, for costs of personnel in training and operations with respect to continuity of operations, continuity of government, and consequence management in connection with response to terrorist and other attacks on the United States homeland and natural and man-made catastrophes in the United States.

(b) DOMESTIC OPERATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2012 for the Department of Defense, $300,000,000 for Operation and Maintenance, Defense-wide.

(2) AVAILABILITY.—The amount authorized to be appropriated by paragraph (1) shall be available for the Army National Guard and the Air National Guard for emergency preparedness and response activities of the National Guard while in State status under title 32, United States Code.

(3) TRANSFER.—Amounts under the amount authorized to be appropriated by paragraph (1) shall be available for transfer to accounts for National Guard Personnel, Army, and National Guard Personnel, Air Force, for purposes of the pay and allowances of members of the National Guard in conducting activities described in paragraph (2).

(c) JOINT OPERATIONS COORDINATION CENTERS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for fiscal year 2012 for the Department of Defense amounts as follows:

(A) For National Guard Personnel, Army, $28,000,000.

(B) For National Guard Personnel, Air Force, $7,000,000.

(2) AVAILABILITY.—The amounts authorized to be appropriated by paragraph (1) shall be available to the Army National Guard and the Air National Guard, as applicable, for costs of personnel in continuously staffing a Joint Operations Coordination Center (JOCC) in the Joint Forces Headquarters of the National Guard in each State and Territory for command and control and activation of forces in response to terrorist and other attacks on the United States homeland and natural and man-made catastrophes in the United States.

(d) SUPPLEMENT NOT SUPPLANT.—The amounts authorized to be appropriated by subsections (a), (b), and (c) for the purposes set forth in such subsections are in addition to any other amounts authorized to be appropriated for fiscal year 2012 for the Department of Defense for such purposes.

SEC. 9. ENHANCEMENT OF AUTHORITIES RELATING TO THE UNITED STATES NORTHERN COMMAND AND OTHER COMBATANT COMMANDS.

(a) COMMANDS RESPONSIBLE FOR SUPPORT TO CIVIL AUTHORITIES IN THE UNITED STATES.—The United States Northern Command and the United States Pacific Command shall be the combatant commands of the Armed Forces that are principally responsible for the support of civil authorities in the United States by the Armed Forces.

(b) DISCHARGE OF RESPONSIBILITY.—In discharging the responsibility set forth in subsection (a), the Commander of the United States Northern Command and the Commander of the United States Pacific Command shall each—

(1) in consultation with and acting through the Chief of the National Guard Bureau and the Joint Force Headquarters of the National Guard of the State or States concerned, assist the States in the employment of the National Guard under State control, including National Guard operations conducted in State active duty or under title 32, United States Code; and

(2) facilitate the deployment of the Armed Forces on active duty under title 10, United States Code, as necessary to augment and support the National Guard in its support of civil authorities when National Guard operations are conducted under State control, whether in State active duty or under title 32, United States Code.

(c) MEMORANDUM OF UNDERSTANDING.—

(1) MEMORANDUM REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau shall, with the approval of the Secretary of Defense, jointly enter into a memorandum of understanding setting forth the operational relationships, and individual roles and responsibilities, during responses to domestic emergencies among the United States Northern Command, the United States Pacific Command, and the National Guard Bureau.

(2) MODIFICATION.—The Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau may from time to time modify the memorandum of understanding under this subsection to address changes in circumstances and for such other purposes as the Commander of the United States Northern Command, the Commander of the United States Pacific Command, and the Chief of the National Guard Bureau jointly consider appropriate. Each such modification shall be subject to the approval of the Secretary of Defense.

(d) AUTHORITY TO MODIFY ASSIGNMENT OF COMMAND RESPONSIBILITY.—Nothing in this section shall be construed as altering or limiting the power of the President or the Secretary of Defense to modify the Unified Command Plan in order to assign all or part of the responsibility described in subsection (a) to a combatant command other than the United States Northern Command or the United States Pacific Command.

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations for purposes of aiding the expeditious implementation of the authorities and responsibilities in this section.

SEC. 10. REQUIREMENTS RELATING TO NATIONAL GUARD OFFICERS IN CERTAIN COMMAND POSITIONS.

(a) COMMANDER OF ARMY NORTH COMMAND.—The officer serving in the position of Commander, Army North Command, shall be an officer in the Army National Guard of the United States.

(b) COMMANDER OF AIR FORCE NORTH COMMAND.—The officer serving in the position of Commander, Air Force North Command, shall be an officer in the Air National Guard of the United States.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in assigning officers to the command positions specified in subsections (a) and (b), the President should afford a preference in assigning officers in the Army National Guard of the United States or Air National Guard of the United States, as applicable, who have served as the adjutant general of a State.

SEC. 11. AVAILABILITY OF FUNDS UNDER STATE PARTNERSHIP PROGRAM FOR ADDITIONAL NATIONAL GUARD CONTACTS ON MATTERS WITHIN THE CORE COMPETENCIES OF THE NATIONAL GUARD.

(a) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretary of State, modify the regulations prescribed pursuant to section 1210 of the National Defense Authorization Act for Fiscal Year 2010 (Public Law 111–84; 123 Stat. 2517; 32 U.S.C. 107 note) to provide for the use of funds available pursuant to such regulations for contacts between members of the National Guard and civilian personnel of foreign governments outside the ministry of defense on matters within the core competencies of the National Guard such as the following:

(1) Disaster response and mitigation.

(2) Defense support to civilian authorities.

(3) Consequence management and installation protection.

(4) Chemical, biological, radiological, or nuclear event (CBRNE) response.

(5) Border and port security and cooperation with civilian law enforcement.

(6) Search and rescue.

(7) Medical matters.

(8) Counterdrug and counternarcotics activities.

(9) Public affairs.

(10) Employer and family support of reserve forces.

(11) Such other matters within the core competencies of the National Guard and suitable for contacts under the State Partnership Program as the Secretary of Defense shall specify.

(b) FUNDING FOR FISCAL YEAR 2012.—There is hereby authorized to be appropriated for fiscal year 2012 for the Department of Defense for the National Guard, $50,000,000 to be available for contacts under the State Partnership Program authorized pursuant to the modification of regulations required by subsection (a).

By Mr. ENZI (for himself, Mr. JOHNSON of South Dakota, Mr. GRASSLEY, and Mr. TESTER).

S. 1026. A bill to amend the Packers and Stockyard Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ENZI. Mr. President, I wish to speak on the introduction of the Livestock Marketing Fairness Act. I want to also acknowledge that I am joined in introducing this legislation by Senators TIM JOHNSON, Grassley, and Tester. Without their support this bill would not be possible. We have always enjoyed bipartisan support on this issue and I want to thank them for their work in making sure that our livestock markets remain competitive.

Our Nation's ranchers and family farmers aren't looking for handouts when they take their animals to the auction barn, they simply expect that they will receive the price they deserve for the quality they produce. However, there is evidence that there are bad actors out there who stack the deck when it comes to the prices they use in livestock contracts. The Packers & Stockyards Act was enacted at a time when there was significant concentration in the livestock and poultry industry. That law since that time has provided protection and remedy from manipulative market practices but the growth

of our markets in recent decades has opened up opportunities for new abuses that the original law never could have expected.

These opportunities for manipulation have developed as our markets have become increasingly more consolidated. The top four firms control over 69 percent of the domestic cattle slaughter and this statistic doesn't even include the acquisitions that have taken place in the industry in recent years. Gone are the days when a simple handshake between buyer and seller was all you needed.

The Livestock Marketing Fairness Act strikes at the heart of one particular anti-competitive practice. Over the years, livestock producers, feeders, and packers have been given a number of new marketing tools for price discovery and hedging risk. One of those tools is the forward contract where a buyer and seller agree to a transaction at a specified point of time in the future. However, certain types of forward contracting agreements have become ripe for price manipulation. This is because a growing number of packing operations own their own livestock or control them through marketing agreements. These firms then can buy from themselves when prices are high and buy from others when prices are low. Captive supplies are animals that packers own and control prior to slaughter. The Livestock Marketing Fairness Act prohibits certain arrangements that provide packers with the opportunity use their captive supplies to manipulate local market prices. First, the legislation requires that forward contracts contain a ''firm base price'' which is derived from an external source. Though not outlined in the legislation, commonly used external sources of price include the live cattle futures market or wholesale beef market. This ensures that both buyers and sellers have a basis for how pricing in a contract will be derived at the time the contract is agreed upon. Second, the bill requires that forward contracts be traded in open, public markets. This guarantees that multiple buyers and sellers can witness bids as well as offer their own. Some livestock markets already do this to ensure transparency but there are others who allow transactions to happen behind closed doors.

The Livestock Marketing Fairness Act also ensures that trading of contracts be done in a manner that provides both small and large buyers and sellers access to the market. Contracts are to be traded in sizes approximate to the common number of cattle or pigs transported in a trailer, but the law does not prohibit trading from occurring in multiples of those contracts for larger livestock orders.

I travel to Wyoming nearly every weekend and have heard the same concerns from many of our ranchers. They want to be competitive in the market and sell the best animals possible so that they can continue the work that so many in their family have done for so many years. However, this problem is not isolated to Wyoming. Livestock producers from coast to coast are finding that with consolidation there are fewer and fewer buyers for their animals and their options for marketing too are being lost. This legislation not only increases openness in forward contracting but preserves the right for ranchers to choose the best methods for selling their animals without worry that their agreements will be subject to manipulation. The bill does not apply to producer cooperatives who often own their processing facility. The legislation also carefully targets the problem, large packers owning captive supplies, by also exempting packers that only own one facility and those that do not report for mandatory price reporting. The Livestock Marketing Fairness Act does not apply to agreements based on quality grading nor does it affect a producer's ability to negotiate contracts one-on-one with buyers. Therefore, sellers can still choose from a variety of methods including the spot market, futures market, or other alternative marketing arrangements.

This bill is common sense and ensures that our ranchers have access to a competitive market in these difficult economic times. All our livestock producers are asking for is a level playing field and this bill helps them do what they do best, continue producing the finest meat in the world.

By Mr. UDALL of Colorado (for himself and Mr. BROWN of Massachusetts):

S. 1029. A bill to amend the Public Utility Regulatory Policies Act of 1978 to provide electric consumers the right to access certain electric energy information, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. UDALL of Colorado. Mr. President, I rise today to discuss an important issue, energy consumption. Do each of us know how much energy we actually consume? How much does our energy use affect our pocketbooks? Consumers should be able to answer these questions. That is why I am introducing the Electric Consumer Right to Know Act today.

This legislation takes a commonsense step toward broadening consumers' access to data about their electricity usage. I first began working on this issue while serving in the Colorado General Assembly back in 1997, when I introduced a bill that would have given consumers information about the price, water consumption, pollutants, and emissions used to generate the electricity they were sold. However, I am proud to say that this refined transparency bill—which gives consumers access to their energy use and price—was developed directly from the input of Coloradans who participated in my energy jobs summit in Denver in February 2010.

In today's marketplace, consumers have a clear understanding of what their car mileage means for their wallet. They also have ready access to the number of minutes remaining on their cell phone. However, consumers lack clear, timely data about their electricity use and its price. Providing increased transparency will help consumers with their decisions about electricity usage in their homes or businesses.

The Electric Consumer Right to Know Act, or E–Know Act, would provide this transparency by establishing consumers' clear right to access data on their own electricity usage. This right is an important step toward a more effective, reliable and efficient electric grid, and a step toward helping consumers use electricity more efficiently and save money on their electric bills.

For the past two years, I have been traveling across Colorado as part of a work force tour to talk directly to Coloradans and hear their innovative policy ideas to create jobs. I also hosted an Energy Jobs Summit in Denver in February 2010. As part of this summit, we asked experts in energy policy and business to join us for a conversation about how we can better position Colorado and the United States to lead in the 21st century clean energy economy and win the global economic race.

We heard from U.S. Energy Secretary Steven Chu, then-Governor Bill Ritter, Senator MICHAEL BENNET, and Congressman ED PERLMUTTER. But, more importantly, we heard from Coloradans who came to share their views on what the federal government can do, or in some instances not do, to support job creation and transition to cleaner and more efficient energy use.

One consumer participant at the summit noted that even though he had a smart meter at his home, his power company would not let him access his electrical meter readings to learn how he was using electricity. If he could access those readings, he could better understand his energy use, learn how to be more energy efficient and save money. That is why I am reintroducing E–Know Act today, to improve communication between the consumers and their utility and spur innovation in developing creative technologies that will save energy.

The bill directs the Federal Regulatory Energy Commission to convene an open, extensive and inclusive stakeholder process to work through the details of this measure to ensure that implementing the consumers' right to access their information also retains consumer privacy, and ensures the integrity and reliability of the grid.

The outcome of this process will create national guidelines establishing the right of consumers to access their electricity data, including minimum national standards that utilities must meet to ensure that right of access. In developing those minimum standards, the FERC will take into consideration the ongoing and important work at the National Institute of Standards and

Technology in developing a smart grid roadmap, as well as the innovative state and local programs already being developed across the country to integrate smart meters into the electrical grid, including Colorado, California, Texas, Pennsylvania, and others.

In my home state of Colorado, Xcel Energy has been working with the city of Boulder on a pilot program called SmartGridCity to develop a community-scale smart grid with over 20,000 residents participating. In Fort Collins, Colorado, the business community and utilities have teamed up to form the FortZED project with the goal of turning the downtown into a net zero energy district using smart technology. I am proud to see Coloradans and others around the country taking important steps together in learning how to make the grid more reliable, efficient, and help save everyone money.

Finally, part of ensuring the right to access your data includes the right to retain the privacy of your data. When consumers gain access to their data, they will also need to clearly understand how it will be used, especially when consumers grant third-party access to it. This is why this bill states that the FERC will establish, among other important measures, guidelines for consumer consent requirements. Retaining privacy is critical to building consumer trust in the smart grid and facilitating the transition of the smart grid to an integral part of everyday life for every American family.

I look forward to working with my colleagues from both parties and all interested stakeholders in establishing this right, defining it in a way that eliminates unintended consequences, and enforcing this right in a way that promotes the efficient use of electrical energy.

This bill is an important first step in implementing smart meters across the country, moving us toward an electrical grid that is more reliable and more efficient, a ''smart grid,'' if you will. There are several pieces of the puzzle that will be required to realize that future, and one critical part of that puzzle is the right of consumers to access their electricity data. I urge my colleagues of both parties to join me in supporting this important legislation.

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

S. 1029

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Electric Consumer Right to Know Act'' or the ''e-KNOW Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) improving consumers' understanding of and access to the electric energy usage information of the consumers will help consumers more effectively manage usage;

(2) consumers have a right of access to the electric energy usage information of the consumers;

(3) the right of access to electric energy usage information should be based on the need to have access to the information rather than on a specific type of smart metering technology and, as a result, all usage information platforms can compete and innovation will be fostered;

(4) utilities should provide electric energy usage information based on the best capabilities of the metering technology currently deployed in the respective service areas or, on upgrade, based on standards recognized by the National Institute of Standards and Technology;

(5) consumers should have the ability to access unaudited usage information directly from the electric meters of the consumers or from sources independent of the electric meters, and from sources independent of the utilities of the consumers;

(6) consumers should retain the right to the privacy and security of electric energy usage information of the consumers created through usage;

(7) consumers should have the right to control the electric energy usage information of the consumers and the right to privacy for the information when third party aggregators of data are involved in creation, management, or collection of the information; and

(8) consumers should have the right to know how the authorized third-party data manager of the consumers will manage the retail electric energy information of the consumers once the manager has accessed the information.

SEC. 3. ELECTRIC CONSUMER RIGHT TO ACCESS ELECTRIC ENERGY INFORMATION.

(a) IN GENERAL.—Title II of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824 et seq.) is amended by adding at the end the following:

''SEC. 215. ELECTRIC CONSUMER RIGHT TO ACCESS ELECTRIC ENERGY INFORMATION.

''(a) DEFINITIONS.—In this section:

''(1) RETAIL ELECTRIC ENERGY INFORMATION.—The term 'retail electric energy information' means—

''(A) the electric energy consumption of an electric consumer over a defined time period;

''(B) the retail electric energy prices or rates applied to the electricity usage for the defined time period described in subparagraph (A) for the electric consumer;

''(C) the cost of usage by the consumer, including (if smart meter usage information is available) the estimated cost of usage since the last billing cycle of the consumer; and

''(D) in the case of nonresidential electric meters, any other electrical information that the meter is programmed to record (such as demand measured in kilowatts, voltage, frequency, current, and power factor).

''(2) SMART METER.—Except as provided in subsection (e), the term 'smart meter' means the device used by an electric utility that—

''(A)(i) measures electric energy consumption by an electric consumer at the home or facility of the electric consumer in intervals of 1 hour or less; and

''(ii) is capable of sending electric energy usage information through a communications network to the electric utility; or

''(B) meets the guidelines issued under subsection (h).

''(b) CONSUMER RIGHTS.—

''(1) IN GENERAL.—Each electric consumer in the United States shall have the right to access (and to authorize 1 or more third parties to access) retail electric energy information of the electric consumer in—

''(A) an electronic form, free of charge, in conformity with nationally recognized open standards developed by a nationally recognized standards organization; and

''(B) a manner that is timely and convenient and provides adequate protections for the security of the information and the privacy of the electric consumer.

''(2) SMART METERS.—In the case of an electric consumer that is served by a smart meter that can also communicate energy usage information to a device or network of an electric consumer or a device or network of a third party authorized by the consumer, the consumer shall, at a minimum, have the right to access (and to authorize 1 or more third parties to access) usage information in read-only format directly from the smart meter.

''(3) PROVIDER OF INFORMATION.—The information required under this subsection shall be provided by the electric utility of the consumer or such other entity as may be designated by the applicable electric retail regulatory authority.

''(c) INFORMATION.—The right to access retail electric energy information under subsection (b) includes, at a minimum—

''(1)(A) in the case of an electric consumer that is served by a smart meter, the right to access retail electric energy information—

''(i) in machine readable form, not more than 48 hours after consumption has occurred; or

''(ii) in accordance with the guidelines issued under subsection (h); or

''(B) in the case of an electric consumer that is not served by a smart meter, the right to access retail electric energy information in machine readable form as expeditiously after the time of receipt in a data center (including information provided by third party services) as is reasonably practicable and as prescribed by the applicable electric retail regulatory authority; and

''(2) except as otherwise provided in subsection (d)—

''(A) in the case of an electric consumer that is served by a smart meter, data at a granularity that is—

''(i) not less granular than the intervals at which the data is recorded and stored by the billing meter in use at the premise of the electric consumer; or

''(ii) in accordance with the guidelines issued under subsection (h); and

''(B) in the case of an electric consumer that is not served by a smart meter, data at granularity equal to the data used for billing the electric consumer, or more precise granularity, as prescribed by the applicable electric retail regulatory authority.

''(d) ELECTRIC ENERGY INFORMATION RETENTION.—An electric consumer shall have the right to access the retail electric energy information of the consumer, through the website of the electric utility or other electronic access authorized by the electric consumer, for a period of at least 13 months after the date on which the usage occurred, unless a different period is prescribed by the applicable electric retail regulatory authority.

''(e) DATA SECURITY.—Access described in subsection (d) shall not interfere with or compromise the integrity, security, or privacy of the operations of a utility and the electric consumer, in accordance with the guidelines issued by the Commission under subsection (h).

''(f) COST RECOVERY.—An electric utility providing retail electric energy information in accordance with otherwise applicable regulation of rates for the retail sale and delivery of electricity may recover in rates the cost of providing the information, if the cost is determined reasonable and prudent by the applicable electric retail regulatory authority.

''(g) ADDITIONAL AVAILABLE INFORMATION.—The right to access electric energy information shall extend to usage information generated by devices in or on the property of the

consumer that is transmitted to the electric utility.

''(h) GUIDELINES FOR ELECTRIC CONSUMER ACCESS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Commission shall (after consultation with State and local regulatory authorities, including the National Association of Regulatory Utility Commissioners, the Secretary of Energy, other appropriate Federal agencies, including the National Institute of Standards and Technology, consumer advocacy groups, utilities, and other appropriate entities, and after notice and opportunity for comment) issue guidelines that establish minimum national standards for implementation of the electric consumer right to access retail electric energy information under subsection (b).

''(2) STATE AND LOCAL REGULATORY ACTION.—In issuing the guidelines, the Commission shall, to the maximum extent practicable, be guided by actions taken by State and local regulatory authorities to ensure electric consumer access to retail electric energy information, including actions taken after consideration of the standard under section 111(d)(17).

''(3) CONTENT.—The guidelines shall provide guidance on issues necessary to carry out this section, including—

''(A) the timeliness and granularity of retail electric energy information;

''(B) appropriate nationally recognized open standards for data;

''(C) a definition of the term 'smart meters'; and

''(D) protection of data security and electric consumer privacy, including consumer consent requirements.

''(4) REVISIONS.—The Commission shall periodically review and, as necessary, revise the guidelines to reflect changes in technology and the market for electric energy and services.

''(i) ENFORCEMENT.—

''(1) ENFORCEMENT BY STATE ATTORNEYS GENERAL.—If the attorney general of a State, or another official or agency of a State with competent authority under State law, has reason to believe that any electric utility that delivers electric energy at retail in the applicable State is not complying with the minimum standards established by the guidelines under subsection (h), the attorney general, official, or agency of the State, as parens patriae, may bring a civil action against the electric utility, on behalf of the electric consumers receiving retail service from the electric utility, in a district court of the United States of appropriate jurisdiction, to compel compliance with the standards.

''(2) SAFE HARBOR.—

''(A) IN GENERAL.—No civil action may be brought against an electric utility under paragraph (1) if the Commission has, during the 2-year period ending on the date of the determination, determined that the electric utility adopted policies, requirements, and measures, as necessary, that comply with the standards established by the guidelines under subsection (h).

''(B) PROCEDURES.—The Commission shall establish procedures to review the policies, requirements, and measures of electric utilities to assess, and issue determinations with regard to, compliance with the standards.

''(3) EFFECTIVE DATE.—This subsection takes effect on the date that is 2 years after the date the guidelines under subsection (h) are issued.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Public Utility Regulatory Policies Act of 1978 is amended by adding at the end of the items relating to title II the following:

''Sec. 215. Electric consumer right to access electric energy information.''.

By Mr. WYDEN:

S. 1033. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the City of Hermiston, Oregon, water recycling and reuse project, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today I am reintroducing legislation to authorize the Bureau of Reclamation to share in the cost of the construction of a new wastewater treatment plant for Hermiston, Oregon. The bill is identical to legislation which passed the House of Representatives in the previous Congress, by voice vote, and which was reported by the Senate Energy and Natural Resources Committee without opposition last year.

The reason for involving the Bureau in this project is quite simple. Once constructed, the plant will provide the Bureau-authorized West Extension Irrigation District with enough additional high-quality water per year to irrigate approximately 600 acres of high value crops. This will have a significant, long-term benefit to the farming industry in the Hermiston area.

The Hermiston project has gotten the sign off at every level from the local irrigation district to Federal agencies. The City and the Bureau have completed the required feasibility report and the Bureau of Reclamation has formally concluded that the project meets the requirements of the Title XVI cost-sharing program. The regional office of the National Marine Fisheries Service at NOAA has completed a biological opinion approving the project. The City and the West Extension Irrigation District have signed a memorandum of understanding to work together to develop the project. The Bureau has concluded its environmental review of the authorization to transfer the water to the District and issued a finding of no significant impact or FONSI.

Although the Bureau will be sharing in the cost of the project, I want my colleagues to know that the City, not the Bureau, will be responsible for the bulk of the expense. CBO has estimated that the Federal share of the $26 million project would be $7 million or just over one-quarter of the cost.

The Confederated Tribes of the Umatilla Indian Reservation have also recognized the benefits of the project and support it. These benefits include a significant improvement in the quality of water discharged to the Umatilla River in winter and protection of sensitive fish habitat during summer. These benefits have led the tribe to endorse construction of the Hermiston Water Recycling System Improvement Project and the City's effort to obtain federal funding.

This project will increase agricultural production while improving the local economy, the environment and habitat for endangered fish. I look forward to working with my colleagues to complete action on this legislation after it had advanced so far in the last Congress.

By Mr. CARDIN (for himself and Mr. VITTER):

S. 1036. A bill to amend title 40, United States Code, to ensure that job opportunities for people who are blind and people with significant disabilities are met by requiring the application of the Javits-Wagner-O'Day Act to certain lease agreements entered into by the Federal Government for private buildings or improvements; to the Committee on Environment and Public Works.

Mr. CARDIN. Mr. President, today Senator VITTER and I are introducing legislation to ensure and protect the jobs of thousands of individuals who are blind or have significant disabilities and provide important services to the U.S. Government and taxpayers alike.

In 1938, during the Franklin Delano Roosevelt Administration, Congress passed the Wagner-O'Day Act to help provide employment opportunities for people who are blind. At the time, most of the work the Wagner-O'Day Act created was in manufacturing mops and brooms that would be sold for use in Federal Government buildings and facilities.

In 1971, under the leadership of New York Republican Senator Jacob Javits, Congress amended the act to include people with significant disabilities and expand the program to also include services provided to the Federal Government.

The Javits-Wagner-O'Day Program eventually changed its name to ''AbilityOne.'' Today, this expanded work program for people who are blind or have significant disabilities provides Federal customers, including the U.S. Senate, with a wide array of products, like wall mounted clocks, paint, military uniforms, hardware and cleaning supplies. AbilityOne also helps put people to work in service positions, like call center operations, grounds-keeping, food service, administration and processing positions, and vehicle fleet maintenance.

People who are blind or have significant disabilities struggle particularly hard to find work. While the current job climate is challenging for all Americans, the employment rate for individuals in this group hovers around 30 percent. Oftentimes these individuals must rely on taxpayer funded government entitlement programs like Medicaid, SNAPS—food stamps—supplemental security income, and subsidized housing. AbilityOne helps these Americans find jobs and alleviates the expenditures of these entitlement programs.

Recent independent studies of the AbilityOne Program found that in just the four business lines analyzed, the AbilityOne Program saved the Government $34 million in both reduction of

entitlements and increases in income and payroll taxes.

AbilityOne provides nearly 48,000 people who are blind or who have significant disabilities with quality job opportunities, to earn a living which provides a pathway towards increased independence.

There are nearly 600 nonprofit organizations across the country working to find job opportunities for people who are blind or have significant disabilities, through the AbilityOne program. With Maryland's proximity to the seat of the Federal Government, AbilityOne creates considerable job opportunities in the service sector for Marylanders with disabilities.

However, there is a growing trend among Federal facilities that is undoing the progress that the AbilityOne Program has made and in turn is contributing to the growth of unemployment for Americans with disabilities. The bill Senator VITTER and I are introducing today aims to address this problem.

More and more Federal facilities are moving out of federally owned and operated properties and into leased space in privately owned buildings and facilities. The General Services Administration estimates that the Federal Government leases more than 7,300 buildings in more than 2,000 communities across the country. When GSA has sought lease space in Maryland I have generally supported these moves.

Federally leased properties create terrific economic opportunities for the business districts they come to. Federally leased properties bring revenues for State and local governments, increase the tax base of the regions they come to and often provide the backbone for small business growth and consulting services around the federally leased facilities.

The economic opportunities a Federal lease on private real estate provides for a community are great for everyone except for service workers with disabilities who are no longer helped by AbilityOne because federally leased space falls outside the scope of the Javits-Wagner-O'Day Act.

As the law is written, Javits-Wagner-O'Day only applies to federally owned and operated facilities.

Our bill makes a simple and practical fix to the Javits-Wagner-O'Day Act to apply the AbilityOne Program services to federally leased space. My bill states that when the Federal Government occupies 60 percent or more of the usable space within a private building or facility that the Federal Government, the lessor, or property manager must comply with the service contract procurement requirements of the Javits-Wagner-O'Day Act.

The Javits-Wagner-O'Day Act, and the thousands of men and women who have found employment opportunities through the AbilityOne Program, have a proven track record of success in terms of providing exceptional services and products for the Federal Government at rates that make for very sound spending of taxpayer dollars.

Finding job opportunities has always been a challenge for individuals who are blind or have significant disabilities. We must maintain the Federal Government's commitment to these hard working Americans.

I urge my colleagues to join Senator VITTER and me in cosponsoring the AbilityOne Improvements Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1036

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''AbilityOne Improvements Act''.

SEC. 2. APPLICABILITY OF JAVITS-WAGNER-O'DAY ACT.

Section 585(a) of title 40, United States Code, is amended by adding at the end the following:

''(3) APPLICABILITY OF JAVITS-WAGNER-O'DAY ACT.—A lease agreement for space under this section for the accommodation of a federal agency as described in paragraph (1) that is issued or renewed after the date of enactment of this paragraph shall require the federal agency, lessor, or property manager to comply with provisions of the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.) that are applicable to federal buildings if—

''(A) the lease is for 60 percent or more of the useable space on the property or improvement in which 1 or more federal agencies are to be accommodated, as determined by the Administrator; or

''(B) the federal agency to be accommodated under the lease is, as of the date of the lease, required to contract pursuant to that Act for services being transitioned to the leased space.''.

By Mr. REID (for himself and Mr. MCCONNELL):

S. 1038. A bill to extend the expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until June 1, 2015, and for other purposes; read twice.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1038

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''PATRIOT Sunsets Extension Act of 2011''.

SEC. 2. SUNSET EXTENSIONS.

(a) USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005.—Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 50 U.S.C. 1805 note, 50 U.S.C. 1861 note, and 50 U.S.C. 1862 note) is amended by striking ''May 27, 2011'' and inserting ''June 1, 2015''.

(b) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—Section 6001(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 1801 note) is amended by striking ''May 27, 2011'' and inserting ''June 1, 2015''.

By Mr. CARDIN (for himself, Mr. MCCAIN, Ms. AYOTTE, Mr. BEGICH, Mr. BLUMENTHAL, Mr. DURBIN, Mr. JOHANNS, Mr. KIRK, Mr. KYL, Mr. LIEBERMAN, Mr. RUBIO, Mrs. SHAHEEN, Mr. WHITEHOUSE, and Mr. WICKER):

S. 1039. A bill to impose sanctions on persons responsible for the detention, abuse, or death of Sergei Magnitsky, for the conspiracy to defraud the Russian Federation of taxes on corporate profits through fraudulent transactions and lawsuits against Hermitage, and for other gross violations of human rights in the Russian Federation, and for other purposes; to the Committee on Foreign Relations.

Mr. CARDIN. Mr. President, I rise today to introduce the Sergei Magnitsky Rule of Law Accountability Act of 2011.

While this bill bears Sergei Magnitsky's name in honor of his sacrifice, the language addresses the overall issue of the erosion of the rule of law and human rights in Russia. It offers hope to those who suffer in silence, whose cases may be less known or not known at all.

While there are many aspects of Sergei's and other tragic cases which are difficult to pursue here in the United States, there are steps we can take and an obvious and easy one is to deny the privilege of visiting our country to individuals involved in gross violations of human rights. Visas are privileges not rights and we must be willing to see beyond the veil of sovereignty that kleptocrats often hide behind. They do this by using courts, prosecutors, and police as instruments of advanced corporate raiding and hope outsiders are given pause by their official trappings of office and lack of criminal records. Further, we must protect our strategic financial infrastructure from those who would use it to launder or shelter ill-gotten gains.

Despite occasional rhetoric from the Kremlin, the Russian leadership has failed to follow through with any meaningful action to stem rampant corruption or bring the perpetrators of numerous and high-profile human rights abuses to justice.

My legislation simply says if you commit gross violations of human rights don't expect to visit Disneyland, Aspen, or South Beach and expect your accounts to be frozen if you bank with us. This may not seem like much, but in Russia the richer and more powerful you get the more danger you are exposed to from others harboring designs on your fortune and future.

Thus many are standing near the doors and we can certainly close at least one of those doors. I know that others, especially in Europe and Canada are working on similar sanctions.

I first learned about Sergei Magnitsky while he was still alive

when his client William Browder, CEO of Hermitage Capital, testified at a hearing on Russia that I held as Chairman of the Commission on Security and Cooperation in Europe in June 2009.

At the Helsinki Commission we hear so many heartbreaking stories of the human cost of trampling fundamental freedoms and it's a challenge not to give up hope and yield to the temptation of cynicism and become hardened to the suffering around us or to reduce a personal tragedy to yet another issue. While we use trends, numbers, and statistics to help us understand and deal with human rights issues, we must never forget the face of the individual person whose reality is the issue and the story of Sergei Magnitsky is as unforgettable as it is heartbreaking.

Sergei Magnitsky was a young Russian tax lawyer employed by an American law firm in Moscow who blew the whistle on the largest known tax fraud in Russian history. After discovering this elaborate scheme, Sergei Magnitsky testified to the authorities detailing the conspiracy to defraud the Russian people of approximately $230 million and naming the names of those officials involved. Shortly after his testimony, Sergei was arrested by subordinates of the very law enforcement officers he had implicated in this crime. He was held in detention for nearly a year without trial under torturous conditions. He developed severe medical complications, which went deliberately untreated and he died in an isolation cell while prison doctors waited outside his door on November 16, 2009.

Sadly, Sergei Magnitsky joins the ranks of a long list of Russian heroes who lost their lives because they stood up for principle and for truth. These ranks include Natalia Estemirova a brave human rights activist shot in the head and chest and stuffed into the trunk of a car, Anna Politkovskaya an intrepid reporter shot while coming home with an arm full of groceries, and too many others.

Often in these killings there is a veil of plausible deniability, gunmen show up in the dark and slip away into the shadows, but Sergei, in inhuman conditions, managed to document in 450 complaints exactly who bears responsibility for his false arrest and death. We must honor his sacrifice and do all we can to learn from this tragedy that others may not share his fate.

Few are made in the mold of Sergei Magnitsky, able to withstand barbaric deprivations and cruelty without breaking and certainly none of us would want to be put to the test. A man of such character is fascinating and in some ways disquieting because we suspect deep down that we might not have what it takes to stay loyal to the truth under such pressure. Magnitsky's life and tragic death remind us all that some things are more valuable than success, comfort, or even life itself—truth is one of those things. May his example be a rebuke to those whose greed or cowardice has blinded them to their duties, an inspiration to still greater integrity for those laboring quietly in the mundane yet necessary tasks of life, and a comfort to those wrongly accused.

The Wall Street Journal described Sergei Magnitsky's death as a ''slow-motion assassination,'' while the Moscow Prison Oversight Committee called it a ''murder to conceal a fraud.'' Pulitzer Prize-winning reporter Ellen Barry writing in the New York Times stated that, ''Magnitsky's death in pretrial detention at the age of 37 . . . sent shudders through Moscow's elite. They saw him—a post-Soviet young urban professional, as someone uncomfortably like themselves.''

Outside the media, President of the European Parliament Jerzy Buzek noted that ''Sergei Magnitsky was a brave man, who in his fight against corruption was unjustifiably imprisoned under ruthless conditions and then died in jail without receiving appropriate medical care.'' While Transparency International observed that, ''Sergei did what to most people seems impossible: he battled as a lone individual against the power of an entire state. He believed in the rule of law and integrity, and died for his belief.''

One might have thought that after the worldwide condemnation of Sergei Magnitsky's arrest, torture, and death in the custody, the Russian government would have identified and prosecuted those responsible for this heinous crime. Instead, the government has not prosecuted a single person and many of the key perpetrators went on to receive promotions and the highest state honors from the Russian Interior Ministry. Moreover, the officers involved feel such a sense of impunity that they are now using all instruments of the Russian state to pursue and punish Magnitsky's friends and colleagues who have been publicly fighting for justice in his case.

They have forced the American founding partner of Magnitsky's firm, Jamison Firestone, to flee Russia in fear for his safety in the months following his colleague's death after learning that the same people were attempting to take control of an American client's Russian companies and commit a similar fraud. And they have used the same criminal case that was used to falsely arrest Magnitsky to indict Sergei's client Bill Browder. They have opened up retaliatory criminal cases against many of Hermitage's employees and all of its lawyers, who were forced to leave Russia to save their own lives. These attacks have only intensified since my colleague and friend Congressman JIM MCGOVERN introduced the Justice for Sergei Magnitsky Act of 2011, a similar measure in the House of Representatives, last month.

In the struggle for human rights we must never be indifferent. On this point, I am reminded of Elie Wiesel's hauntingly eloquent speech, The Perils of Indifference which he delivered at the White House in 1999. On this ever-present danger and demoralizer he cautions us, ''Indifference elicits no response. Indifference is not a response. Indifference is not a beginning, it is an end. And, therefore, indifference is always the friend of the enemy, for it benefits the aggressor—never his victim, whose pain is magnified when he or she feels forgotten. The political prisoner in his cell, the hungry children, the homeless refugees—not to respond to their plight, not to relieve their solitude by offering them a spark of hope is to exile them from human memory. And in denying their humanity we betray our own.''

Speaking of our humanity, I offer the following words as a contrast. They are from Russian playwright Mikhail Ugarov who created One Hour Eighteen, which is the exact amount of time it took for Sergei Magnitsky to die in his isolation cell at Moscow's Matrosskaya Tishina prison. Ugarov asks, ''When a person puts on the uniform of a public prosecutor, the white lab coat of a doctor, or the black robe of a judge, does he or she inevitably lose their humanity? Do they lose their ability to—even in a small way—empathize with a fellow human being? In the case of Sergei Magnitsky, each of the people who assumed these professional duties in the case left their humanity behind.''

The coming year will be a significant moment in the evolution of Russian politics. With Duma elections scheduled for the end of 2011 and presidential elections for early 2012, there is an opportunity for the Russian government to reverse what has been a steady trajectory away from the rule of law and respect for human rights and toward authoritarianism.

Private and even public expressions of concern are not a substitute for a real policy nor are they enough, it's time for consequences. The bill I introduce today sends a strong message to those who are currently acting with impunity in Russia that there will be consequences for corruption should you wish to travel to and invest in the United States. Such actions will provide needed moral support for those in Russia doing the really heavy-lifting in fighting corruption and promoting the rule of law, but they will also protect our own interests—values or business related.

We see before us a tale of two Russias, the double headed eagle if you will. To whom does the future of Russia belong? Does it belong to the Yevgenia Chirikovas, Alexey Navalnys, Oleg Orlovs and countless other courageous, hard working, and patriotic Russians who expose corruption and fight for human rights or those who inhabit the shadows abusing and stealing from their fellow citizens?

Let us not put aside our humanity out of exaggerated and excessively cautious diplomatic concerns for the broader relationship. Let us take the long view and stand on the right side—

and I believe the wise side—with the Russian people who have suffered so much for the cause of liberty and human dignity. They are the ones who daily risk their safety and freedom to promote those basic principles enshrined in Russian law and many international commitments including the Helsinki Final Act. They are the conscience of Russia. Let us tell them with one voice that they are not alone and that concepts like the rule of law and human rights are not empty words for this body and for our government. I urge my colleagues to support this bill.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 1039

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Sergei Magnitsky Rule of Law Accountability Act of 2011''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The United States supports the people of the Russian Federation in their efforts to realize their full economic potential and to advance democracy, human rights, and the rule of law.

(2) The Russian Federation—

(A) is a member of the United Nations, the Organization for Security and Co-operation in Europe, the Council of Europe, and the International Monetary Fund;

(B) has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, and the United Nations Convention against Corruption; and

(C) is bound by the legal obligations set forth in the European Convention on Human Rights.

(3) States voluntarily commit themselves to respect obligations and responsibilities through the adoption of international agreements and treaties, which must be observed in good faith in order to maintain the stability of the international order. Human rights are an integral part of international law, and lie at the foundation of the international order. The protection of human rights, therefore, particularly in the case of a country that has incurred obligations to protect human rights under an international agreement to which it is a party, is not left exclusively to the internal affairs of that country.

(4) Good governance and anti-corruption measures are instrumental in the protection of human rights and in achieving sustainable economic growth, which benefits both the people of the Russian Federation and the international community through the creation of open and transparent markets.

(5) Systemic corruption erodes trust and confidence in democratic institutions, the rule of law, and human rights protections. This is the case when public officials are allowed to abuse their authority with impunity for political or financial gains in collusion with private entities.

(6) The Russian nongovernmental organization INDEM has estimated that corruption amounts to hundreds of billions of dollars a year, an increasing share of the gross domestic product of the Russian Federation.

(7) The President of the Russian Federation, Dmitry Medvedev, has addressed corruption in many public speeches, including stating in his 2009 address to Russia's Federal Assembly, ''[Z]ero tolerance of corruption should become part of our national culture. . . . In Russia we often say that there are few cases in which corrupt officials are prosecuted. . . . [S]imply incarcerating a few will not resolve the problem. But incarcerated they must be.''. President Medvedev went on to say, ''We shall overcome underdevelopment and corruption because we are a strong and free people, and deserve a normal life in a modern, prosperous democratic society.''. Furthermore, President Medvedev has acknowledged Russia's disregard for the rule of law and used the term ''legal nihilism'' to describe a criminal justice system that continues to imprison innocent people.

(8) The systematic abuse of Sergei Magnitsky, including his repressive arrest and torture in custody by the same officers of the Ministry of the Interior of the Russian Federation that Mr. Magnitsky had implicated in the embezzlement of funds from the Russian Treasury and the misappropriation of 3 companies from his client, Hermitage, reflects how deeply the protection of human rights is affected by corruption.

(9) The politically motivated nature of the persecution of Mr. Magnitsky is demonstrated by—

(A) the denial by all state bodies of the Russian Federation of any justice or legal remedies to Mr. Magnitsky during the nearly 12 full months he was kept without trial in detention; and

(B) the impunity of state officials he testified against for their involvement in corruption and the carrying out of his repressive persecution since his death.

(10) Mr. Magnitsky died on November 16, 2009, at the age of 37, in Matrosskaya Tishina Prison in Moscow, Russia, and is survived by a mother, a wife, and 2 sons.

(11) The Public Oversight Commission of the City of Moscow for the Control of the Observance of Human Rights in Places of Forced Detention, an organization empowered by Russian law to independently monitor prison conditions, concluded, ''A man who is kept in custody and is being detained is not capable of using all the necessary means to protect either his life or his health. This is a responsibility of a state which holds him captive. Therefore, the case of Sergei Magnitsky can be described as a breach of the right to life. The members of the civic supervisory commission have reached the conclusion that Magnitsky had been experiencing both psychological and physical pressure in custody, and the conditions in some of the wards of Butyrka can be justifiably called torturous. The people responsible for this must be punished.''.

(12) According to the Financial Times, ''A commission appointed by President Dmitry Medvedev has found that Russian police fabricated charges against an anti-corruption lawyer [Sergei Magnitsky], whose death in prison in 2009 has come to symbolise pervasive corruption in Russian law enforcement.''.

(13) The second trial and verdict against former Yukos executives Mikhail Khodorkovsky and Platon Lebedev evokes serious concerns about the right to a fair trial and the independence of the judiciary in the Russian Federation. The lack of credible charges, intimidation of witnesses, violations of due process and procedural norms, falsification or withholding of documents, denial of attorney-client privilege, and illegal detention in the Yukos case are highly troubling. The Council of Europe, Freedom House, and Amnesty International, among others, have concluded that they were charged and imprisoned in a process that did not follow the rule of law and was politically influenced. Furthermore, senior officials of the Government of the Russian Federation have acknowledged that the arrest and imprisonment of Khodorkovsky were politically motivated.

(14) According to Freedom House's 2011 report entitled ''The Perpetual Battle: Corruption in the Former Soviet Union and the New EU Members'', ''[t]he highly publicized cases of Sergei Magnitsky, a 37-year-old lawyer who died in pretrial detention in November 2009 after exposing a multimillion-dollar fraud against the Russian taxpayer, and Mikhail Khodorkovsky, the jailed business magnate and regime critic who was sentenced at the end of 2010 to remain in prison through 2017, put an international spotlight on the Russian state's contempt for the rule of law. . . . By silencing influential and accomplished figures such as Khodorkovsky and Magnitsky, the Russian authorities have made it abundantly clear that anyone in Russia can be silenced.''.

(15) Sergei Magnitsky's experience, while particularly illustrative of the negative effects of official corruption on the rights of an individual citizen, appears to be emblematic of a broader pattern of disregard for the numerous domestic and international human rights commitments of the Russian Federation and impunity for those who violate basic human rights and freedoms.

(16) The tragic and unresolved murders of Nustap Abdurakhmanov, Maksharip Aushev, Natalya Estemirova, Akhmed Hadjimagomedov, Umar Israilov, Paul Klebnikov, Anna Politkovskaya, Saihadji Saihadjiev, and Magomed Y. Yevloyev, the death in custody of Vera Trifonova, the disappearances of Mokhmadsalakh Masaev and Said-Saleh Ibragimov, the torture of Ali Israilov and Islam Umarpashaev, the near-fatal beatings of Mikhail Beketov, Oleg Kashin, Arkadiy Lander, and Mikhail Vinyukov, and the harsh and ongoing imprisonment of Mikhail Khodorkovsky, Alexei Kozlov, Platon Lebedev, and Fyodor Mikheev further illustrate the grave danger of exposing the wrongdoing of officials of the Government of the Russian Federation, including Chechen leader Ramzan Kadyrov, or of seeking to obtain, exercise, defend, or promote internationally recognized human rights and freedoms.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMITTED; ALIEN.—The terms ''admitted'' and ''alien'' have the meanings given those terms in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Financial Services, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives; and

(B) the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate.

(3) FINANCIAL INSTITUTION; DOMESTIC FINANCIAL AGENCY; DOMESTIC FINANCIAL INSTITUTION.—The terms ''financial institution'', ''domestic financial agency'', and ''domestic financial institution'' have the meanings given those terms in section 5312 of title 31, United States Code.

(4) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

(B) an entity organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an entity.

SEC. 4. IDENTIFICATION OF PERSONS RESPONSIBLE FOR THE DETENTION, ABUSE, AND DEATH OF SERGEI MAGNITSKY, THE CONSPIRACY TO DEFRAUD THE RUSSIAN FEDERATION OF TAXES ON CERTAIN CORPORATE PROFITS, AND OTHER GROSS VIOLATIONS OF HUMAN RIGHTS.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of the Treasury, shall publish a list of each person the Secretary of State has reason to believe—

(1)(A) is responsible for the detention, abuse, or death of Sergei Magnitsky;

(B) participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky; or

(C) committed those frauds discovered by Sergei Magnitsky, including conspiring to defraud the Russian Federation of taxes on corporate profits through fraudulent transactions and lawsuits against the foreign investment company known as Hermitage and to misappropriate entities owned or controlled by Hermitage; or

(2) is responsible for extrajudicial killings, torture, or other gross violations of human rights committed against individuals seeking—

(A) to expose illegal activity carried out by officials of the Government of the Russian Federation; or

(B) to obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms of religion, expression, association, and assembly and the rights to a fair trial and democratic elections.

(b) UPDATES.—The Secretary of State shall update the list required by subsection (a) as new information becomes available.

(c) NOTICE.—The Secretary of State shall—

(1) to the extent practicable, provide notice and an opportunity for a hearing to a person before the person is added to the list required by subsection (a); and

(2) remove a person from the list if the person demonstrates to the satisfaction of the Secretary that the person did not engage in the activity for which the person was added to the list.

(d) REQUESTS BY MEMBERS OF CONGRESS.—Not later than 30 days after receiving a written request from a Member of Congress with respect to whether a person meets the criteria for being added to the list required by subsection (a), the Secretary of State shall inform that Member of the determination of the Secretary with respect to whether or not that person meets those criteria.

SEC. 5. INADMISSIBILITY OF CERTAIN ALIENS.

(a) INELIGIBILITY FOR VISAS.—An alien is ineligible to receive a visa to enter the United States and ineligible to be admitted to the United States if the alien is on the list required by section 4(a).

(b) CURRENT VISAS REVOKED.—The Secretary of State shall revoke, in accordance with section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)), the visa or other documentation of any alien who would be ineligible to receive such a visa or documentation under subsection (a).

(c) WAIVER FOR NATIONAL INTERESTS.—The Secretary of State may waive the application of subsection (a) or (b) in the case of an alien if the Secretary determines that such a waiver is in the national interests of the United States. Upon granting such a waiver, the Secretary shall provide to the appropriate congressional committees notice of, and a justification for, the waiver.

SEC. 6. FINANCIAL MEASURES.

(a) SPECIAL MEASURES.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury shall investigate money laundering relating to the conspiracy described in section 4(a)(1)(C). If the Secretary of the Treasury makes a determination under section 5318A of title 31, United States Code, with respect to such money laundering, the Secretary of the Treasury shall instruct domestic financial institutions and domestic financial agencies to take 1 or more special measures described in section 5318A(b) of such title.

(b) FREEZING OF ASSETS.—The Secretary of the Treasury shall freeze and prohibit all transactions in all property and interests in property of a person that are in the United States, that come within the United States, or that are or come within the possession or control of a United States person if the person—

(1) is on the list required by section 4(a); or

(2) acts as an agent of or on behalf of a person on that list in a matter relating to the activity for which the person was added to that list.

(c) WAIVER FOR NATIONAL INTERESTS.—The Secretary of the Treasury may waive the application of subsection (a) or (b) if the Secretary determines that such a waiver is in the national interests of the United States. Upon granting such a waiver, the Secretary shall provide to the appropriate congressional committees notice of, and a justification for, the waiver.

(d) ENFORCEMENT.—

(1) PENALTIES.—A person that violates, attempts to violate, conspires to violate, or causes a violation of this section or any regulation, license, or order issued to carry out this section shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of such section.

(2) REQUIREMENTS FOR FINANCIAL INSTITUTIONS.—

(A) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe regulations to require each financial institution that is a United States person—

(i) to perform an audit of the assets within the possession or control of the financial institution to determine whether any of such assets are required to be frozen pursuant to subsection (b); and

(ii) to submit to the Secretary—

(I) a report containing the results of the audit; and

(II) a certification that, to the best of the knowledge of the financial institution, the financial institution has frozen all assets within the possession or control of the financial institution that are required to be frozen pursuant to subsection (b).

(B) PENALTIES.—The penalties provided for in sections 5321(a) and 5322 of title 31, United States Code, shall apply to a financial institution that violates a regulation prescribed under subparagraph (A) in the same manner and to the same extent as such penalties would apply to any person that is otherwise subject to such section 5321(a) or 5322.

(e) REGULATORY AUTHORITY.—The Secretary of the Treasury shall issue such regulations, licenses, and orders as are necessary to carry out this section.

SEC. 7. REPORT TO CONGRESS.

Not later than 180 days after the date of the enactment of this Act, and annually thereafter, the Secretary of State and the Secretary of the Treasury shall submit to the appropriate congressional committees a report on—

(1) the actions taken to carry out this Act, including—

(A) the number of times and the circumstances in which persons described in section 4(a) have been added to the list required by that section during the year preceding the report; and

(B) if few or no such persons have been added to that list during that year, the reasons for not adding more such persons to the list; and

(2) efforts to encourage the governments of other countries to impose sanctions that are similar to the sanctions imposed under this Act.

By Mr. LIEBERMAN (for himself and Mr. MCCAIN):

S. 1040. A bill to enhance public safety by making more spectrum available to public safety entities, to facilitate the development of a public safety broadband network, to provide standards for the spectrum needs of public safety entities, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. LIEBERMAN. Mr. President, I rise today, with my colleague Senator MCCAIN, to introduce legislation to ensure that we take advantage of a once-in-a-lifetime opportunity to build a coast-to-coast communications network for our Nation's first responders that is secure, interoperable and resilient.

As it stands now, the mobile device the average teenager carries has more capability than those of the men and women who put their lives on the line for us each and every day and that is just wrong.

Today, we introduce the Broadband for First Responders Act of 2011, which will set aside the so-called D Block of spectrum for public safety entities and provide them the bandwidth they need to communicate effectively in an emergency. Companion legislation has been introduced in the House of Representatives by Representatives PETER T. KING and BENNIE G. THOMPSON, the Chairman and Ranking Member of the House Committee on Homeland Security.

I am proud to stand with the representatives of more than 40 organizations representing public safety officials, and with the ''Big 7'' associations representing State and local governments, to call on Congress to put the D Block in the hands of public safety. Those groups include the International Association of Chiefs of Police, the International Association of Fire Chiefs, the National Sheriffs Association, the Major Cities Chiefs Association, the Major County Sheriffs Association, the Metropolitan Fire Chiefs Association, the Association of Public-Safety Communications Officials—International, APCO International, the National Emergency Management Association, the National Association of State EMS Officials, the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, and the International City/County Management Association.

I am pleased that President Obama has pledged his commitment to reserve

the D Block for public safety. I also look forward to working with Senator ROCKEFELLER, the Chairman of the Committee on Commerce, Science, and Transportation, who has championed this cause and has signaled his determination to see a bill move through Congress this year.

Today, public safety communicates on slices of scattered spectrum that prevent interoperable communications among agencies and jurisdictions, and that do not allow the large data transmissions that we take for granted in today's commercial communications.

Securing the D Block for public safety will allow us to build a nationwide interoperable network for emergency communications that could prevent the kinds of communication meltdowns we had during 9–11 and Hurricane Katrina.

But setting aside the D Block will also allow first responders to send video, maps, and other large data transmissions over their mobile devices. For example, firefighters' lives may be saved because they will be able to access building specifications on their handhelds and know all the exits of a burning building before they enter it. A police officer at the scene of a crime would be able to feed video back to headquarters. Emergency response officials would be able to exchange data with hospitals while treating patients at the scene of an accident.

I do not think it is wise, as the Federal Communications Commission, FCC, proposed in its National Broadband Plan, to auction the D Block to commercial interests and then to hope that public safety will be able to piggy-back on it. In a crisis, first responders need secure, reliable and quick communications that are not disrupted by commercial traffic.

The Broadband for First Responders Act of 2011 would ensure that the D Block is licensed to the same public safety broadband licensee that currently holds the license for 10 MHz in the 700 MHz band. The bill would also provide up to $5.5 billion for a construction fund to assist with the costs of constructing the network and up to $5.5 billion for an operation and maintenance fund for long-term maintenance. These funds would come from revenues generated by the auction of different bands of spectrum to commercial carriers. By dedicating those auction revenues to the public safety network, we can help public safety officials build the system they need without adding to the deficit.

Under our bill, the FCC would set rules for the public safety network, ensuring interoperability across the nationwide system. The rules would also allow public safety to share spectrum with other governmental and private entities, as long as public safety services retain priority access to the spectrum. This authority would help hold down costs of the system by allowing public safety to leverage existing infrastructure.

The grants to build and maintain the public safety network would be administered by the Department of Homeland Security and would be awarded directly to States and municipalities, who are in the best position to know how to deploy the network in their jurisdictions.

Achieving nationwide interoperability through adequate spectrum is a major recommendation of the 9/11 Commission that is unfulfilled. We should not let the 10th anniversary of 9/11 pass without legislating to remedy that failure. The Chairman and Vice-Chairman of the Commission, the Honorable Thomas H. Kean and the Honorable Lee H. Hamilton, appeared before our Committee on Homeland Security and Governmental Affairs in March and urged the immediate allocation of the D Block to public safety, bluntly, and rightfully, delivering a message to Congress that further delay is intolerable. I urge my colleagues to take bold action to remedy Congress's past inaction by promptly passing the Broadband for First Responders Act of 2011.

Mr. MCCAIN. Mr, President, today I share the honor with Chairman LIEBERMAN of introducing the First Responders Protection Act of 2011. This bill would provide 10 MHz of spectrum in the 700 MHz spectrum band to the public safety broadband licensee, make available funding for the construction, operation and maintenance of a nationwide interoperable communications network, and ensure proper governance.

In 2004, the 9/11 Commission's Final Report recommended the ''expedited and increased assignment of radio spectrum to public safety entities.'' Shortly thereafter, Senator LIEBERMAN and I introduced a bill to provide spectrum to public safety; however the Senate voted down that bill. We reintroduced the bill in 2005, month before Hurricane Katrina hit the Gulf Coast. But our efforts were blocked. Fortunately, Congress finally wrestled some spectrum away from the television broadcasters in 2009 and provided it to public safety. However, public safety has additional spectrum needs.

Almost every other recommendation of the 9/11 Commission has been implemented, but this important recommendation remains unfulfilled. I can only imagine how many lives could have been saved on 9/11 if this spectrum had been available at that time. How many firefighters would be alive today if they could have communicated with their battalion chief at the base of the World Trade Center?

In 2007, I introduced legislation to auction the remaining public safety spectrum to a commercial carrier that would then build out a network for public safety. The FCC held such an auction, but no bidder met the reserve price. Ten megahertz of spectrum remains available for public safety's needs. The FCC had announced its intention to auction this spectrum to a commercial provider. Thankfully, the White House announced late last year that it now supports the spectrum being provided to first responders for the construction of a nationwide public safety network, as did the Chairman and Ranking Member of the Senate Commerce Committee.

Specifically, this legislation would license the remaining spectrum to the public safety broadband licensee that has been previously approved by the FCC as a qualified licensee and represents more than three dozen national public safety organizations. The legislation provides authority to local jurisdictions to make decisions on the spectrum use, network build-out and equipment. The men and women fighting crime and saving lives know what communications systems and technology are best for them. Not Washington.

Lastly, this bill provides funds for grants to localities for the construction, operation and maintenance of an interoperable communications network. These funds will come from the proceeds of a commercial spectrum auction, thereby not adding to our Nation's burgeoning debt or raising taxes on all Americans.

As we approach the 10 year commemoration of the horrific events on September 11th and the six year remembrance of the devastating tragedy of Hurricane Katrina, it is a disgrace that police officers, sheriffs and fire fighters still don't have a nation-wide interoperable communications system. Our legislation provides the spectrum and funding to first responders, while being fiscally responsible and ensuring local control and conscientious governance.

Providing ten megahertz of spectrum to public safety, as this bill does, is supported by the International Association of Chiefs of Police, the International Association of Fire Chiefs, the National Sheriffs Association, the Major Cities Chiefs Association, the Major County Sheriffs Association, the Metropolitan Fire Chiefs Association, the Association of Public-Safety Communications Officials, International, APCO, the National Emergency Managers Association, the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, and the International City/County Management Association.

We have slightly more than one hundred days until the ten year anniversary of the horrific events of 9/11. I hope over the next 100 days the Senate Majority Leader will consider bringing this bill to the floor for full consideration and that at that time my colleagues will join me and Senator LIEBERMAN in providing public safety with the interoperable communications network they deserve. It is the least we can do for those who put their lives in danger each and every day to protect all of us.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 191—DESIGNATING JUNE 2011 AS ''NATIONAL APHASIA AWARENESS MONTH'' AND SUPPORTING EFFORTS TO INCREASE AWARENESS OF APHASIA

Mr. JOHNSON of South Dakota submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 191

Whereas aphasia is a communication impairment caused by brain damage that typically results from a stroke;

Whereas aphasia can also occur with other neurological disorders, such as a brain tumor;

Whereas many people with aphasia also have weakness or paralysis in the right leg and right arm, usually due to damage to the left hemisphere of the brain, which controls language and movement on the right side of the body;

Whereas the effects of aphasia may include a loss of, or reduction in, the ability to speak, comprehend, read, and write, but the intelligence of a person with aphasia remains intact;

Whereas according to the National Institute of Neurological Disorders and Stroke (referred to in this preamble as the ''NINDS''), stroke is the third-leading cause of death in the United States, ranking behind heart disease and cancer;

Whereas stroke is a leading cause of serious, long-term disability in the United States;

Whereas the NINDS estimates that there are approximately 5,000,000 stroke survivors in the United States;

Whereas the NINDS estimates that people in the United States suffer approximately 750,000 strokes per year, with about ⅓ of the strokes resulting in aphasia;

Whereas according to the NINDS, aphasia affects at least 1,000,000 people in the United States;

Whereas the NINDS estimates that more than 200,000 people in the United States acquire aphasia each year;

Whereas the National Aphasia Association is a unique organization that strives to promote public education, research, rehabilitation, and support services for the general public, people with aphasia, and aphasia caregivers throughout the United States; and

Whereas as an advocacy organization for people with aphasia and their caregivers, the National Aphasia Association envisions a world that recognizes the ''silent'' disability of aphasia and provides opportunity and fulfillment for people affected by aphasia: Now, therefore, be it

Resolved, That the Senate—

(1) designates June 2011 as ''National Aphasia Awareness Month'';

(2) supports efforts to increase awareness of aphasia;

(3) recognizes that strokes, a primary cause of aphasia, are the third-largest cause of death and disability in the United States;

(4) acknowledges that aphasia deserves more attention and study to find new solutions for individuals experiencing aphasia and their caregivers;

(5) supports efforts to make the voices of people with aphasia heard, because people with aphasia are often unable to communicate with others; and

(6) encourages all people in the United States to observe National Aphasia Awareness Month with appropriate events and activities.

SENATE RESOLUTION 192—DESIGNATING MAY 21, 2011, AS ''NATIONAL KIDS TO PARKS DAY''

Mr. UDALL of Colorado (for himself, Mr. BURR, Mr. BINGAMAN, and Ms. MURKOWSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 192

Whereas the first National Kids to Parks Day will be celebrated on May 21, 2011;

Whereas the goal of National Kids to Parks Day is to empower young people and encourage families to get outdoors and visit the parks of the United States;

Whereas on National Kids to Parks Day, rural and urban Americans alike can be reintroduced to the splendid National, State, and neighborhood parks that are located in their communities;

Whereas communities across the United States offer a variety of natural resources and public land, often with free access, to individuals seeking outdoor recreation;

Whereas the United States should encourage young people to lead a more active lifestyle, as too many young people in the United States are overweight or obese;

Whereas National Kids to Parks Day is an opportunity for families to take a break from their busy lives and come together for a day of wholesome fun; and

Whereas National Kids to Parks Day aims to broaden the appreciation of young people for nature and the outdoors: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 21, 2011, as ''National Kids to Parks Day'';

(2) recognizes the importance of outdoor recreation and the preservation of open spaces to the health of the young people of the United States; and

(3) calls on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

SENATE RESOLUTION 193—HONORING THE BICENTENNIAL OF THE CITY OF ASTORIA

Mr. MERKLEY (for himself and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 193

Whereas Astoria is a scenic gem on the coast of Oregon, and the residents of Astoria have long represented the essence of what it means to be an Oregonian;

Whereas the site of Astoria, located at the mouth of the Columbia River where the Columbia River meets the Pacific Ocean, marks the endpoint of the epic Lewis and Clark expedition to explore the American West, and was founded by fur traders in 1811;

Whereas Thomas Jefferson recognized Astoria as the Nation's first significant claim to the West and noted that were it not for the settlement of Astoria, the United States may have ended at the Rocky Mountains;

Whereas Astoria evolved from being a fur trading hub to serving as the ad-hoc capital of Oregon Country, and later became a prominent leader in the fishing and timber industries and an important port city;

Whereas Astoria was incorporated in 1856, and today is a center for manufacturing, art, tourism, and fishing;

Whereas settlers from Scandinavia and China were among the first to come to Astoria, and the presence of their descendants has contributed to a town rich in both history and culture;

Whereas Astoria is a vibrant tourism destination that has chronicled its remarkable history with the establishment of superb museums and well-preserved historical sites;

Whereas citizens of Astoria and visitors from around the country and the world enjoy boating, fishing, and hiking in one of the most beautiful areas on the West Coast; and

Whereas the natural beauty of the region has been noted by many artists, filmmakers, and writers, serving as the backdrop for many stories, including the beloved film ''The Goonies'': Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Astoria's bicentennial should be observed and celebrated;

(2) the people of Astoria should be thanked for their many pioneering contributions to the State of Oregon and the United States; and

(3) an enrolled copy of this resolution should be transmitted to the State of Oregon for appropriate display.

SENATE CONCURRENT RESOLUTION 18—SETTING FORTH THE PRESIDENT'S BUDGET REQUEST FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2012, AND SETTING FORTH THE APPROPRIATE BUDGETARY LEVELS FOR FISCAL YEARS 2013 THROUGH 2021

Mr. SESSIONS submitted the following concurrent resolution; which was placed on the calendar:

S. CON. RES. 18

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2012.

(a) DECLARATION.—Congress declares that this resolution is the concurrent resolution on the budget for fiscal year 2012 and that this resolution sets forth the appropriate budgetary levels for fiscal years 2013 through 2021.

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent resolution on the budget for fiscal year 2012.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts.
Sec. 102. Social Security.
Sec. 103. Postal Service discretionary administrative expenses.
Sec. 104. Major functional categories.

TITLE II—BUDGET PROCESS

Subtitle A—Budget Enforcement

Sec. 201. Program integrity initiatives and other adjustments.
Sec. 202. Point of order against advance appropriations.
Sec. 203. Emergency legislation.
Sec. 204. Adjustments for the extension of certain current policies.

Subtitle B—Other Provisions

Sec. 211. Budgetary treatment of certain discretionary administrative expenses.
Sec. 212. Application and effect of changes in allocations and aggregates.
Sec. 213. Adjustments to reflect changes in concepts and definitions.
Sec. 214. Exercise of rulemaking powers.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2011 through 2021:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2012: $1,877,062,000,000.
Fiscal year 2013: $2,166,741,000,000.
Fiscal year 2014: $2,442,771,000,000.
Fiscal year 2015: $2,631,410,000,000.
Fiscal year 2016: $2,780,984,000,000.
Fiscal year 2017: $2,922,080,000,000.
Fiscal year 2018: $3,057,493,000,000.
Fiscal year 2019: $3,199,460,000,000.
Fiscal year 2020: $3,359,964,000,000.
Fiscal year 2021: $3,530,324,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 2012: −$14,350,000,000.
Fiscal year 2013: −$188,214,000,000.
Fiscal year 2014: −$228,104,000,000.
Fiscal year 2015: −$199,492,000,000.
Fiscal year 2016: −$190,208,000,000.
Fiscal year 2017: −$253,232,000,000.
Fiscal year 2018: −$276,970,000,000.
Fiscal year 2019: −$303,356,000,000.
Fiscal year 2020: −$320,546,000,000.
Fiscal year 2021: −$353,259,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2012: $3,125,156,000,000.
Fiscal year 2013: $3,100,451,000,000.
Fiscal year 2014: $3,315,659,000,000.
Fiscal year 2015: $3,514,460,000,000.
Fiscal year 2016: $3,753,448,000,000.
Fiscal year 2017: $3,939,325,000,000.
Fiscal year 2018: $4,111,173,000,000.
Fiscal year 2019: $4,348,530,000,000.
Fiscal year 2020: $4,587,593,000,000.
Fiscal year 2021: $4,792,920,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2012: $3,126,667,000,000.
Fiscal year 2013: $3,155,807,000,000.
Fiscal year 2014: $3,295,189,000,000.
Fiscal year 2015: $3,471,671,000,000.
Fiscal year 2016: $3,716,602,000,000.
Fiscal year 2017: $3,883,405,000,000.
Fiscal year 2018: $4,043,545,000,000.
Fiscal year 2019: $4,295,770,000,000.
Fiscal year 2020: $4,521,290,000,000.
Fiscal year 2021: $4,735,320,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 2012: $1,249,605,000,000.
Fiscal year 2013: $989,066,000,000.
Fiscal year 2014: $852,418,000,000.
Fiscal year 2015: $840,261,000,000.
Fiscal year 2016: $935,618,000,000.
Fiscal year 2017: $961,325,000,000.
Fiscal year 2018: $986,052,000,000.
Fiscal year 2019: $1,096,310,000,000.
Fiscal year 2020: $1,161,326,000,000.
Fiscal year 2021: $1,204,996,000,000.

(5) PUBLIC DEBT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2012: $16,457,110,000,000.
Fiscal year 2013: $17,612,444,000,000.
Fiscal year 2014: $18,659,881,000,000.
Fiscal year 2015: $19,722,310,000,000.
Fiscal year 2016: $20,888,011,000,000.
Fiscal year 2017: $22,098,498,000,000.
Fiscal year 2018: $23,354,118,000,000.
Fiscal year 2019: $24,713,012,000,000.
Fiscal year 2020: $26,141,900,000,000.
Fiscal year 2021: $27,613,438,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2012: $11,661,458,000,000.
Fiscal year 2013: $12,660,181,000,000.
Fiscal year 2014: $13,516,248,000,000.
Fiscal year 2015: $14,359,283,000,000.
Fiscal year 2016: $15,291,568,000,000.
Fiscal year 2017: $16,253,549,000,000.
Fiscal year 2018: $17,250,120,000,000.
Fiscal year 2019: $18,363,900,000,000.
Fiscal year 2020: $19,557,831,000,000.
Fiscal year 2021: $20,805,783,000,000.

SEC. 102. SOCIAL SECURITY.

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2012: $666,758,000,000.
Fiscal year 2013: $732,105,000,000.
Fiscal year 2014: $769,108,000,000.
Fiscal year 2015: $811,035,000,000.
Fiscal year 2016: $853,968,000,000.
Fiscal year 2017: $895,427,000,000.
Fiscal year 2018: $936,497,000,000.
Fiscal year 2019: $979,561,000,000.
Fiscal year 2020: $1,021,966,000,000.
Fiscal year 2021: $1,066,862,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2012: $573,819,000,000.
Fiscal year 2013: $637,624,000,000.
Fiscal year 2014: $674,445,000,000.
Fiscal year 2015: $712,315,000,000.
Fiscal year 2016: $752,298,000,000.
Fiscal year 2017: $796,835,000,000.
Fiscal year 2018: $845,176,000,000.
Fiscal year 2019: $896,880,000,000.
Fiscal year 2020: $953,497,000,000.
Fiscal year 2021: $1,012,210,000,000.

(c) SOCIAL SECURITY ADMINISTRATIVE EXPENSES.—In the Senate, the amounts of new budget authority and budget outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for administrative expenses are as follows:

Fiscal year 2012:
(A) New budget authority, $6,337,000,000.
(B) Outlays, $6,267,000,000.
Fiscal year 2013:
(A) New budget authority, $6,266,000,000.
(B) Outlays, $6,238,000,000.
Fiscal year 2014:
(A) New budget authority, $6,403,000,000.
(B) Outlays, $6,389,000,000.
Fiscal year 2015:
(A) New budget authority, $6,623,000,000.
(B) Outlays, $6,583,000,000.
Fiscal year 2016:
(A) New budget authority, $6,779,000,000.
(B) Outlays, $6,743,000,000.
Fiscal year 2017:
(A) New budget authority, $6,963,000,000.
(B) Outlays, $6,926,000,000.
Fiscal year 2018:
(A) New budget authority, $7,158,000,000.
(B) Outlays, $7,119,000,000.
Fiscal year 2019:
(A) New budget authority, $7,361,000,000.
(B) Outlays, $7,319,000,000.
Fiscal year 2020:
(A) New budget authority, $7,568,000,000.
(B) Outlays, $7,526,000,000.
Fiscal year 2021:
(A) New budget authority, $7,787,000,000.
(B) Outlays, $7,742,000,000.

SEC. 103. POSTAL SERVICE DISCRETIONARY ADMINISTRATIVE EXPENSES.

In the Senate, the amounts of new budget authority and budget outlays of the Postal Service for discretionary administrative expenses are as follows:

Fiscal year 2012:
(A) New budget authority, $258,000,000.
(B) Outlays, $258,000,000.
Fiscal year 2013:
(A) New budget authority, $248,000,000.
(B) Outlays, $248,000,000.
Fiscal year 2014:
(A) New budget authority, $247,000,000.
(B) Outlays, $247,000,000.
Fiscal year 2015:
(A) New budget authority, $250,000,000.
(B) Outlays, $250,000,000.
Fiscal year 2016:
(A) New budget authority, $255,000,000.
(B) Outlays, $255,000,000.
Fiscal year 2017:
(A) New budget authority, $261,000,000.
(B) Outlays, $261,000,000.
Fiscal year 2018:
(A) New budget authority, $268,000,000.
(B) Outlays, $268,000,000.
Fiscal year 2019:
(A) New budget authority, $274,000,000.
(B) Outlays, $274,000,000.
Fiscal year 2020:
(A) New budget authority, $281,000,000.
(B) Outlays, $281,000,000.
Fiscal year 2021:
(A) New budget authority, $289,000,000.
(B) Outlays, $289,000,000.

SEC. 104. MAJOR FUNCTIONAL CATEGORIES.

Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2011 through 2021 for each major functional category are:

(1) National Defense (050):
Fiscal year 2012:
(A) New budget authority, $702,843,000,000.
(B) Outlays, $724,244,000,000.
Fiscal year 2013:
(A) New budget authority, $652,362,000,000.
(B) Outlays, $693,705,000,000.
Fiscal year 2014:
(A) New budget authority, $668,636,000,000.
(B) Outlays, $672,109,000,000.
Fiscal year 2015:
(A) New budget authority, $681,259,000,000.
(B) Outlays, $672,837,000,000.
Fiscal year 2016:
(A) New budget authority, $694,497,000,000.
(B) Outlays, $684,457,000,000.
Fiscal year 2017:
(A) New budget authority, $706,109,000,000.
(B) Outlays, $692,517,000,000.
Fiscal year 2018:
(A) New budget authority, $718,181,000,000.
(B) Outlays, $700,474,000,000.
Fiscal year 2019:
(A) New budget authority, $730,395,000,000.
(B) Outlays, $717,730,000,000.
Fiscal year 2020:
(A) New budget authority, $742,600,000,000.
(B) Outlays, $729,739,000,000.
Fiscal year 2021:
(A) New budget authority, $755,330,000,000.
(B) Outlays, $742,007,000,000.

(2) International Affairs (150):
Fiscal year 2012:
(A) New budget authority, $65,915,000,000.
(B) Outlays, $57,477,000,000.
Fiscal year 2013:
(A) New budget authority, $57,982,000,000.
(B) Outlays, $58,841,000,000.
Fiscal year 2014:
(A) New budget authority, $55,518,000,000.
(B) Outlays, $58,636,000,000.
Fiscal year 2015:
(A) New budget authority, $55,252,000,000.
(B) Outlays, $57,052,000,000.
Fiscal year 2016:
(A) New budget authority, $55,452,000,000.
(B) Outlays, $57,352,000,000.

Fiscal year 2017:
(A) New budget authority, $58,018,000,000.
(B) Outlays, $58,238,000,000.
Fiscal year 2018:
(A) New budget authority, $60,083,000,000.
(B) Outlays, $58,932,000,000.
Fiscal year 2019:
(A) New budget authority, $61,194,000,000.
(B) Outlays, $58,425,000,000.
Fiscal year 2020:
(A) New budget authority, $62,327,000,000.
(B) Outlays, $58,448,000,000.
Fiscal year 2021:
(A) New budget authority, $63,511,000,000.
(B) Outlays, $59,399,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 2012:
(A) New budget authority, $32,566,000,000.
(B) Outlays, $31,963,000,000.
Fiscal year 2013:
(A) New budget authority, $31,473,000,000.
(B) Outlays, $31,890,000,000.
Fiscal year 2014:
(A) New budget authority, $31,400,000,000.
(B) Outlays, $31,661,000,000.
Fiscal year 2015:
(A) New budget authority, $31,528,000,000.
(B) Outlays, $31,431,000,000.
Fiscal year 2016:
(A) New budget authority, $32,587,000,000.
(B) Outlays, $32,164,000,000.
Fiscal year 2017:
(A) New budget authority, $33,411,000,000.
(B) Outlays, $32,888,000,000.
Fiscal year 2018:
(A) New budget authority, $34,190,000,000.
(B) Outlays, $33,684,000,000.
Fiscal year 2019:
(A) New budget authority, $34,969,000,000.
(B) Outlays, $34,441,000,000.
Fiscal year 2020:
(A) New budget authority, $35,695,000,000.
(B) Outlays, $35,229,000,000.
Fiscal year 2021:
(A) New budget authority, $36,607,000,000.
(B) Outlays, $35,946,000,000.
(4) Energy (270):
Fiscal year 2012:
(A) New budget authority, $14,289,000,000.
(B) Outlays, $21,707,000,000.
Fiscal year 2013:
(A) New budget authority, $10,610,000,000.
(B) Outlays, $16,888,000,000.
Fiscal year 2014:
(A) New budget authority, $7,602,000,000.
(B) Outlays, $10,604,000,000.
Fiscal year 2015:
(A) New budget authority, $6,288,000,000.
(B) Outlays, $7,117,000,000.
Fiscal year 2016:
(A) New budget authority, $6,262,000,000.
(B) Outlays, $6,189,000,000.
Fiscal year 2017:
(A) New budget authority, $6,267,000,000.
(B) Outlays, $5,899,000,000.
Fiscal year 2018:
(A) New budget authority, $6,408,000,000.
(B) Outlays, $5,997,000,000.
Fiscal year 2019:
(A) New budget authority, $6,667,000,000.
(B) Outlays, $5,928,000,000.
Fiscal year 2020:
(A) New budget authority, $6,686,000,000.
(B) Outlays, $5,859,000,000.
Fiscal year 2021:
(A) New budget authority, $6,825,000,000.
(B) Outlays, $5,975,000,000.
(5) Natural Resources and Environment (300):
Fiscal year 2012:
(A) New budget authority, $37,299,000,000.
(B) Outlays, $40,636,000,000.
Fiscal year 2013:
(A) New budget authority, $35,882,000,000.
(B) Outlays, $38,450,000,000.
Fiscal year 2014:
(A) New budget authority, $36,229,000,000.
(B) Outlays, $37,419,000,000.
Fiscal year 2015:
(A) New budget authority, $36,294,000,000.
(B) Outlays, $37,303,000,000.
Fiscal year 2016:
(A) New budget authority, $37,303,000,000.
(B) Outlays, $37,210,000,000.
Fiscal year 2017:
(A) New budget authority, $38,116,000,000.
(B) Outlays, $37,791,000,000.
Fiscal year 2018:
(A) New budget authority, $39,544,000,000.
(B) Outlays, $37,951,000,000.
Fiscal year 2019:
(A) New budget authority, $40,317,000,000.
(B) Outlays, $38,664,000,000.
Fiscal year 2020:
(A) New budget authority, $41,684,000,000.
(B) Outlays, $39,850,000,000.
Fiscal year 2021:
(A) New budget authority, $42,151,000,000.
(B) Outlays, $40,392,000,000.
(6) Agriculture (350):
Fiscal year 2012:
(A) New budget authority, $20,966,000,000.
(B) Outlays, $20,395,000,000.
Fiscal year 2013:
(A) New budget authority, $21,630,000,000.
(B) Outlays, $23,476,000,000.
Fiscal year 2014:
(A) New budget authority, $21,970,000,000.
(B) Outlays, $21,602,000,000.
Fiscal year 2015:
(A) New budget authority, $21,523,000,000.
(B) Outlays, $20,923,000,000.
Fiscal year 2016:
(A) New budget authority, $21,723,000,000.
(B) Outlays, $21,140,000,000.
Fiscal year 2017:
(A) New budget authority, $21,777,000,000.
(B) Outlays, $21,149,000,000.
Fiscal year 2018:
(A) New budget authority, $22,053,000,000.
(B) Outlays, $21,404,000,000.
Fiscal year 2019:
(A) New budget authority, $22,309,000,000.
(B) Outlays, $21,643,000,000.
Fiscal year 2020:
(A) New budget authority, $22,623,000,000.
(B) Outlays, $21,956,000,000.
Fiscal year 2021:
(A) New budget authority, $22,904,000,000.
(B) Outlays, $22,246,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 2012:
(A) New budget authority, $28,301,000,000.
(B) Outlays, $29,098,000,000.
Fiscal year 2013:
(A) New budget authority, $16,460,000,000.
(B) Outlays, $14,912,000,000.
Fiscal year 2014:
(A) New budget authority, $14,909,000,000.
(B) Outlays, −$325,000,000.
Fiscal year 2015:
(A) New budget authority, $14,724,000,000.
(B) Outlays, −$3,102,000,000.
Fiscal year 2016:
(A) New budget authority, $15,193,000,000.
(B) Outlays, −$5,647,000,000.
Fiscal year 2017:
(A) New budget authority, $17,275,000,000.
(B) Outlays, −$6,557,000,000.
Fiscal year 2018:
(A) New budget authority, $18,584,000,000.
(B) Outlays, −$7,780,000,000.
Fiscal year 2019:
(A) New budget authority, $20,922,000,000.
(B) Outlays, $2,830,000,000.
Fiscal year 2020:
(A) New budget authority, $28,282,000,000.
(B) Outlays, $8,645,000,000.
Fiscal year 2021:
(A) New budget authority, $21,546,000,000.
(B) Outlays, $3,019,000,000.
(8) Transportation (400):
Fiscal year 2012:
(A) New budget authority, $144,397,000,000.
(B) Outlays, $98,621,000,000.
Fiscal year 2013:
(A) New budget authority, $108,785,000,000.
(B) Outlays, $105,844,000,000.
Fiscal year 2014:
(A) New budget authority, $114,490,000,000.
(B) Outlays, $108,203,000,000.
Fiscal year 2015:
(A) New budget authority, $121,785,000,000.
(B) Outlays, $112,574,000,000.
Fiscal year 2016:
(A) New budget authority, $128,597,000,000.
(B) Outlays, $117,524,000,000.
Fiscal year 2017:
(A) New budget authority, $135,552,000,000.
(B) Outlays, $122,198,000,000.
Fiscal year 2018:
(A) New budget authority, $132,463,000,000.
(B) Outlays, $126,424,000,000.
Fiscal year 2019:
(A) New budget authority, $134,362,000,000.
(B) Outlays, $129,602,000,000.
Fiscal year 2020:
(A) New budget authority, $136,317,000,000.
(B) Outlays, $132,062,000,000.
Fiscal year 2021:
(A) New budget authority, $138,332,000,000.
(B) Outlays, $133,399,000,000.
(9) Community and Regional Development (450):
Fiscal year 2012:
(A) New budget authority, $15,304,000,000.
(B) Outlays, $26,367,000,000.
Fiscal year 2013:
(A) New budget authority, $15,284,000,000.
(B) Outlays, $24,438,000,000.
Fiscal year 2014:
(A) New budget authority, $15,460,000,000.
(B) Outlays, $22,308,000,000.
Fiscal year 2015:
(A) New budget authority, $15,745,000,000.
(B) Outlays, $18,448,000,000.
Fiscal year 2016:
(A) New budget authority, $16,152,000,000.
(B) Outlays, $16,863,000,000.
Fiscal year 2017:
(A) New budget authority, $16,584,000,000.
(B) Outlays, $16,192,000,000.
Fiscal year 2018:
(A) New budget authority, $17,038,000,000.
(B) Outlays, $16,065,000,000.
Fiscal year 2019:
(A) New budget authority, $17,509,000,000.
(B) Outlays, $16,428,000,000.
Fiscal year 2020:
(A) New budget authority, $17,967,000,000.
(B) Outlays, $16,875,000,000.
Fiscal year 2021:
(A) New budget authority, $18,475,000,000.
(B) Outlays, $17,347,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 2012:
(A) New budget authority, $107,785,000,000.
(B) Outlays, $117,304,000,000.
Fiscal year 2013:
(A) New budget authority, $100,681,000,000.
(B) Outlays, $103,526,000,000.
Fiscal year 2014:
(A) New budget authority, $106,163,000,000.
(B) Outlays, $105,009,000,000.
Fiscal year 2015:
(A) New budget authority, $110,943,000,000.
(B) Outlays, $109,928,000,000.
Fiscal year 2016:
(A) New budget authority, $117,863,000,000.
(B) Outlays, $115,088,000,000.
Fiscal year 2017:
(A) New budget authority, $121,741,000,000.
(B) Outlays, $119,756,000,000.
Fiscal year 2018:
(A) New budget authority, $123,533,000,000.
(B) Outlays, $122,340,000,000.
Fiscal year 2019:
(A) New budget authority, $125,410,000,000.
(B) Outlays, $124,132,000,000.
Fiscal year 2020:
(A) New budget authority, $126,767,000,000.
(B) Outlays, $125,749,000,000.

Fiscal year 2021:
(A) New budget authority, $128,562,000,000.
(B) Outlays, $127,336,000,000.
(11) Health (550):
Fiscal year 2012:
(A) New budget authority, $359,390,000,000.
(B) Outlays, $362,012,000,000.
Fiscal year 2013:
(A) New budget authority, $374,467,000,000.
(B) Outlays, $372,417,000,000.
Fiscal year 2014:
(A) New budget authority, $455,790,000,000.
(B) Outlays, $438,883,000,000.
Fiscal year 2015:
(A) New budget authority, $519,559,000,000.
(B) Outlays, $507,922,000,000.
Fiscal year 2016:
(A) New budget authority, $566,166,000,000.
(B) Outlays, $570,707,000,000.
Fiscal year 2017:
(A) New budget authority, $608,114,000,000.
(B) Outlays, $611,004,000,000.
Fiscal year 2018:
(A) New budget authority, $649,482,000,000.
(B) Outlays, $647,047,000,000.
Fiscal year 2019:
(A) New budget authority, $695,131,000,000.
(B) Outlays, $692,103,000,000.
Fiscal year 2020:
(A) New budget authority, $749,822,000,000.
(B) Outlays, $736,279,000,000.
Fiscal year 2021:
(A) New budget authority, $789,029,000,000.
(B) Outlays, $785,268,000,000.
(12) Medicare (570):
Fiscal year 2012:
(A) New budget authority, $495,757,000,000.
(B) Outlays, $495,426,000,000.
Fiscal year 2013:
(A) New budget authority, $539,025,000,000.
(B) Outlays, $539,219,000,000.
Fiscal year 2014:
(A) New budget authority, $570,645,000,000.
(B) Outlays, $570,567,000,000.
Fiscal year 2015:
(A) New budget authority, $596,137,000,000.
(B) Outlays, $595,989,000,000.
Fiscal year 2016:
(A) New budget authority, $645,818,000,000.
(B) Outlays, $646,017,000,000.
Fiscal year 2017:
(A) New budget authority, $669,667,000,000.
(B) Outlays, $669,549,000,000.
Fiscal year 2018:
(A) New budget authority, $694,799,000,000.
(B) Outlays, $694,627,000,000.
Fiscal year 2019:
(A) New budget authority, $757,794,000,000.
(B) Outlays, $757,986,000,000.
Fiscal year 2020:
(A) New budget authority, $812,846,000,000.
(B) Outlays, $812,722,000,000.
Fiscal year 2021:
(A) New budget authority, $870,672,000,000.
(B) Outlays, $870,524,000,000.
(13) Income Security (600):
Fiscal year 2012:
(A) New budget authority, $537,181,000,000.
(B) Outlays, $532,169,000,000.
Fiscal year 2013:
(A) New budget authority, $524,400,000,000.
(B) Outlays, $523,134,000,000.
Fiscal year 2014:
(A) New budget authority, $522,748,000,000.
(B) Outlays, $521,431,000,000.
Fiscal year 2015:
(A) New budget authority, $520,252,000,000.
(B) Outlays, $517,774,000,000.
Fiscal year 2016:
(A) New budget authority, $527,507,000,000.
(B) Outlays, $528,613,000,000.
Fiscal year 2017:
(A) New budget authority, $527,892,000,000.
(B) Outlays, $524,402,000,000.
Fiscal year 2018:
(A) New budget authority, $532,056,000,000.
(B) Outlays, $523,673,000,000.
Fiscal year 2019:
(A) New budget authority, $547,509,000,000.
(B) Outlays, $543,386,000,000.
Fiscal year 2020:
(A) New budget authority, $559,122,000,000.
(B) Outlays, $554,836,000,000.
Fiscal year 2021:
(A) New budget authority, $571,727,000,000.
(B) Outlays, $567,211,000,000.
(14) Social Security (650):
Fiscal year 2012:
(A) New budget authority, $54,745,000,000.
(B) Outlays, $55,283,000,000.
Fiscal year 2013:
(A) New budget authority, $29,094,000,000.
(B) Outlays, $29,256,000,000.
Fiscal year 2014:
(A) New budget authority, $32,699,000,000.
(B) Outlays, $32,776,000,000.
Fiscal year 2015:
(A) New budget authority, $36,259,000,000.
(B) Outlays, $36,311,000,000.
Fiscal year 2016:
(A) New budget authority, $40,171,000,000.
(B) Outlays, $40,171,000,000.
Fiscal year 2017:
(A) New budget authority, $44,265,000,000.
(B) Outlays, $44,263,000,000.
Fiscal year 2018:
(A) New budget authority, $48,721,000,000.
(B) Outlays, $48,717,000,000.
Fiscal year 2019:
(A) New budget authority, $53,514,000,000.
(B) Outlays, $53,508,000,000.
Fiscal year 2020:
(A) New budget authority, $58,560,000,000.
(B) Outlays, $58,552,000,000.
Fiscal year 2021:
(A) New budget authority, $64,063,000,000.
(B) Outlays, $64,053,000,000.
(15) Veterans Benefits and Services (700):
Fiscal year 2012:
(A) New budget authority, $128,332,000,000.
(B) Outlays, $127,972,000,000.
Fiscal year 2013:
(A) New budget authority, $130,012,000,000.
(B) Outlays, $130,013,000,000.
Fiscal year 2014:
(A) New budget authority, $134,125,000,000.
(B) Outlays, $134,037,000,000.
Fiscal year 2015:
(A) New budget authority, $138,143,000,000.
(B) Outlays, $137,827,000,000.
Fiscal year 2016:
(A) New budget authority, $147,382,000,000.
(B) Outlays, $146,480,000,000.
Fiscal year 2017:
(A) New budget authority, $146,311,000,000.
(B) Outlays, $145,692,000,000.
Fiscal year 2018:
(A) New budget authority, $145,399,000,000.
(B) Outlays, $144,738,000,000.
Fiscal year 2019:
(A) New budget authority, $155,078,000,000.
(B) Outlays, $154,394,000,000.
Fiscal year 2020:
(A) New budget authority, $159,666,000,000.
(B) Outlays, $158,965,000,000.
Fiscal year 2021:
(A) New budget authority, $164,367,000,000.
(B) Outlays, $163,608,000,000.
(16) Administration of Justice (750):
Fiscal year 2012:
(A) New budget authority, $55,432,000,000.
(B) Outlays, $57,550,000,000.
Fiscal year 2013:
(A) New budget authority, $61,315,000,000.
(B) Outlays, $57,366,000,000.
Fiscal year 2014:
(A) New budget authority, $55,543,000,000.
(B) Outlays, $57,598,000,000.
Fiscal year 2015:
(A) New budget authority, $56,239,000,000.
(B) Outlays, $58,268,000,000.
Fiscal year 2016:
(A) New budget authority, $59,732,000,000.
(B) Outlays, $60,855,000,000.
Fiscal year 2017:
(A) New budget authority, $59,411,000,000.
(B) Outlays, $59,808,000,000.
Fiscal year 2018:
(A) New budget authority, $60,848,000,000.
(B) Outlays, $61,743,000,000.
Fiscal year 2019:
(A) New budget authority, $62,427,000,000.
(B) Outlays, $62,080,000,000.
Fiscal year 2020:
(A) New budget authority, $66,045,000,000.
(B) Outlays, $65,430,000,000.
Fiscal year 2021:
(A) New budget authority, $68,662,000,000.
(B) Outlays, $68,039,000,000.
(17) General Government (800):
Fiscal year 2012:
(A) New budget authority, $27,995,000,000.
(B) Outlays, $31,428,000,000.
Fiscal year 2013:
(A) New budget authority, $28,677,000,000.
(B) Outlays, $29,928,000,000.
Fiscal year 2014:
(A) New budget authority, $30,765,000,000.
(B) Outlays, $31,633,000,000.
Fiscal year 2015:
(A) New budget authority, $33,031,000,000.
(B) Outlays, $33,570,000,000.
Fiscal year 2016:
(A) New budget authority, $35,618,000,000.
(B) Outlays, $35,634,000,000.
Fiscal year 2017:
(A) New budget authority, $37,901,000,000.
(B) Outlays, $37,702,000,000.
Fiscal year 2018:
(A) New budget authority, $40,289,000,000.
(B) Outlays, $40,007,000,000.
Fiscal year 2019:
(A) New budget authority, $42,773,000,000.
(B) Outlays, $42,240,000,000.
Fiscal year 2020:
(A) New budget authority, $45,125,000,000.
(B) Outlays, $44,635,000,000.
Fiscal year 2021:
(A) New budget authority, $47,535,000,000.
(B) Outlays, $46,949,000,000.
(18) Net Interest (900):
Fiscal year 2012:
(A) New budget authority, $376,438,000,000.
(B) Outlays, $376,438,000,000.
Fiscal year 2013:
(A) New budget authority, $443,931,000,000.
(B) Outlays, $443,931,000,000.
Fiscal year 2014:
(A) New budget authority, $526,131,000,000.
(B) Outlays, $526,131,000,000.
Fiscal year 2015:
(A) New budget authority, $610,353,000,000.
(B) Outlays, $610,353,000,000.
Fiscal year 2016:
(A) New budget authority, $698,055,000,000.
(B) Outlays, $698,055,000,000.
Fiscal year 2017:
(A) New budget authority, $784,840,000,000.
(B) Outlays, $784,840,000,000.
Fiscal year 2018:
(A) New budget authority, $867,232,000,000.
(B) Outlays, $867,232,000,000.
Fiscal year 2019:
(A) New budget authority, $944,553,000,000.
(B) Outlays, $944,553,000,000.
Fiscal year 2020:
(A) New budget authority, $1,023,637,000,000.
(B) Outlays, $1,023,637,000,000.
Fiscal year 2021:
(A) New budget authority, $1,095,247,000,000.
(B) Outlays, $1,095,247,000,000.
(19) Allowances (920):
Fiscal year 2012:
(A) New budget authority, $0.
(B) Outlays, $356,000,000.
Fiscal year 2013:
(A) New budget authority, $0.
(B) Outlays, $142,000,000.
Fiscal year 2014:
(A) New budget authority, $0.
(B) Outlays, $71,000,000.
Fiscal year 2015:
(A) New budget authority, $0.
(B) Outlays, $0.

Fiscal year 2016:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2017:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2018:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2019:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2020:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2021:
(A) New budget authority, $0.
(B) Outlays, $0.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 2012:
(A) New budget authority, −$79,779,000,000.
(B) Outlays, −$79,779,000,000.
Fiscal year 2013:
(A) New budget authority, −$81,619,000,000.
(B) Outlays, −$81,619,000,000.
Fiscal year 2014:
(A) New budget authority, −$85,164,000,000.
(B) Outlays, −$85,164,000,000.
Fiscal year 2015:
(A) New budget authority, −$90,854,000,000.
(B) Outlays, −$90,854,000,000.
Fiscal year 2016:
(A) New budget authority, −$92,630,000,000.
(B) Outlays, −$92,630,000,000.
Fiscal year 2017:
(A) New budget authority, −$93,926,000,000.
(B) Outlays, −$93,926,000,000.
Fiscal year 2018:
(A) New budget authority, −$99,730,000,000.
(B) Outlays, −$99,730,000,000.
Fiscal year 2019:
(A) New budget authority, −$104,303,000,000.
(B) Outlays, −$104,303,000,000.
Fiscal year 2020:
(A) New budget authority, −$108,178,000,000.
(B) Outlays, −$108,178,000,000.
Fiscal year 2021:
(A) New budget authority, −$112,645,000,000.
(B) Outlays, −$112,645,000,000.

TITLE II—BUDGET PROCESS

Subtitle A—Budget Enforcement

SEC. 201. PROGRAM INTEGRITY INITIATIVES AND OTHER ADJUSTMENTS.

(a) ADJUSTMENTS IN THE SENATE.—

(1) IN GENERAL.—After the reporting of a bill or joint resolution relating to any matter described in paragraph (2), or the offering of an amendment or motion thereto or the submission of a conference report thereon—

(A) the Chairman of the Committee on the Budget of the Senate may adjust the budgetary aggregates, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, by the amount of new budget authority in that measure for that purpose and the outlays flowing therefrom; and

(B) following any adjustment under subparagraph (A), the Committee on Appropriations of the Senate may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(2) MATTERS DESCRIBED.—Matters referred to in paragraph (1) are as follows:

(A) CONTINUING DISABILITY REVIEWS AND SSI REDETERMINATIONS.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations in a fiscal year of the amount specified in clause (ii) for continuing disability reviews and Supplemental Security Income redeterminations for the Social Security Administration, and provides an additional appropriation of an amount further specified in clause (ii) for continuing disability reviews and Supplemental Security Income redeterminations for the Social Security Administration, then the allocation to the Committee on Appropriations of the Senate, and aggregates for that year may be adjusted by the amount in budget authority and outlays flowing therefrom not to exceed the additional appropriation provided in such legislation for that purpose for that fiscal year.

(ii) AMOUNTS SPECIFIED.—The amounts specified are—

(I) for fiscal year 2012, an appropriation of $315,000,000, and an additional appropriation $623,000,000;

(II) for fiscal year 2013, an appropriation of $327,000,000, and an additional appropriation $751,000,000;

(III) for fiscal year 2014, an appropriation of $340,000,000, and an additional appropriation $924,000,000;

(IV) for fiscal year 2015, an appropriation of $353,000,000, and an additional appropriation $1,123,000,000; and

(V) for fiscal year 2016, an appropriation of $366,000,000, and an additional appropriation $1,166,000,000.

(B) INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations in a fiscal year to the Internal Revenue Service of not less than the amount specified in clause (ii) for tax enforcement to address the Federal tax gap (taxes owed but not paid), of which not less than the amount further specified in clause (ii) shall be available for additional or enhanced tax enforcement, or both, then the allocation to the Committee on Appropriations of the Senate, and aggregates for that year may be adjusted by the amount in budget authority and outlays flowing therefrom not to exceed the amount of additional or enhanced tax enforcement provided in such legislation for that fiscal year.

(ii) AMOUNTS SPECIFIED.—The amounts specified are—

(I) for fiscal year 2012, an appropriation of $7,233,000,000, of which not less than $1,257,000,000 is available for additional or enhanced tax enforcement;

(II) for fiscal year 2013, an appropriation of $7,663,000,000, of which not less than $1,674,000,000 is available for additional or enhanced tax enforcement;

(III) for fiscal year 2014, an appropriation of $7,815,000,000, of which not less than $2,105,000,000 is available for additional or enhanced tax enforcement;

(IV) for fiscal year 2015, an appropriation of $7,972,000,000, of which not less than $2,568,000,000 is available for additional or enhanced tax enforcement; and

(V) for fiscal year 2016, an appropriation of $8,131,000,000, of which not less than $3,125,000,000 is available for additional or enhanced tax enforcement.

(C) HEALTH CARE FRAUD AND ABUSE CONTROL.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations in a fiscal year of up to the amount specified in clause (ii) to the Health Care Fraud and Abuse Control program at the Department of Health and Human Services, then the allocation to the Committee on Appropriations of the Senate, and aggregates for that year may be adjusted in an amount not to exceed the amount in budget authority and outlays flowing therefrom provided for that program for that fiscal year.

(ii) AMOUNTS SPECIFIED.—The amounts specified are—

(I) for fiscal year 2012, an appropriation of $581,000,000;

(II) for fiscal year 2013, an appropriation of $610,000,000;

(III) for fiscal year 2014, an appropriation of $640,000,000;

(IV) for fiscal year 2015, an appropriation of $672,000,000; and

(V) for fiscal year 2016, an appropriation of $706,000,000.

(D) UNEMPLOYMENT INSURANCE IMPROPER PAYMENT REVIEWS.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations in a fiscal year of the amount specified in clause (ii) for in-person reemployment and eligibility assessments and unemployment insurance improper payment reviews, and provides an additional appropriation of up to an amount further specified in clause (ii) for in-person reemployment and eligibility assessments and unemployment insurance improper payment reviews, then the allocation to the Committee on Appropriations of the Senate, and aggregates for that year may be adjusted by an amount in budget authority and outlays flowing therefrom not to exceed the additional appropriation provided in such legislation for that purpose for that fiscal year.

(ii) AMOUNTS SPECIFIED.—The amounts specified are—

(I) for fiscal year 2012, an appropriation of $10,000,000, and an additional appropriation $60,000,000;

(II) for fiscal year 2013, an appropriation of $11,000,000, and an additional appropriation $65,000,000;

(III) for fiscal year 2014, an appropriation of $11,000,000, and an additional appropriation $70,000,000;

(IV) for fiscal year 2015, an appropriation of $11,000,000, and an additional appropriation $75,000,000; and

(V) for fiscal year 2016, an appropriation of $11,000,000, and an additional appropriation $80,000,000.

(3) ADJUSTMENTS TO SUPPORT ONGOING OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES.—

(A) ADJUSTMENTS.—The Chairman of the Committee on the Budget of the Senate may adjust the allocations to the Committee on Appropriations of the Senate, and aggregates for one or more—

(i) bills reported by the Committee on Appropriations of the Senate or passed by the House of Representatives;

(ii) joint resolutions or amendments reported by the Committee on Appropriations of the Senate;

(iii) amendments between the Houses received from the House of Representatives or Senate amendments offered by the authority of the Committee on Appropriations of the Senate; or

(iv) conference reports;

making appropriations for overseas deployments and other activities.

SEC. 202. POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS.

(a) IN GENERAL.—

(1) POINT OF ORDER.—Except as provided in subsection (b), it shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would provide an advance appropriation.

(2) DEFINITION.—In this section, the term ''advance appropriation'' means any new budget authority provided in a bill or joint resolution making appropriations for fiscal year 2012 that first becomes available for any fiscal year after 2012, or any new budget authority provided in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2013, that first becomes available for any fiscal year after 2013.

(b) EXCEPTIONS.—Advance appropriations may be provided—

(1) for fiscal years 2013 for programs, projects, activities, or accounts identified in

the joint explanatory statement of managers accompanying this resolution under the heading ''Accounts Identified for Advance Appropriations'' in an aggregate amount not to exceed $28,821,000,000 in new budget authority in each year;

(2) for the Corporation for Public Broadcasting;

(3) for the Department of Veterans Affairs for the Medical Services, Medical Support and Compliance, and Medical Facilities accounts of the Veterans Health Administration; and

(4) for the Department of Defense for the Missile Procurement account of the Air Force for procurement of the Advanced Extremely High Frequency satellite.

(c) SUPERMAJORITY WAIVER AND APPEAL.—

(1) WAIVER.—In the Senate, subsection (a) may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

(d) FORM OF POINT OF ORDER.—A point of order under subsection (a) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(e) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(f) INAPPLICABILITY.—In the Senate, section 402 of S. Con. Res. 13 (111th Congress) shall no longer apply.

SEC. 203. EMERGENCY LEGISLATION.

(a) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this section.

(b) EXEMPTION OF EMERGENCY PROVISIONS.—Any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this section, in any bill, joint resolution, amendment, or conference report shall not count for purposes of sections 302 and 311 of the Congressional Budget Act of 1974, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits), and section 404 of S. Con. Res. 13 (111th Congress) (relating to short-term deficits), and section 201 of this resolution (relating to discretionary spending). Designated emergency provisions shall not count for the purpose of revising allocations, aggregates, or other levels pursuant to procedures established under section 301(b)(7) of the Congressional Budget Act of 1974 for deficit-neutral reserve funds and revising discretionary spending limits set pursuant to section 201 of this resolution.

(c) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this section, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in subsection (f).

(d) DEFINITIONS.—In this section, the terms ''direct spending'', ''receipts'', and ''appropriations for discretionary accounts'' mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(e) POINT OF ORDER.—

(1) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(2) SUPERMAJORITY WAIVER AND APPEALS.—

(A) WAIVER.—Paragraph (1) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(B) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(3) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of paragraph (1), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this subsection.

(4) FORM OF THE POINT OF ORDER.—A point of order under paragraph (1) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(5) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable under the same conditions as was the conference report. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(f) CRITERIA.—

(1) IN GENERAL.—For purposes of this section, any provision is an emergency requirement if the situation addressed by such provision is—

(A) necessary, essential, or vital (not merely useful or beneficial);

(B) sudden, quickly coming into being, and not building up over time;

(C) an urgent, pressing, and compelling need requiring immediate action;

(D) subject to paragraph (2), unforeseen, unpredictable, and unanticipated; and

(E) not permanent, temporary in nature.

(2) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(g) INAPPLICABILITY.—In the Senate, section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010, shall no longer apply.

SEC. 204. ADJUSTMENTS FOR THE EXTENSION OF CERTAIN CURRENT POLICIES.

(a) ADJUSTMENT.—For the purposes of determining points of order specified in subsection (b), the Chairman of the Committee on the Budget of the Senate may adjust the estimate of the budgetary effects of a bill, joint resolution, amendment, motion, or conference report that contains one or more provisions extending middle-class tax cuts made in the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107–16) and the Jobs and Growth Tax Relief and Reconciliation Act of 2003 (Public Law 108–27), consistent with section 7(f) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139).

(b) COVERED POINTS OF ORDER.—The Chairman of the Committee on the Budget of the Senate may make adjustments pursuant to this section for the following points of order only:

(1) Section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go).

(2) Section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits).

(3) Section 404 of S. Con. Res. 13 (111th Congress) (relating to short-term deficits).

(c) QUALIFYING LEGISLATION.—The Chairman of the Committee on the Budget of the Senate may make adjustments authorized under subsection (a) for legislation containing provisions that—

(1) amend or supersede the system for updating payments made under subsections 1848 (d) and (f) of the Social Security Act, consistent with section 7(c) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139);

(2) amend the Estate and Gift Tax under subtitle B of the Internal Revenue Code of 1986, consistent with section 7(d) of the Statutory Pay-As-You-Go Act of 2010;

(3) extend relief from the Alternative Minimum Tax for individuals under sections 55–59 of the Internal Revenue Code of 1986, consistent with section 7(e) of the Statutory Pay-As-You-Go Act of 2010; and

(4) extend middle-class tax cuts made in the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107–16) and the Jobs and Growth Tax Relief and Reconciliation Act of 2003 (Public Law 108–27), consistent with section 7(f) of the Statutory Pay-As-You-Go Act of 2010.

(d) LIMITATION.—The Chairman shall make any adjustments pursuant to this section in a manner consistent with the limitations described in sections 4(c) and 7(h) of the Statutory Pay-As-You-Go Act of 2010.

(e) DEFINITION.—In this section, the terms ''budgetary effects'' or ''effects'' mean the amount by which a provision changes direct spending or revenues relative to the baseline.

(f) SUNSET.—This section shall expire on December 31, 2011.

Subtitle B—Other Provisions

SEC. 211. BUDGETARY TREATMENT OF CERTAIN DISCRETIONARY ADMINISTRATIVE EXPENSES.

In the Senate, notwithstanding section 302(a)(1) of the Congressional Budget Act of

1974, section 13301 of the Budget Enforcement Act of 1990, and section 2009a of title 39, United States Code, the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget shall include in its allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committees on Appropriations amounts for the discretionary administrative expenses of the Social Security Administration and of the Postal Service.

SEC. 212. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.

(a) APPLICATION.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

SEC. 213. ADJUSTMENTS TO REFLECT CHANGES IN CONCEPTS AND DEFINITIONS.

Upon the enactment of a bill or joint resolution providing for a change in concepts or definitions, the Chairman of the Committee on the Budget of the Senate may make adjustments to the levels and allocations in this resolution in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002).

SEC. 214. EXERCISE OF RULEMAKING POWERS.

Congress adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the Senate, and as such they shall be considered as part of the rules of the Senate and such rules shall supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with full recognition of the constitutional right of the Senate to change those rules at any time, in the same manner, and to the same extent as is the case of any other rule of the Senate.

SENATE CONCURRENT RESOLUTION 19—SETTING FORTH THE CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2012 AND SETTING FORTH THE APPROPRIATE BUDGETARY LEVELS FOR FISCAL YEARS 2013 THROUGH 2021

Mr. TOOMEY submitted the following concurrent resolution; which was placed on the calendar:

S. CON. RES. 19

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2012.

(a) DECLARATION.—Congress declares that this resolution is the concurrent resolution on the budget for fiscal year 2012 and that this resolution sets forth the appropriate budgetary levels for fiscal years 2012 and 2013 through 2021.

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent resolution on the budget for fiscal year 2012.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

Sec.101. Recommended levels and amounts.
Sec.102. Social Security.
Sec.103. Postal Service discretionary administrative expenses.
Sec.104. Major functional categories.

TITLE II—RESERVE FUNDS

Sec.213. Deficit-reduction reserve fund for improper payments.

TITLE III—BUDGET PROCESS

Subtitle A—Budget Enforcement

Sec. 301. Discretionary spending limits for fiscal years 2012 through 2021, program integrity initiatives, and other adjustments.
Sec. 302. Point of order against advance appropriations.
Sec. 303. Emergency legislation.
Sec. 304. Adjustments for the extension of certain current policies.

Subtitle B—Other Provisions

Sec. 312. Budgetary treatment of certain discretionary administrative expenses.
Sec. 313. Application and effect of changes in allocations and aggregates.
Sec. 314. Adjustments to reflect changes in concepts and definitions.
Sec. 315. Exercise of rulemaking powers.

TITLE II—RECOMMENDED LEVELS AND AMOUNTS

SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2011 through 2021:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2012: $1,891,242,000,000.
Fiscal year 2013: $2,231,552,000,000.
Fiscal year 2014: $2,446,761,000,000.
Fiscal year 2015: $2,579,225,000,000.
Fiscal year 2016: $2,669,281,000,000.
Fiscal year 2017: $2,840,312,000,000.
Fiscal year 2018: $2,979,431,000,000.
Fiscal year 2019: $3,128,456,000,000.
Fiscal year 2020: $3,302,639,000,000.
Fiscal year 2021: $3,498,532,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 2012: −$169,328,744.
Fiscal year 2013: −$123,402,692,541.
Fiscal year 2014: −$224,114,067,777.
Fiscal year 2015: −$251,676,989,105.
Fiscal year 2016: −$301,910,570,754.
Fiscal year 2017: −$334,999,321,887.
Fiscal year 2018: −$355,031,347,858.
Fiscal year 2019: −$374,359,689,475.
Fiscal year 2020: −$377,871,065,381.
Fiscal year 2021: −$385,051,194,659.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2012: $2,800,926,904,000.
Fiscal year 2013: $2,763,212,403,041.
Fiscal year 2014: $2,821,822,337,889.
Fiscal year 2015: $2,925,281,149,214.
Fiscal year 2016: $3,037,858,886,975.
Fiscal year 2017: $3,091,047,574,412.
Fiscal year 2018: $3,153,849,463,200.
Fiscal year 2019: $3,274,407,536,197.
Fiscal year 2020: $3,385,718,017,338.
Fiscal year 2021: $3,525,927,664,968.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2012: $2,896,353,904,000.
Fiscal year 2013: $2,842,056,403,041.
Fiscal year 2014: $2,827,314,337,889.
Fiscal year 2015: $2,904,616,149,214.
Fiscal year 2016: $3,005,951,886,975.
Fiscal year 2017: $3,049,441,902,412.
Fiscal year 2018: $3,101,850,272,744.
Fiscal year 2019: $3,235,276,947,250.
Fiscal year 2020: $3,340,654,777,302.
Fiscal year 2021: $3,471,694,543,538.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 2012: $1,005,111,904,000.
Fiscal year 2013: $610,504,403,041.
Fiscal year 2014: $380,553,337,889.
Fiscal year 2015: $325,391,149,214.
Fiscal year 2016: $336,670,886,975.
Fiscal year 2017: $209,129,902,412.
Fiscal year 2018: $122,419,272,744.
Fiscal year 2019: $106,820,947,250.
Fiscal year 2020: $38,015,777,302.
Fiscal year 2021: $−26,837,456,462.

(5) PUBLIC DEBT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2012: $16,150,766,612,957.
Fiscal year 2013: $16,944,005,708,540.
Fiscal year 2014: $17,519,924,114,206.
Fiscal year 2015: $18,070,606,252,525.
Fiscal year 2016: $18,648,739,710,254.
Fiscal year 2017: $19,118,880,934,554.
Fiscal year 2018: $19,529,292,555,156.
Fiscal year 2019: $19,915,346,191,882.
Fiscal year 2020: $20,249,458,034,565.
Fiscal year 2021: $20,551,564,772,761.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2012: $11,350,301,046,369.
Fiscal year 2013: $11,974,151,560,892.
Fiscal year 2014: $12,360,931,733,697.
Fiscal year 2015: $12,690,980,107,426.
Fiscal year 2016: $13,024,952,666,769.
Fiscal year 2017: $13,234,036,186,609.
Fiscal year 2018: $13,364,220,300,384.
Fiscal year 2019: $13,483,681,224,381.
Fiscal year 2020: $13,550,483,116,937.
Fiscal year 2021: $13,564,837,023,727.

SEC. 102. SOCIAL SECURITY.

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2012: $666,758,000,000.
Fiscal year 2013: $732,348,000,000.
Fiscal year 2014: $769,439,000,000.
Fiscal year 2015: $811,375,000,000.
Fiscal year 2016: $854,319,000,000.
Fiscal year 2017: $895,788,000,000.
Fiscal year 2018: $936,869,000,000.
Fiscal year 2019: $979,944,000,000.
Fiscal year 2020: $1,022,361,000,000.
Fiscal year 2021: $1,067,268,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2012: $574,011,000,000.
Fiscal year 2013: $637,688,000,000.
Fiscal year 2014: $674,601,000,000.
Fiscal year 2015: $712,979,000,000.
Fiscal year 2016: $753,355,000,000.
Fiscal year 2017: $798,242,000,000.
Fiscal year 2018: $846,810,000,000.

Fiscal year 2019: $898,686,000,000.
Fiscal year 2020: $955,483,000,000.
Fiscal year 2021: $1,014,378,000,000.

(c) SOCIAL SECURITY ADMINISTRATIVE EXPENSES.—In the Senate, the amounts of new budget authority and budget outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for administrative expenses are as follows:

Fiscal year 2012:
(A) New budget authority, $5,504,000,000.
(B) Outlays, $5,676,000,000.
Fiscal year 2013:
(A) New budget authority, $5,504,000,000.
(B) Outlays, $5,613,000,000.
Fiscal year 2014:
(A) New budget authority, $5,504,000,000.
(B) Outlays, $5,603,000,000.
Fiscal year 2015:
(A) New budget authority, $5,504,000,000.
(B) Outlays, $5,603,000,000.
Fiscal year 2016:
(A) New budget authority, $5,504,000,000.
(B) Outlays, $5,606,000,000.
Fiscal year 2017:
(A) New budget authority, $5,573,000,000.
(B) Outlays, $5,655,000,000.
Fiscal year 2018:
(A) New budget authority, $5,712,000,000.
(B) Outlays, $5,763,000,000.
Fiscal year 2019:
(A) New budget authority, $5,855,000,000.
(B) Outlays, $5,896,000,000.
Fiscal year 2020:
(A) New budget authority, $5,998,000,000.
(B) Outlays, $6,033,000,000.
Fiscal year 2021:
(A) New budget authority, $6,142,000,000.
(B) Outlays, $6,177,000,000.

SEC. 103. POSTAL SERVICE DISCRETIONARY ADMINISTRATIVE EXPENSES.

In the Senate, the amounts of new budget authority and budget outlays of the Postal Service for discretionary administrative expenses are as follows:

Fiscal year 2012:
(A) New budget authority, $258,000,000.
(B) Outlays, $260,000,000.
Fiscal year 2013:
(A) New budget authority, $258,000,000.
(B) Outlays, $262,000,000.
Fiscal year 2014:
(A) New budget authority, $258,000,000.
(B) Outlays, $263,000,000.
Fiscal year 2015:
(A) New budget authority, $258,000,000.
(B) Outlays, $264,000,000.
Fiscal year 2016:
(A) New budget authority, $258,000,000.
(B) Outlays, $265,000,000.
Fiscal year 2017:
(A) New budget authority, $261,000,000.
(B) Outlays, $268,000,000.
Fiscal year 2018:
(A) New budget authority, $268,000,000.
(B) Outlays, $272,000,000.
Fiscal year 2019:
(A) New budget authority, $274,000,000.
(B) Outlays, $278,000,000.
Fiscal year 2020:
(A) New budget authority, $281,000,000.
(B) Outlays, $285,000,000.
Fiscal year 2021:
(A) New budget authority, $288,000,000.
(B) Outlays, $291,000,000.

SEC. 104. MAJOR FUNCTIONAL CATEGORIES.

Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2011 through 2021 for each major functional category are:

(1) National Defense (050):
Fiscal year 2012:
(A) New budget authority, $582,626,000,000.
(B) Outlays, $593,580,000,000.
Fiscal year 2013:
(A) New budget authority, $600,283,000,000.
(B) Outlays, $597,211,000,000.
Fiscal year 2014:
(A) New budget authority, $616,451,000,000.
(B) Outlays, $606,903,000,000.
Fiscal year 2015:
(A) New budget authority, $628,847,000,000.
(B) Outlays, $618,837,000,000.
Fiscal year 2016:
(A) New budget authority, $641,976,000,000.
(B) Outlays, $635,475,000,000.
Fiscal year 2017:
(A) New budget authority, $653,695,000,000.
(B) Outlays, $643,275,000,000.
Fiscal year 2018:
(A) New budget authority, $665,679,000,000.
(B) Outlays, $650,246,000,000.
Fiscal year 2019:
(A) New budget authority, $674,607,000,000.
(B) Outlays, $664,991,638,890.
Fiscal year 2020:
(A) New budget authority, $678,766,000,000.
(B) Outlays, $671,377,688,571.
Fiscal year 2021:
(A) New budget authority, $702,965,000,000.
(B) Outlays, $688,398,389,534.

(2) International Affairs (150):
Fiscal year 2012:
(A) New budget authority, $33,236,000,000.
(B) Outlays, $32,298,000,000.
Fiscal year 2013:
(A) New budget authority, $31,314,000,000.
(B) Outlays, $30,132,000,000.
Fiscal year 2014:
(A) New budget authority, $27,355,000,000.
(B) Outlays, $27,322,000,000.
Fiscal year 2015:
(A) New budget authority, $24,877,000,000.
(B) Outlays, $26,130,000,000.
Fiscal year 2016:
(A) New budget authority, $22,917,000,000.
(B) Outlays, $25,435,000,000.
Fiscal year 2017:
(A) New budget authority, $21,961,000,000.
(B) Outlays, $23,376,000,000.
Fiscal year 2018:
(A) New budget authority, $22,931,000,000.
(B) Outlays, $23,202,000,000.
Fiscal year 2019:
(A) New budget authority, $22,719,000,000.
(B) Outlays, $21,345,000,000.
Fiscal year 2020:
(A) New budget authority, $22,756,000,000.
(B) Outlays, $20,264,000,000.
Fiscal year 2021:
(A) New budget authority, $24,689,000,000.
(B) Outlays, $20,167,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 2012:
(A) New budget authority, $25,019,000,000.
(B) Outlays, $26,486,000,000.
Fiscal year 2013:
(A) New budget authority, $27,037,000,000.
(B) Outlays, $27,725,000,000.
Fiscal year 2014:
(A) New budget authority, $27,312,000,000.
(B) Outlays, $27,763,000,000.
Fiscal year 2015:
(A) New budget authority, $27,312,000,000.
(B) Outlays, $27,469,000,000.
Fiscal year 2016:
(A) New budget authority, $27,311,000,000.
(B) Outlays, $27,506,000,000.
Fiscal year 2017:
(A) New budget authority, $27,225,000,000.
(B) Outlays, $27,311,000,000.
Fiscal year 2018:
(A) New budget authority, $27,225,000,000.
(B) Outlays, $27,311,000,000.
Fiscal year 2019:
(A) New budget authority, $28,255,000,000.
(B) Outlays, $27,735,000,000.
Fiscal year 2020:
(A) New budget authority, $29,758,000,000.
(B) Outlays, $28,025,000,000.
Fiscal year 2021:
(A) New budget authority, $29,758,000,000.
(B) Outlays, $28,325,000,000.

(4) Energy (270):
Fiscal year 2012:
(A) New budget authority, $1,108,000,000.
(B) Outlays, $10,174,000,000.
Fiscal year 2013:
(A) New budget authority, $1,014,000,000.
(B) Outlays, $7,7134,000,000.
Fiscal year 2014:
(A) New budget authority, $873,000,000.
(B) Outlays, $4,167,000,000.
Fiscal year 2015:
(A) New budget authority, $438,000,000.
(B) Outlays, $676,000,000.
Fiscal year 2016:
(A) New budget authority, $353,000,000.
(B) Outlays, $−340,000,000.
Fiscal year 2017:
(A) New budget authority, $337,000,000.
(B) Outlays, $−223,000,000.
Fiscal year 2018:
(A) New budget authority, $276,000,000.
(B) Outlays, $−267,000,000.
Fiscal year 2019:
(A) New budget authority, $291,000,000.
(B) Outlays, $−369,000,000.
Fiscal year 2020:
(A) New budget authority, $231,000,000.
(B) Outlays, $−379,000,000.
Fiscal year 2021:
(A) New budget authority, $282,000,000.
(B) Outlays, $−430,000,000.

(5) Natural Resources and Environment (300):
Fiscal year 2012:
(A) New budget authority, $27,487,000,000 .
(B) Outlays, $33,002,000,000.
Fiscal year 2013:
(A) New budget authority, $22,896,000,000.
(B) Outlays, $27,120,000,000.
Fiscal year 2014:
(A) New budget authority, $21,203,000,000.
(B) Outlays, $25,016,000,000.
Fiscal year 2015:
(A) New budget authority, $20,897,000,000.
(B) Outlays, $21,490,000,000.
Fiscal year 2016:
(A) New budget authority, $19,459,000,000.
(B) Outlays, $19,776,000,000.
Fiscal year 2017:
(A) New budget authority, $17,522,000,000.
(B) Outlays, $17,746,000,000.
Fiscal year 2018:
(A) New budget authority, $17,461,000,000.
(B) Outlays, $17,674,000,000.
Fiscal year 2019:
(A) New budget authority, $17,118,000,000.
(B) Outlays, $17,281,000,000.
Fiscal year 2020:
(A) New budget authority, $17,109,000,000.
(B) Outlays, $17,237,000,000.
Fiscal year 2021:
(A) New budget authority, $16,971,000,000.
(B) Outlays, $16,984,000,000.

(6) Agriculture (350):
Fiscal year 2012:
(A) New budget authority, $12,777,000,000.
(B) Outlays, $13,594,000,000.
Fiscal year 2013:
(A) New budget authority, $12,592,000,000.
(B) Outlays, $13,161,000,000.
Fiscal year 2014:
(A) New budget authority, $12,593,000,000.
(B) Outlays, $12,545,000,000.
Fiscal year 2015:
(A) New budget authority, $12,700,000,000.
(B) Outlays, $12,407,000,000.
Fiscal year 2016:
(A) New budget authority, $12,789,000,000.
(B) Outlays, $12,444,000,000.
Fiscal year 2017:
(A) New budget authority, $12,908,000,000.
(B) Outlays, $12,560,000,000.
Fiscal year 2018:
(A) New budget authority, $13,033,000,000.
(B) Outlays, $12,871,000,000.
Fiscal year 2019:
(A) New budget authority, $13,162,000,000.
(B) Outlays, $12,992,000,000.

Fiscal year 2020:
(A) New budget authority, $13,276,000,000.
(B) Outlays, $13,123,000,000.
Fiscal year 2021:
(A) New budget authority, $13,366,000,000.
(B) Outlays, $13,243,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 2012:
(A) New budget authority, $13,927,000,000.
(B) Outlays, $10,411,000,000.
Fiscal year 2013:
(A) New budget authority, $8,835,000,000.
(B) Outlays, $1,664,000,000.
Fiscal year 2014:
(A) New budget authority, $5,962,000,000.
(B) Outlays, $−14,258,000,000.
Fiscal year 2015:
(A) New budget authority, $4,767,000,000.
(B) Outlays, $−17,646,000,000.
Fiscal year 2016:
(A) New budget authority, $3,934,000,000.
(B) Outlays, $−21,724,000,000.
Fiscal year 2017:
(A) New budget authority, $2,525,000,000.
(B) Outlays, $−23,094,000,000.
Fiscal year 2018:
(A) New budget authority, $984,000,000.
(B) Outlays, $−26,985,000,000.
Fiscal year 2019:
(A) New budget authority, $357,000,000.
(B) Outlays, $−19,217,000,000.
Fiscal year 2020:
(A) New budget authority, $−300,000,000.
(B) Outlays, $−20,403,000,000.
Fiscal year 2021:
(A) New budget authority, $237,000,000.
(B) Outlays, $−21,819,000,000.
(8) Transportation (400):
Fiscal year 2012:
(A) New budget authority, $60,333,000,000.
(B) Outlays, $82,422,000,000.
Fiscal year 2013:
(A) New budget authority, $62,390,000,000.
(B) Outlays, $73,250,000,000.
Fiscal year 2014:
(A) New budget authority, $64,714,000,000.
(B) Outlays, $70,060,000,000.
Fiscal year 2015:
(A) New budget authority, $65,788,000,000.
(B) Outlays, $68,425,000,000.
Fiscal year 2016:
(A) New budget authority, $67,926,000,000.
(B) Outlays, $68,399,000,000.
Fiscal year 2017:
(A) New budget authority, $69,110,000,000.
(B) Outlays, $69,479,000,000.
Fiscal year 2018:
(A) New budget authority, $70,422,000,000.
(B) Outlays, $69,897,000,000.
Fiscal year 2019:
(A) New budget authority, $71,227,000,000.
(B) Outlays, $70,217,000,000.
Fiscal year 2020:
(A) New budget authority, $75,370,000,000.
(B) Outlays, $71,803,000,000.
Fiscal year 2021:
(A) New budget authority, $83,547,000,000.
(B) Outlays, $82,829,000,000.
(9) Community and Regional Development (450):
Fiscal year 2012:
(A) New budget authority, $11,255,000,000.
(B) Outlays, $21,096,000,000.
Fiscal year 2013:
(A) New budget authority, $11,258,000,000.
(B) Outlays, $18,416,000,000.
Fiscal year 2014:
(A) New budget authority, $11,194,000,000.
(B) Outlays, $14,616,000,000.
Fiscal year 2015:
(A) New budget authority, $11,185,000,000.
(B) Outlays, $13,540,000,000.
Fiscal year 2016:
(A) New budget authority, $10,981,000,000.
(B) Outlays, $11,809,000,000.
Fiscal year 2017:
(A) New budget authority, $10,958,000,000.
(B) Outlays, $10,847,000,000.
Fiscal year 2018:
(A) New budget authority, $10,677,000,000.
(B) Outlays, $10,590,000,000.
Fiscal year 2019:
(A) New budget authority, $10,666,000,000.
(B) Outlays, $10,577,000,000.
Fiscal year 2020:
(A) New budget authority, $10,654,000,000.
(B) Outlays, $10,574,000,000.
Fiscal year 2021:
(A) New budget authority, $10,643,000,000.
(B) Outlays, $10,561,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 2012:
(A) New budget authority, $66,849,000,000.
(B) Outlays, $95,712,000,000.
Fiscal year 2013:
(A) New budget authority, $63,887,000,000.
(B) Outlays, $73,071,000,000.
Fiscal year 2014:
(A) New budget authority, $66,076,000,000.
(B) Outlays, $68,044,000,000.
Fiscal year 2015:
(A) New budget authority, $69,446,000,000.
(B) Outlays, $70,450,000,000.
Fiscal year 2016:
(A) New budget authority, $72,443,000,000.
(B) Outlays, $72,875,000,000.
Fiscal year 2017:
(A) New budget authority, $70,409,000,000.
(B) Outlays, $70,962,000,000.
Fiscal year 2018:
(A) New budget authority, $66,421,000,000.
(B) Outlays, $67,834,000,000.
Fiscal year 2019:
(A) New budget authority, $64,667,000,000.
(B) Outlays, $66,800,000,000.
Fiscal year 2020:
(A) New budget authority, $64,423,000,000.
(B) Outlays, $66,421,000,000.
Fiscal year 2021:
(A) New budget authority, $63,833,000,000.
(B) Outlays, $65,432,000,000.
(11) Health (550):
Fiscal year 2012:
(A) New budget authority, $338,029,000,000.
(B) Outlays, $347,690,000,000.
Fiscal year 2013:
(A) New budget authority, $342,096,000,000.
(B) Outlays, $344,969,000,000.
Fiscal year 2014:
(A) New budget authority, $329,311,000,000.
(B) Outlays, $329,334,000,000.
Fiscal year 2015:
(A) New budget authority, $323,797,000,000.
(B) Outlays, $323,574,000,000.
Fiscal year 2016:
(A) New budget authority, $312,582,000,000.
(B) Outlays, $311,447,000,000.
Fiscal year 2017:
(A) New budget authority, $313,059,000,000.
(B) Outlays, $311,991,000,000.
Fiscal year 2018:
(A) New budget authority, $307,702,000,000.
(B) Outlays, $307,092,000,000.
Fiscal year 2019:
(A) New budget authority, $303,555,000,000.
(B) Outlays, $303,419,000,000.
Fiscal year 2020:
(A) New budget authority, $307,262,000,000.
(B) Outlays, $306,911,000,000.
Fiscal year 2021:
(A) New budget authority, $321,877,000,000.
(B) Outlays, $321,441,000,000.
(12) Medicare (570):
Fiscal year 2012:
(A) New budget authority, $487,760,000,000.
(B) Outlays, $488,060,000,000.
Fiscal year 2013:
(A) New budget authority, $530,722,000,000.
(B) Outlays, $530,767,000,000.
Fiscal year 2014:
(A) New budget authority, $560,600,000,000.
(B) Outlays, $560,744,000,000.
Fiscal year 2015:
(A) New budget authority, $585,154,000,000.
(B) Outlays, $585,256,000,000.
Fiscal year 2016:
(A) New budget authority, $634,696,000,000.
(B) Outlays, $634,769,000,000.
Fiscal year 2017:
(A) New budget authority, $657,713,000,000.
(B) Outlays, $657,799,000,000.
Fiscal year 2018:
(A) New budget authority, $682,995,000,000.
(B) Outlays, $682,951,000,000.
Fiscal year 2019:
(A) New budget authority, $745,085,000,000.
(B) Outlays, $745,186,000,000.
Fiscal year 2020:
(A) New budget authority, $800,776,000,000.
(B) Outlays, $800,853,000,000.
Fiscal year 2021:
(A) New budget authority, $858,764,000,000.
(B) Outlays, $858,830,000,000.
(13) Income Security (600):
Fiscal year 2012:
(A) New budget authority, $475,377,000,000.
(B) Outlays, $479,471,000,000.
Fiscal year 2013:
(A) New budget authority, $433,539,438,356.
(B) Outlays, $433,513,438,356.
Fiscal year 2014:
(A) New budget authority, $384,046,876,712.
(B) Outlays, $384,020,876,712.
Fiscal year 2015:
(A) New budget authority, $385,183,191,781.
(B) Outlays, $383,963,191,781.
Fiscal year 2016:
(A) New budget authority, $390,453,506,849.
(B) Outlays, $388,748,506,849.
Fiscal year 2017:
(A) New budget authority, $387,088,493,918.
(B) Outlays, $382,034,821,918.
Fiscal year 2018:
(A) New budget authority, $389,199,158,086.
(B) Outlays, $382,540,967,630.
Fiscal year 2019:
(A) New budget authority, $400,032,296,366.
(B) Outlays, $393,821,068,529.
Fiscal year 2020:
(A) New budget authority, $406,776,819,018.
(B) Outlays, $398,422,890,411.
Fiscal year 2021:
(A) New budget authority, $417,206,501,376.
(B) Outlays, $408,016,990,411.
(14) Social Security (650):
Fiscal year 2012:
(A) New budget authority, $54,439,000,000.
(B) Outlays, $54,624,000,000.
Fiscal year 2013:
(A) New budget authority, $29,096,000,000.
(B) Outlays, $29,256,000,000.
Fiscal year 2014:
(A) New budget authority, $32,701,000,000.
(B) Outlays, $32,776,000,000.
Fiscal year 2015:
(A) New budget authority, $36,261,000,000.
(B) Outlays, $36,311,000,000.
Fiscal year 2016:
(A) New budget authority, $40,171,000,000.
(B) Outlays, $40,171,000,000.
Fiscal year 2017:
(A) New budget authority, $44,263,000,000.
(B) Outlays, $44,263,000,000.
Fiscal year 2018:
(A) New budget authority, $48,717,000,000.
(B) Outlays, $48,717,000,000.
Fiscal year 2019:
(A) New budget authority, $53,508,000,000.
(B) Outlays, $53,508,000,000.
Fiscal year 2020:
(A) New budget authority, $58,552,000,000.
(B) Outlays, $58,552,000,000.
Fiscal year 2021:
(A) New budget authority, $64,053,000,000.
(B) Outlays, $64,053,000,000.
(15) Veterans Benefits and Services (700):
Fiscal year 2012:
(A) New budget authority, $128,339,000,000.
(B) Outlays, $127,140,000,000.
Fiscal year 2013:
(A) New budget authority, $130,024,000,000.
(B) Outlays, $130,025,000,000.
Fiscal year 2014:

(A) New budget authority, $134,143,000,000.
(B) Outlays, $134,055,000,000.
Fiscal year 2015:
(A) New budget authority, $138,167,000,000.
(B) Outlays, $137,851,000,000.
Fiscal year 2016:
(A) New budget authority, $147,410,000,000.
(B) Outlays, $146,868,000,000.
Fiscal year 2017:
(A) New budget authority, $146,323,000,000.
(B) Outlays, $145,704,000,000.
Fiscal year 2018:
(A) New budget authority, $145,412,000,000.
(B) Outlays, $144,751,000,000.
Fiscal year 2019:
(A) New budget authority, $155,091,000,000.
(B) Outlays, $154,407,000,000.
Fiscal year 2020:
(A) New budget authority, $159,680,000,000.
(B) Outlays, $158,979,000,000.
Fiscal year 2021:
(A) New budget authority, $164,381,000,000.
(B) Outlays, $163,622,000,000.
(16) Administration of Justice (750):
Fiscal year 2012:
(A) New budget authority, $50,104,000,000.
(B) Outlays, $52,573,000,000.
Fiscal year 2013:
(A) New budget authority, $44,813,000,000.
(B) Outlays, $49,292,000,000.
Fiscal year 2014:
(A) New budget authority, $44,555,000,000.
(B) Outlays, $46,815,000,000.
Fiscal year 2015:
(A) New budget authority, $44,366,000,000.
(B) Outlays, $45,587,000,000.
Fiscal year 2016:
(A) New budget authority, $46,418,000,000.
(B) Outlays, $46,830,000,000.
Fiscal year 2017:
(A) New budget authority, $45,108,000,000.
(B) Outlays, $45,295,000,000.
Fiscal year 2018:
(A) New budget authority, $45,959,000,000.
(B) Outlays, $45,595,000,000.
Fiscal year 2019:
(A) New budget authority, $47,100,000,000.
(B) Outlays, $46,865,000,000.
Fiscal year 2020:
(A) New budget authority, $50,158,000,000.
(B) Outlays, $49,751,000,000.
Fiscal year 2021:
(A) New budget authority, $52,153,000,000.
(B) Outlays, $52,153,000,000.
(17) General Government (800):
Fiscal year 2012:
(A) New budget authority, $22,604,000,000.
(B) Outlays, $27,072,000,000.
Fiscal year 2013:
(A) New budget authority, $22,006,000,000.
(B) Outlays, $23,279,000,000.
Fiscal year 2014:
(A) New budget authority, $22,039,000,000.
(B) Outlays, $22,420,000,000.
Fiscal year 2015:
(A) New budget authority, $22,068,000,000.
(B) Outlays, $21,867,000,000.
Fiscal year 2016:
(A) New budget authority, $22,076,000,000.
(B) Outlays, $21,500,000,000.
Fiscal year 2017:
(A) New budget authority, $22,282,000,000.
(B) Outlays, $21,555,000,000.
Fiscal year 2018:
(A) New budget authority, $22,715,000,000.
(B) Outlays, $21,789,000,000.
Fiscal year 2019:
(A) New budget authority, $23,265,000,000.
(B) Outlays, $22,324,000,000.
Fiscal year 2020:
(A) New budget authority, $23,651,000,000.
(B) Outlays, $22,324,000,000.
Fiscal year 2021:
(A) New budget authority, $24,104,000,000.
(B) Outlays, $22,736,000,000.
(18) Net Interest (900):
Fiscal year 2012:
(A) New budget authority, $372,130,904,000.
(B) Outlays, $372,130,904,000.
Fiscal year 2013:
(A) New budget authority, $430,838,964,685.
(B) Outlays, $430,838,964,685.
Fiscal year 2014:
(A) New budget authority, $498,591,461,177.
(B) Outlays, $498,591,461,177.
Fiscal year 2015:
(A) New budget authority, $559,984,957,433.
(B) Outlays, $559,984,957,433.
Fiscal year 2016:
(A) New budget authority, $620,259,380,126.
(B) Outlays, $620,259,380,126.
Fiscal year 2017:
(A) New budget authority, $672,409,080,495.
(B) Outlays, $672,409,080,495.
Fiscal year 2018:
(A) New budget authority, $714,240,305,114.
(B) Outlays, $714,240,305,114.
Fiscal year 2019:
(A) New budget authority, $746,520,239,831.
(B) Outlays, $746,520,239,831.
Fiscal year 2020:
(A) New budget authority, $773,564,198,320.
(B) Outlays, $773,564,198,320.
Fiscal year 2021:
(A) New budget authority, $788,846,163,593.
(B) Outlays, $788,846,163,593.
(19) Allowances (920):
Fiscal year 2012:
(A) New budget authority, $−11,100,000,000.
(B) Outlays, $−11,100,000,000.
Fiscal year 2013:
(A) New budget authority, $−11,100,000,000.
(B) Outlays, $−11,100,000,000.
Fiscal year 2014:
(A) New budget authority, $−6,100,000,000.
(B) Outlays, $−6,100,000,000.
Fiscal year 2015:
(A) New budget authority, $−1,100,000,000.
(B) Outlays, $−1,100,000,000.
Fiscal year 2016:
(A) New budget authority, $−1,100,000,000.
(B) Outlays, $−1,100,000,000.
Fiscal year 2017:
(A) New budget authority, $−1,100,000,000.
(B) Outlays, $−1,100,000,000.
Fiscal year 2018:
(A) New budget authority, $−1,100,000,000.
(B) Outlays, $−1,100,000,000.
Fiscal year 2019:
(A) New budget authority, $−1,100,000,000.
(B) Outlays, $−1,100,000,000.
Fiscal year 2020:
(A) New budget authority, $−1,100,000,000.
(B) Outlays, $−1,100,000,000.
Fiscal year 2021:
(A) New budget authority, $−1,100,000,000.
(B) Outlays, $−1,100,000,000.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 2012:
(A) New budget authority, $−77,917,000,000.
(B) Outlays, $−77,917,000,000.
Fiscal year 2013:
(A) New budget authority, $−80,329,000,000.
(B) Outlays, $−80,329,000,000.
Fiscal year 2014:
(A) New budget authority, $−81,798,000,000.
(B) Outlays, $−81,798,000,000.
Fiscal year 2015:
(A) New budget authority, $−84,857,000,000.
(B) Outlays, $−84,857,000,000.
Fiscal year 2016:
(A) New budget authority, $−85,946,000,000.
(B) Outlays, $−85,946,000,000.
Fiscal year 2017:
(A) New budget authority, $−91,248,000,000.
(B) Outlays, $−91,248,000,000.
Fiscal year 2018:
(A) New budget authority, $−97,099,000,000.
(B) Outlays, $−97,099,000,000.
Fiscal year 2019:
(A) New budget authority, $−101,718,000,000.
(B) Outlays, $−101,718,000,000.
Fiscal year 2020:
(A) New budget authority, $−105,645,000,000.
(B) Outlays, $−105,645,000,000.
Fiscal year 2021:
(A) New budget authority, $−110,174,000,000.
(B) Outlays, $−110,174,000,000.
(21) Global War on Terror and Related Activities (970):
Fiscal year 2012:
(A) New budget authority, $126,544,000,000.
(B) Outlays, $117,835,000,000.
Fiscal year 2013:
(A) New budget authority, $50,000,000,000.
(B) Outlays, $92,661,000,000.
Fiscal year 2014:
(A) New budget authority, $50,000,000,000.
(B) Outlays, $64,878,000,000.
Fiscal year 2015:
(A) New budget authority, $50,000,000,000.
(B) Outlays, $54,401,000,000.
Fiscal year 2016:
(A) New budget authority, $30,750,000,000.
(B) Outlays, $30,750,000,000.
Fiscal year 2017:
(A) New budget authority, $8,500,000,000.
(B) Outlays, $8,500,000,000.
Fiscal year 2018:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2019:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2020:
(A) New budget authority, $0.
(B) Outlays, $0.
Fiscal year 2021:
(A) New budget authority, $0.
(B) Outlays, $0.

TITLE II—RESERVE FUNDS

SEC. 201. DEFICIT-REDUCTION RESERVE FUND FOR IMPROPER PAYMENTS.

The Chairman of the Committee on the Budget of the Senate may reduce the allocations of a committee or committees, aggregates, and other appropriate levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that achieve savings by eliminating or reducing improper payments and use such savings to reduce the deficit. The Chairman may also make adjustments to the Senate's pay-as-you-go ledger over 6 and 11 years to ensure that the deficit reduction achieved is used for deficit reduction only. The adjustments authorized under this section shall be of the amount of deficit reduction achieved.

TITLE III—BUDGET PROCESS

Subtitle A—Budget Enforcement

SEC. 301. DISCRETIONARY SPENDING LIMITS FOR FISCAL YEARS 2012 THROUGH 2021.

(a) SENATE POINT OF ORDER.—

(1) IN GENERAL.—Except as otherwise provided in this section, it shall not be in order in the Senate to consider any bill or joint resolution (or amendment, motion, or conference report on that bill or joint resolution) that would cause the discretionary spending limits in this section to be exceeded.

(2) SUPERMAJORITY WAIVER AND APPEALS.—

(A) WAIVER.—This subsection may be waived or suspended in the Senate only by the affirmative vote of two-thirds of the Members, duly chosen and sworn.

(B) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution. An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(b) SENATE DISCRETIONARY SPENDING LIMITS.—In the Senate and as used in this section, the term ''discretionary spending limit'' means—

(2) for fiscal year 2012, $1,137,365,000,000 in new budget authority and $1,277,353,000,000 in outlays;

(3) for fiscal year 2013, $1,076,513,000,000 in new budget authority and $1,203,206,000,000 in outlays;

(4) for fiscal year 2014, $1,094,543,000,000 in new budget authority and $1,160,763,000,000 in outlays;

(5) for fiscal year 2015, $1,106,796,000,000 in new budget authority and $1,149,100,000,000 in outlays;

(6) for fiscal year 2016, $1,099,720,000,000 in new budget authority and $1,133,357,000,000 in outlays;

(7) for fiscal year 2017, $1,082,528,000,000 in new budget authority and $1,110,758,000,000 in outlays;

(8) for fiscal year 2018, $1,086,986,000,000 in new budget authority and $1,109,721,000,000 in outlays;

(9) for fiscal year 2019, $1,101,073,000,000 in new budget authority and $1,128,053,000,000 in outlays;

(10) for fiscal year 2020, $1,114,538,000,000 in new budget authority and $1,139,781,000,000 in outlays; and

(11) for fiscal year 2021, $1,152,698,000,000 in new budget authority and $1,171,654,000,000 in outlays;

SEC. 302. POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS.

(a) IN GENERAL.—

(1) POINT OF ORDER.—Except as provided in subsection (b), it shall not be in order in the Senate to consider any bill, joint resolution, motion, amendment, or conference report that would provide an advance appropriation.

(2) DEFINITION.—In this section, the term ''advance appropriation'' means any new budget authority provided in a bill or joint resolution making appropriations for fiscal year 2012 that first becomes available for any fiscal year after 2012, or any new budget authority provided in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2013, that first becomes available for any fiscal year after 2013.

(b) EXCEPTIONS.—Advance appropriations may be provided—

(1) for fiscal years 2013 and 2014 for programs, projects, activities, or accounts identified in the joint explanatory statement of managers accompanying this resolution under the heading ''Accounts Identified for Advance Appropriations'' in an aggregate amount not to exceed $28,500,000,000 in new budget authority in each year;

(2) for the Corporation for Public Broadcasting; and

(3) for the Department of Veterans Affairs for the Medical Services, Medical Support and Compliance, and Medical Facilities accounts of the Veterans Health Administration.

(c) SUPERMAJORITY WAIVER AND APPEAL.—

(1) WAIVER.—In the Senate, subsection (a) may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under subsection (a).

(d) FORM OF POINT OF ORDER.—A point of order under subsection (a) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(e) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(f) INAPPLICABILITY.—In the Senate, section 402 of S. Con. Res. 13 (111th Congress) shall no longer apply.

SEC. 303. EMERGENCY LEGISLATION.

(a) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this section.

(b) EXEMPTION OF EMERGENCY PROVISIONS.—Any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this section, in any bill, joint resolution, amendment, or conference report shall not count for purposes of sections 302 and 311 of the Congressional Budget Act of 1974, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits), and section 404 of S. Con. Res. 13 (111th Congress) (relating to short-term deficits), and section 301 of this resolution (relating to discretionary spending). Designated emergency provisions shall not count for the purpose of revising allocations, aggregates, or other levels pursuant to procedures established under section 301(b)(7) of the Congressional Budget Act of 1974 for deficit-neutral reserve funds and revising discretionary spending limits set pursuant to section 301 of this resolution.

(c) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this section, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in subsection (f).

(d) DEFINITIONS.—In this section, the terms ''direct spending'', ''receipts'', and ''appropriations for discretionary accounts'' mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(e) POINT OF ORDER.—

(1) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(2) SUPERMAJORITY WAIVER AND APPEALS.—

(A) WAIVER.—Paragraph (1) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(B) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(3) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of paragraph (1), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this subsection.

(4) FORM OF THE POINT OF ORDER.—A point of order under paragraph (1) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(5) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(f) CRITERIA.—

(1) IN GENERAL.—For purposes of this section, any provision is an emergency requirement if the situation addressed by such provision is—

(A) necessary, essential, or vital (not merely useful or beneficial);

(B) sudden, quickly coming into being, and not building up over time;

(C) an urgent, pressing, and compelling need requiring immediate action;

(D) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and

(E) not permanent, temporary in nature.

(2) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(g) INAPPLICABILITY.—In the Senate, section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010, shall no longer apply.

SEC. 304. ADJUSTMENTS FOR THE EXTENSION OF CERTAIN CURRENT POLICIES.

(a) ADJUSTMENT.—For the purposes of determining points of order specified in subsection (b), the Chairman of the Committee on the Budget of the Senate may adjust the estimate of the budgetary effects of a bill, joint resolution, amendment, motion, or conference report that contains one or more provisions meeting the criteria of subsection (c) to exclude the amounts of qualifying budgetary effects.

(b) COVERED POINTS OF ORDER.—The Chairman of the Committee on the Budget of the Senate may make adjustments pursuant to this section for the following points of order only:

(1) Section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go).

(2) Section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits).

(3) Section 404 of S. Con. Res. 13 (111th Congress) (relating to short-term deficits).

(c) QUALIFYING LEGISLATION.—The Chairman of the Committee on the Budget of the

Senate may make adjustments authorized under subsection (a) for legislation containing provisions that—

(1) amend or supersede the system for updating payments made under subsections 1848 (d) and (f) of the Social Security Act, consistent with section 7(c) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139);

(2) amend the Estate and Gift Tax under subtitle B of the Internal Revenue Code of 1986, consistent with section 7(d) of the Statutory Pay-As-You-Go Act of 2010;

(3) extend relief from the Alternative Minimum Tax for individuals under sections 55–59 of the Internal Revenue Code of 1986, consistent with section 7(e) of the Statutory Pay-As-You-Go Act of 2010; and

(4) extend middle-class tax cuts made in the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107–16) and the Jobs and Growth Tax Relief and Reconciliation Act of 2003 (Public Law 108–27), consistent with section 7(f) of the Statutory Pay-As-You-Go Act of 2010.

(d) LIMITATION.—The Chairman shall make any adjustments pursuant to this section in a manner consistent with the limitations described in sections 4(c) and 7(h) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139).

(e) DEFINITION.—For the purposes of this section, the terms ''budgetary effects'' or ''effects'' mean the amount by which a provision changes direct spending or revenues relative to the baseline.

(f) SUNSET.—This section shall expire on December 31,2011.

SEC. 312. BUDGETARY TREATMENT OF CERTAIN DISCRETIONARY ADMINISTRATIVE EXPENSES.

In the Senate, notwithstanding section 302(a)(1) of the Congressional Budget Act of 1974, section 13301 of the Budget Enforcement Act of 1990, and section 2009a of title 39, United States Code, the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget shall include in its allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committees on Appropriations amounts for the discretionary administrative expenses of the Social Security Administration and of the Postal Service.

SEC. 313. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.

(a) APPLICATION.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

SEC. 314. ADJUSTMENTS TO REFLECT CHANGES IN CONCEPTS AND DEFINITIONS.

Upon the enactment of a bill or joint resolution providing for a change in concepts or definitions, the Chairman of the Committee on the Budget of the Senate may make adjustments to the levels and allocations in this resolution in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002).

SEC. 315. EXERCISE OF RULEMAKING POWERS.

Congress adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the Senate, and as such they shall be considered as part of the rules of the Senate and such rules shall supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with full recognition of the constitutional right of the Senate to change those rules at any time, in the same manner, and to the same extent as is the case of any other rule of the Senate.

SENATE CONCURRENT RESOLUTION 20—SETTING FORTH THE CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2012 AND SETTING FORTH THE APPROPRIATE BUDGETARY LEVELS FOR FISCAL YEARS 2013 THROUGH 2016

Mr. PAUL submitted the following concurrent resolution; which was placed on the calendar:

S. CON. RES. 20

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2012.

(a) DECLARATION.—Congress declares that this resolution is the concurrent resolution on the budget for fiscal year 2012 and that this resolution sets forth the appropriate budgetary levels for fiscal years 2013 through 2016.

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent resolution on the budget for fiscal year 2012.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts.
Sec. 102. Social Security.
Sec. 103. Major functional categories.

TITLE II—RESERVE FUNDS

Sec. 201. Deficit-reduction reserve fund for the sale of unused or vacant Federal properties.
Sec. 202. Deficit-reduction reserve fund for selling excess Federal lands.
Sec. 203. Deficit-reduction reserve fund for the repeal of davis-bacon prevailing wage laws.
Sec. 204. Deficit-reduction reserve fund for the reduction of purchasing and maintaining Federal vehicles.
Sec. 205. Deficit-reduction reserve fund for the sale of financial assets purchased through the troubled asset relief program.

TITLE III—BUDGET PROCESS

Subtitle A—Budget Enforcement

Sec. 301. Discretionary spending limits for fiscal years 2012 through 2016 and other adjustments.
Sec. 302. Point of order against advance appropriations.
Sec. 303. Emergency legislation.
Sec. 304. Adjustments for the extension of certain current policies.

Subtitle B—Other Provisions

Sec. 311. Oversight of government performance.
Sec. 312. Application and effect of changes in allocations and aggregates.
Sec. 313. Adjustments to reflect changes in concepts and definitions.
Sec. 314. Budgetary treatment of certain discretionary administrative expenses.
Sec. 315. Exercise of rulemaking powers.

TITLE IV—RECONCILIATION

Sec. 401. Reconciliation in the Senate.

TITLE V—LONG-TERM POLICY CHANGES

Sec. 501. Policy statement on Social Security.
Sec. 502. Policy statement on medicare.
Sec. 503. Rescind unspent or unobligated balances after 36 months.

TITLE I—RECOMMENDED LEVELS AND AMOUNTS

SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for each of fiscal years 2012 through 2016:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution:

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 2012: $1,887,000,000,000.
Fiscal year 2013: $2,393,000,000,000.
Fiscal year 2014: $2,713,000,000,000.
Fiscal year 2015: $2,882,000,000,000.
Fiscal year 2016: $3,072,000,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

Fiscal year 2012: −$8,000,000,000.
Fiscal year 2013: −$335,000,000,000.
Fiscal year 2014: −$354,000,000,000.
Fiscal year 2015: −$407,000,000,000.
Fiscal year 2016: −$383,000,000,000.

(2) NEW BUDGET AUTHORITY.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 2012: $121,837,000,000.
Fiscal year 2013: $3,141,382,000,000.
Fiscal year 2014: $3,220,465,000,000.
Fiscal year 2015: $3,420,302,000,000.
Fiscal year 2016: $3,480,625,000,000.

(3) BUDGET OUTLAYS.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 2012: $3,121,905,000,000.
Fiscal year 2013: $3,141,404,000,000.
Fiscal year 2014: $3,227,408,000,000.
Fiscal year 2015: $3,359,695,000,000.
Fiscal year 2016: $3,430,259,000,000.

(4) DEFICITS.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 2012: $574,000,000,000.
Fiscal year 2013: $386,000,000,000.
Fiscal year 2014: $139,000,000,000.
Fiscal year 2015: $116,000,000,000.
Fiscal year 2016: $19,000,000,000.

(5) PUBLIC DEBT.—Pursuant to section 301(a)(5) of the Congressional Budget Act of 1974, the appropriate levels of the public debt are as follows:

Fiscal year 2012: $15,842,000,000,000.
Fiscal year 2013: $16,842,000,000,000.
Fiscal year 2014: $16,902,000,000,000.
Fiscal year 2015: $17,310,000,000,000.
Fiscal year 2016: $17,583,000,000,000.

(6) DEBT HELD BY THE PUBLIC.—The appropriate levels of debt held by the public are as follows:

Fiscal year 2012: $11,051,000,000,000.
Fiscal year 2013: $11,532,000,000,000.
Fiscal year 2014: $11,748,000,000,000.
Fiscal year 2015: $11,942,000,000,000.
Fiscal year 2016: $11,997,000,000,000.

SEC. 102. SOCIAL SECURITY.

(a) SOCIAL SECURITY REVENUES.—For purposes of Senate enforcement under sections

302 and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2012: $668,000,000,000.
Fiscal year 2013: $732,000,000,000.
Fiscal year 2014: $769,000,000,000.
Fiscal year 2015: $811,000,000,000.
Fiscal year 2016: $855,000,000,000.

(b) SOCIAL SECURITY OUTLAYS.—For purposes of Senate enforcement under sections 302 and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 2012: $761,225,000,000.
Fiscal year 2013: $799,376,000,000.
Fiscal year 2014: $842,112,000,000.
Fiscal year 2015: $888,722,000,000.
Fiscal year 2016: $939,834,000,000.

(c) SOCIAL SECURITY ADMINISTRATIVE EXPENSES.—In the Senate, the amounts of new budget authority and budget outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund for administrative expenses are as follows:

Fiscal year 2012:
(A) New budget authority, $6,181,000,000.
(B) Outlays, $6,130,000,000.
Fiscal year 2013:
(A) New budget authority, $6,486,000,000.
(B) Outlays, $6,437,000,000.
Fiscal year 2014:
(A) New budget authority, $6,813,000,000.
(B) Outlays, $6,759,000,000.
Fiscal year 2015:
(A) New budget authority, $7,148,000,000.
(B) Outlays, $7,094,000,000.
Fiscal year 2016:
(A) New budget authority, $7,514,000,000.
(B) Outlays, $7,455,000,000.

SEC. 103. MAJOR FUNCTIONAL CATEGORIES.

Congress determines and declares that the appropriate levels of new budget authority and outlays for fiscal years 2012 through 2016 for each major functional category are:

(1) National Defense (050):
Fiscal year 2012:
(A) New budget authority, $636,410,000,000.
(B) Outlays, $641,844,000,000.
Fiscal year 2013:
(A) New budget authority, $573,332,000,000.
(B) Outlays, $585,683,000,000.
Fiscal year 2014:
(A) New budget authority, $534,771,000,000.
(B) Outlays, $554,697,000,000.
Fiscal year 2015:
(A) New budget authority, $546,422,000,000.
(B) Outlays, $546,865,000,000.
Fiscal year 2016:
(A) New budget authority, $553,892,000,000.
(B) Outlays, $548,400,000,000.

(2) International Affairs (150):
Fiscal year 2012:
(A) New budget authority, $12,334,000,000.
(B) Outlays, $22,285,000,000.
Fiscal year 2013:
(A) New budget authority, $9,657,000,000.
(B) Outlays, $15,457,000,000.
Fiscal year 2014:
(A) New budget authority, $8,603,000,000.
(B) Outlays, $13,457,000,000.
Fiscal year 2015:
(A) New budget authority, $9,083,000,000.
(B) Outlays, $12,455,000,000.
Fiscal year 2016:
(A) New budget authority, $10,361,000,000.
(B) Outlays, $12,951,000,000.

(3) General Science, Space, and Technology (250):
Fiscal year 2012:
(A) New budget authority, $19,605,000,000.
(B) Outlays, $19,471,000,000.
Fiscal year 2013:
(A) New budget authority, $19,923,000,000.
(B) Outlays, $19,428,000,000.
Fiscal year 2014:
(A) New budget authority, $20,279,000,000.
(B) Outlays, $19,875,000,000.
Fiscal year 2015:
(A) New budget authority, $20,682,000,000.
(B) Outlays, $19,725,000,000.
Fiscal year 2016:
(A) New budget authority, $21,134,000,000.
(B) Outlays, $19,140,000,000.

(4) Energy (270):
Fiscal year 2012:
(A) New budget authority, $5,942,000,000.
(B) Outlays, $6,094,000,000.
Fiscal year 2013:
(A) New budget authority, $4,686,000,000.
(B) Outlays, $3,966,000,000.
Fiscal year 2014:
(A) New budget authority, $3,720,000,000.
(B) Outlays, $2,951,000,000.
Fiscal year 2015:
(A) New budget authority, $2,327,000,000.
(B) Outlays, $1,421,000,000.
Fiscal year 2016:
(A) New budget authority, $1,760,000,000.
(B) Outlays, $893,000,000.

(5) Natural Resources and Environment (300):
Fiscal year 2012:
(A) New budget authority, $24,276,000,000.
(B) Outlays, $24,783,000,000.
Fiscal year 2013:
(A) New budget authority, $23,872,000,000.
(B) Outlays, $23,860,000,000.
Fiscal year 2014:
(A) New budget authority, $24,452,000,000.
(B) Outlays, $24,027,000,000.
Fiscal year 2015:
(A) New budget authority, $24,548,000,000.
(B) Outlays, $22,826,000,000.
Fiscal year 2016:
(A) New budget authority, $25,269,000,000.
(B) Outlays, $23,465,000,000.

(6) Agriculture (350):
Fiscal year 2012:
(A) New budget authority, $14,120,000,000.
(B) Outlays, $11,501,000,000.
Fiscal year 2013:
(A) New budget authority, $14,874,000,000.
(B) Outlays, $15,703,000,000.
Fiscal year 2014:
(A) New budget authority, $15,404,000,000.
(B) Outlays, $14,806,000,000.
Fiscal year 2015:
(A) New budget authority, $14,848,000,000.
(B) Outlays, $13,846,000,000.
Fiscal year 2016:
(A) New budget authority, $15,109,000,000.
(B) Outlays, $14,125,000,000.

(7) Commerce and Housing Credit (370):
Fiscal year 2012:
(A) New budget authority, $21,582,000,000.
(B) Outlays, $23,499,000,000.
Fiscal year 2013:
(A) New budget authority, $17,262,000,000.
(B) Outlays, $13,611,000,000.
Fiscal year 2014:
(A) New budget authority, $14,921,000,000.
(B) Outlays, $234,000,000.
Fiscal year 2015:
(A) New budget authority, $14,876,000,000.
(B) Outlays, $350,000,000.
Fiscal year 2016:
(A) New budget authority, $14,918,000,000.
(B) Outlays, $3,057,000,000.

(8) Transportation (400):
Fiscal year 2012:
(A) New budget authority, $90,515,000,000.
(B) Outlays, $84,481,000,000.
Fiscal year 2013:
(A) New budget authority, $79,729,000,000.
(B) Outlays, $79,444,000,000.
Fiscal year 2014:
(A) New budget authority, $83,729,000,000.
(B) Outlays, $77,589,000,000.
Fiscal year 2015:
(A) New budget authority, $83,529,000,000.
(B) Outlays, $77,973,000,000.
Fiscal year 2016:
(A) New budget authority, $83,349,000,000.
(B) Outlays, $77,882,000,000.

(9) Community and Regional Development (450):
Fiscal year 2012:
(A) New budget authority, $12,089,000,000.
(B) Outlays, $11,846,000,000.
Fiscal year 2013:
(A) New budget authority, $12,145,000,000.
(B) Outlays, $12,664,000,000.
Fiscal year 2014:
(A) New budget authority, $12,328,000,000.
(B) Outlays, $12,704,000,000.
Fiscal year 2015:
(A) New budget authority, $12,291,000,000.
(B) Outlays, $11,257,000,000.
Fiscal year 2016:
(A) New budget authority, $12,952,000,000.
(B) Outlays, $11,665,000,000.

(10) Education, Training, Employment, and Social Services (500):
Fiscal year 2012:
(A) New budget authority, $43,956,000,000.
(B) Outlays, $53,666,000,000.
Fiscal year 2013:
(A) New budget authority, $44,928,000,000.
(B) Outlays, $47,304,000,000.
Fiscal year 2014:
(A) New budget authority, $43,620,000,000.
(B) Outlays, $43,723,000,000.
Fiscal year 2015:
(A) New budget authority, $43,852,000,000.
(B) Outlays, $40,908,000,000.
Fiscal year 2016:
(A) New budget authority, $44,731,000,000.
(B) Outlays, $41,328,000,000.

(11) Health (550):
Fiscal year 2012:
(A) New budget authority, $324,266,000,000.
(B) Outlays, $318,273,000,000.
Fiscal year 2013:
(A) New budget authority, $327,445,000,000.
(B) Outlays, $317,497,000,000.
Fiscal year 2014:
(A) New budget authority, $308,851,000,000.
(B) Outlays, $321,320,000,000.
Fiscal year 2015:
(A) New budget authority, $342,220,000,000.
(B) Outlays, $325,147,000,000.
Fiscal year 2016:
(A) New budget authority, $328,851,000,000.
(B) Outlays, $328,971,000,000.

(12) Medicare (570):
Fiscal year 2012:
(A) New budget authority, $473,609,000,000.
(B) Outlays, $473,556,000,000.
Fiscal year 2013:
(A) New budget authority, $522,624,000,000.
(B) Outlays, $522,902,000,000.
Fiscal year 2014:
(A) New budget authority, $585,031,000,000.
(B) Outlays, $584,986,000,000.
Fiscal year 2015:
(A) New budget authority, $620,383,000,000.
(B) Outlays, $620,136,000,000.
Fiscal year 2016:
(A) New budget authority, $681,750,000,000.
(B) Outlays, $682,111,000,000.

(13) Income Security (600):
Fiscal year 2012:
(A) New budget authority, $362,036,000,000.
(B) Outlays, $364,046,000,000.
Fiscal year 2013:
(A) New budget authority, $347,677,000,000.
(B) Outlays, $347,144,000,000.
Fiscal year 2014:
(A) New budget authority, $349,970,000,000.
(B) Outlays, $347,342,000,000.
Fiscal year 2015:
(A) New budget authority, $351,877,000,000.
(B) Outlays, $347,489,000,000.
Fiscal year 2016:
(A) New budget authority, $359,279,000,000.
(B) Outlays, $359,419,000,000.

(14) Social Security (650):
Fiscal year 2012:

(A) New budget authority, $54,439,000,000.
(B) Outlays, $54,624,000,000.
Fiscal year 2013:
(A) New budget authority, $29,096,000,000.
(B) Outlays, $29,256,000,000.
Fiscal year 2014:
(A) New budget authority, $32,701,000,000.
(B) Outlays, $32,776,000,000.
Fiscal year 2015:
(A) New budget authority, $36,261,000,000.
(B) Outlays, $36,311,000,000.
Fiscal year 2016:
(A) New budget authority, $40,171,000,000.
(B) Outlays, $40,171,000,000.
(15) Veterans Benefits and Services (700):
Fiscal year 2012:
(A) New budget authority, $121,854,000,000.
(B) Outlays, $121,052,000,000.
Fiscal year 2013:
(A) New budget authority, $128,939,000,000.
(B) Outlays, $128,937,000,000.
Fiscal year 2014:
(A) New budget authority, $132,589,000,000.
(B) Outlays, $132,599,000,000.
Fiscal year 2015:
(A) New budget authority, $136,144,000,000.
(B) Outlays, $130,583,000,000.
Fiscal year 2016:
(A) New budget authority, $145,012,000,000.
(B) Outlays, $139,264,000,000.
(16) Administration of Justice (750):
Fiscal year 2012:
(A) New budget authority, $48,716,000,000.
(B) Outlays, $39,406,000,000.
Fiscal year 2013:
(A) New budget authority, $44,016,000,000.
(B) Outlays, $42,321,000,000.
Fiscal year 2014:
(A) New budget authority, $44,528,000,000.
(B) Outlays, $44,127,000,000.
Fiscal year 2015:
(A) New budget authority, $45,211,000,000.
(B) Outlays, $42,602,000,000.
Fiscal year 2016:
(A) New budget authority, $48,251,000,000.
(B) Outlays, $45,423,000,000.
(17) General Government (800):
Fiscal year 2012:
(A) New budget authority, $24,055,000,000.
(B) Outlays, $22,616,000,000.
Fiscal year 2013:
(A) New budget authority, $23,812,000,000.
(B) Outlays, $22,788,000,000.
Fiscal year 2014:
(A) New budget authority, $24,030,000,000.
(B) Outlays, $23,757,000,000.
Fiscal year 2015:
(A) New budget authority, $24,315,000,000.
(B) Outlays, $23,303,000,000.
Fiscal year 2016:
(A) New budget authority, $24,537,000,000.
(B) Outlays, $23,546,000,000.
(18) Net Interest (900):
Fiscal year 2012:
(A) New budget authority, $250,328,000,000.
(B) Outlays, $250,328,000,000.
Fiscal year 2013:
(A) New budget authority, $284,497,000,000.
(B) Outlays, $284,497,000,000.
Fiscal year 2014:
(A) New budget authority, $325,920,000,000.
(B) Outlays, $325,920,000,000.
Fiscal year 2015:
(A) New budget authority, $406,639,000,000.
(B) Outlays, $406,639,000,000.
Fiscal year 2016:
(A) New budget authority, $449,223,000,000.
(B) Outlays, $449,223,000,000.
(19) Allowances (920):
Fiscal year 2012:
(A) New budget authority, $43,100,000,000.
(B) Outlays, $43,100,000,000.
Fiscal year 2013:
(A) New budget authority, $51,696,000,000.
(B) Outlays, $51,696,000,000.
Fiscal year 2014:
(A) New budget authority, $65,706,000,000.
(B) Outlays, $65,706,000,000.
Fiscal year 2015:
(A) New budget authority, $73,630,000,000.
(B) Outlays, $73,630,000,000.
Fiscal year 2016:
(A) New budget authority, $176,769,000,000.
(B) Outlays, $176,769,000,000.
(20) Undistributed Offsetting Receipts (950):
Fiscal year 2012:
(A) New budget authority, $91,066,000,000.
(B) Outlays, $91,066,000,000.
Fiscal year 2013:
(A) New budget authority, $95,337,000,000.
(B) Outlays, $95,337,000,000.
Fiscal year 2014:
(A) New budget authority, $98,817,000,000.
(B) Outlays, $98,817,000,000.
Fiscal year 2015:
(A) New budget authority, $104,737,000,000.
(B) Outlays, $104,737,000,000.
Fiscal year 2016:
(A) New budget authority, $114,106,000,000.
(B) Outlays, $114,106,000,000.

TITLE II—RESERVE FUNDS

SEC. 201. DEFICIT-REDUCTION RESERVE FUND FOR THE SALE OF UNUSED OR VACANT FEDERAL PROPERTIES.

The Chairman of the Committee on the Budget of the Senate may reduce the allocations of a committee or committees, aggregates, and other appropriate levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that achieve savings by selling any unused or vacant Federal properties. The Chairman may also make adjustments to the Senate's pay-as-you-go ledger over 5 years to ensure that the deficit reduction achieved is used for deficit reduction only. The adjustments authorized under this section shall be of the amount of deficit reduction achieved.

SEC. 202. DEFICIT-REDUCTION RESERVE FUND FOR SELLING EXCESS FEDERAL LANDS.

The Chairman of the Committee on the Budget of the Senate may reduce the allocations of a committee or committees, aggregates, and other appropriate levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports from savings achieved by selling any excess Federal lands. The Chairman may also make adjustments to the Senate's pay-as-you-go ledger over 5 years to ensure that the deficit reduction achieved is used for deficit reduction only. The adjustments authorized under this section shall be of the amount of deficit reduction achieved.

SEC. 203. DEFICIT-REDUCTION RESERVE FUND FOR THE REPEAL OF DAVIS-BACON PREVAILING WAGE LAWS.

The Chairman of the Committee on the Budget of the Senate may reduce the allocations of a committee or committees, aggregates, and other appropriate levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports from savings achieved by repealing the Davis-Bacon prevailing wage laws. The Chairman may also make adjustments to the Senate's pay-as-you-go ledger over 5 years to ensure that the deficit reduction achieved is used for deficit reduction only. The adjustments authorized under this section shall be of the amount of deficit reduction achieved.

SEC. 204. DEFICIT-REDUCTION RESERVE FUND FOR THE REDUCTION OF PURCHASING AND MAINTAINING FEDERAL VEHICLES.

The Chairman of the Committee on the Budget of the Senate may reduce the allocations of a committee or committees, aggregates, and other appropriate levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that achieve savings by reducing the Federal vehicles fleet. The Chairman may also make adjustments to the Senate's pay-as-you-go ledger over 5 years to ensure that the deficit reduction achieved is used for deficit reduction only. The adjustments authorized under this section shall be of the amount of deficit reduction achieved.

SEC. 205. DEFICIT-REDUCTION RESERVE FUND FOR THE SALE OF FINANCIAL ASSETS PURCHASED THROUGH THE TROUBLED ASSET RELIEF PROGRAM.

The Chairman of the Committee on the Budget of the Senate may reduce the allocations of a committee or committees, aggregates, and other appropriate levels and limits in this resolution for one or more bills, joint resolutions, amendments, motions, or conference reports that achieve savings by selling financial instruments and equity accumulated through the Troubled Asset Relief Program. The Chairman may also make adjustments to the Senate's pay-as-you-go ledger over 5 years to ensure that the deficit reduction achieved is used for deficit reduction only. The adjustments authorized under this section shall be of the amount of deficit reduction achieved.

TITLE III—BUDGET PROCESS

Subtitle A—Budget Enforcement

SEC. 301. DISCRETIONARY SPENDING LIMITS FOR FISCAL YEARS 2012 THROUGH 2016 AND OTHER ADJUSTMENTS.

(a) SENATE POINT OF ORDER.—

(1) IN GENERAL.—Except as otherwise provided in this section, it shall not be in order in the Senate to proceed to or consider any bill, joint resolution, or concurrent resolution (or amendment, motion, or conference report on that bill, joint resolution, or concurrent resolution, and amendments between houses) that would cause the discretionary spending limits in this section to be exceeded.

(2) SUPERMAJORITY WAIVER AND APPEALS.—

(A) WAIVER.—This subsection may be waived or suspended in the Senate only by the affirmative vote of two-thirds of the Members, duly chosen and sworn.

(B) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution. An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(b) SENATE DISCRETIONARY SPENDING LIMITS.—In the Senate and as used in this section, the term ''discretionary spending limit'' means—

(1) for fiscal year 2012, $844,373,000,000 in new budget authority and $915,138,000,000 in outlays;

(2) for fiscal year 2013, $848,710,000,000 in new budget authority and $908,598,000,000 in outlays;

(3) for fiscal year 2014, $872,652,000,000 in new budget authority and $926,155,000,000 in outlays;

(4) for fiscal year 2015, $891,546,,000,000 in new budget authority and $903,680,000,000 in outlays;

(5) for fiscal year 2016, $907,553,000,000 in new budget authority and $910,501,000,000 in outlays;

as adjusted in conformance with the adjustment procedures in subsection (c).

(c) ADJUSTMENTS IN THE SENATE.—

(1) IN GENERAL.—After the reporting of a bill or joint resolution relating to any matter described in paragraph (2), or the offering of an amendment or motion thereto or the submission of a conference report thereon—

(A) the Chairman of the Committee on the Budget of the Senate may adjust the discretionary spending limits, budgetary aggregates, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, by the amount of new budget authority in that measure for that purpose and the outlays flowing therefrom; and

(B) following any adjustment under subparagraph (A), the Committee on Appropriations of the Senate may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(2) ADJUSTMENTS TO SUPPORT ONGOING OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES.—

(A) ADJUSTMENTS.—The Chairman of the Committee on the Budget of the Senate may adjust the discretionary spending limits, allocations to the Committee on Appropriations of the Senate, and aggregates for one or more—

(i) bills reported by the Committee on Appropriations of the Senate or passed by the House of Representatives;

(ii) joint resolutions or amendments reported by the Committee on Appropriations of the Senate;

(iii) amendments between the Houses received from the House of Representatives or Senate amendments offered by the authority of the Committee on Appropriations of the Senate; or

(iv) conference reports;

making appropriations for overseas deployments and other activities in the amounts specified in subparagraph (B).

(B) AMOUNTS SPECIFIED.—The amounts specified are—

(i) for fiscal year 2012, $117,000,000,000 in new budget authority and the outlays flowing therefrom;

(ii) for fiscal year 2013, $50,000,000,000 in new budget authority and the outlays flowing therefrom;

(iii) for fiscal year 2014, $0 in new budget authority and the outlays flowing therefrom;

(iv) for fiscal year 2015, $0 in new budget authority and the outlays flowing therefrom; and

(v) for fiscal year 2016, $0 in new budget authority and the outlays flowing therefrom;

SEC. 302. POINT OF ORDER AGAINST ADVANCE APPROPRIATIONS.

(a) POINT OF ORDER.—It shall not be in order in the Senate to proceed to or consider any bill, joint resolution, concurrent resolution, motion, amendment, or conference report that would provide an advance appropriation.

(b) DEFINITION.—In this section, the term ''advance appropriation'' means any new budget authority provided in a bill or joint resolution making appropriations for fiscal year 2012 that first becomes available for any fiscal year after 2012, or any new budget authority provided in a bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2013, that first becomes available for any fiscal year after 2013.

(c) SUPERMAJORITY WAIVER AND APPEALS.—

(1) WAIVER.—Subsection (a) may be waived or suspended in the Senate only by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(2) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

SEC. 303. EMERGENCY LEGISLATION.

(a) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this section.

(b) EXEMPTION OF EMERGENCY PROVISIONS.—Any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this section, in any bill, joint resolution, concurrent resolution, amendment, or conference report shall not count for purposes of sections 302 and 311 of the Congressional Budget Act of 1974, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits), and section 404 of S. Con. Res. 13 (111th Congress) (relating to short-term deficits), and section 301 of this resolution (relating to discretionary spending). Designated emergency provisions shall not count for the purpose of revising allocations, aggregates, or other levels pursuant to procedures established under section 301(b)(7) of the Congressional Budget Act of 1974 for deficit-neutral reserve funds and revising discretionary spending limits set pursuant to section 301 of this resolution.

(c) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this section, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in subsection (f).

(d) DEFINITIONS.—In this section, the terms ''direct spending'', ''receipts'', and ''appropriations for discretionary accounts'' mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(e) POINT OF ORDER.—

(1) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(2) SUPERMAJORITY WAIVER AND APPEALS.—

(A) WAIVER.—Paragraph (1) may be waived or suspended in the Senate only by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(B) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this subsection shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(3) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of paragraph (1), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this subsection.

(4) FORM OF THE POINT OF ORDER.—A point of order under paragraph (1) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(5) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this section, and such point of order being sustained, such material contained in such conference report shall be stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable under the same conditions as was the conference report.

(f) CRITERIA.—

(1) IN GENERAL.—For purposes of this section, any provision is an emergency requirement if the situation addressed by such provision is—

(A) necessary, essential, or vital (not merely useful or beneficial);

(B) sudden, quickly coming into being, and not building up over time;

(C) an urgent, pressing, and compelling need requiring immediate action;

(D) subject to subparagraph (B), unforeseen, unpredictable, and unanticipated; and

(E) not permanent, temporary in nature.

(2) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(g) INAPPLICABILITY.—In the Senate, section 403 of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010, shall no longer apply.

SEC. 304. ADJUSTMENTS FOR THE EXTENSION OF CERTAIN CURRENT POLICIES.

(a) ADJUSTMENT.—For the purposes of determining points of order specified in subsection (b), the Chairman of the Committee on the Budget of the Senate may adjust the estimate of the budgetary effects of a bill, joint resolution, amendment, motion, or conference report that contains one or more provisions meeting the criteria of subsection (c) to exclude the amounts of qualifying budgetary effects.

(b) COVERED POINTS OF ORDER.—The Chairman of the Committee on the Budget of the Senate may make adjustments pursuant to this section for the following points of order only:

(1) Section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go).

(2) Section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits).

(3) Section 404 of S. Con. Res. 13 (111th Congress) (relating to short-term deficits).

(c) QUALIFYING LEGISLATION.—The Chairman of the Committee on the Budget of the Senate may make adjustments authorized under subsection (a) for legislation containing provisions that—

(1) amend or supersede the system for updating payments made under subsections 1848 (d) and (f) of the Social Security Act, consistent with section 7(c) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139);

(2) amend the Estate and Gift Tax under subtitle B of the Internal Revenue Code of 1986, consistent with section 7(d) of the Statutory Pay-As-You-Go Act of 2010;

(3) extend relief from the Alternative Minimum Tax for individuals under sections 55–59 of the Internal Revenue Code of 1986, consistent with section 7(e) of the Statutory Pay-As-You-Go Act of 2010; and

(4) extend middle-class tax cuts made in the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107–16) and the Jobs and Growth Tax Relief and Reconciliation Act of 2003 (Public Law 108–27), consistent with section 7(f) of the Statutory Pay-As-You-Go Act of 2010.

(d) DEFINITION.—For the purposes of this section, the terms ''budgetary effects'' or ''effects'' mean the amount by which a provision changes direct spending or revenues relative to the baseline.

Subtitle B—Other Provisions

SEC. 311. OVERSIGHT OF GOVERNMENT PERFORMANCE.

In the Senate, all committees shall—

(1) review programs and tax expenditures within their jurisdiction to identify waste, fraud, abuse or duplication, and increase the use of performance data to inform committee work;

(2) review the matters for congressional consideration identified on the Government Accountability Office's High Risk list reports; and

(3) based on these oversight efforts and performance reviews of programs within their jurisdiction, include recommendations for improved governmental performance in their annual views and estimates reports required under section 301(d) of the Congressional Budget Act of 1974 to the Committees on the Budget.

SEC. 312. APPLICATION AND EFFECT OF CHANGES IN ALLOCATIONS AND AGGREGATES.

(a) APPLICATION.—Any adjustments of allocations and aggregates made pursuant to this resolution shall—

(1) apply while that measure is under consideration;

(2) take effect upon the enactment of that measure; and

(3) be published in the Congressional Record as soon as practicable.

(b) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

SEC. 313. ADJUSTMENTS TO REFLECT CHANGES IN CONCEPTS AND DEFINITIONS.

Upon the enactment of a bill or joint resolution providing for a change in concepts or definitions, the Chairman of the Committee on the Budget of the Senate may make adjustments to the levels and allocations in this resolution in accordance with section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002).

SEC. 314. BUDGETARY TREATMENT OF CERTAIN DISCRETIONARY ADMINISTRATIVE EXPENSES.

In the Senate, notwithstanding section 302(a)(1) of the Congressional Budge Act of 1974, section 13301 of the Budget Enforcement Act of 1990, and section 2009a of title 39, United States Code, the joint explanatory statement accompanying the conference report on any concurrent resolution on the budget shall include in its allocations under section 302(a) of the Congressional Budge Act of 1974 to the Senate Committee on Appropriations amounts for the discretionary administrative expenses of the Social Security Administration and of the Postal Service.

SEC. 315. EXERCISE OF RULEMAKING POWERS.

The Senate adopts the provisions of this subtitle—

(1) as an exercise of the rulemaking power of the Senate, and as such they shall be considered as part of the rules of the Senate and such rules shall supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with full recognition of the constitutional right of the Senate to change those rules at any time, in the same manner, and to the same extent as is the case of any other rule of the Senate.

TITLE IV—RECONCILIATION

SEC. 401. RECONCILIATION IN THE SENATE.

(a) SUBMISSION TO PROVIDE FOR THE REFORM OF MANDATORY SPENDING .—Not later than September 1, 2011, the Senate committees named in subsection (b) shall submit their recommendations to the Committee on the Budget of the United States Senate. After receiving those recommendations from the applicable committees of the Senate, the Committee on the Budget shall report to the Senate a reconciliation bill carrying out all such recommendations without substantive revision.

(b) INSTRUCTIONS.—

(1) COMMITTEE ON FOREIGN RELATIONS.—The Committee on Foreign Relations shall report changes in law within its jurisdiction sufficient to reduce direct spending outlays by $2,651,000,000 for the period of fiscal years 2012 through 2016.

(2) COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.—The Committee on Commerce, Science, and Transportation shall report changes in law within its jurisdiction sufficient to reduce direct spending outlays by $1,000,000,000 for the period of fiscal years 2012 through 2016.

(3) COMMITTEE ON AGRICULTURE, NUTRITION, AND ENERGY.—The Committee on Agriculture, Nutrition, and Energy shall report changes in law within its jurisdiction sufficient to reduce direct spending outlays by $229,599,000,000 for the period of fiscal years 2012 through 2016.

(4) COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS.—The Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction sufficient to reduce direct spending outlays by $5,000,000,000 for the period of fiscal years 2012 through 2016.

(5) COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS.—The Committee on Health, Education, Labor, and Pensions shall report changes in laws within its jurisdiction sufficient to reduce direct spending outlays by $467,550,000,000 for the period of fiscal years 2012 through 2016.

(6) COMMITTEE ON FINANCE.—The Committee on Finance shall report changes in laws within its jurisdiction sufficient to reduce direct spending outlays by $519,693,000,000 for the period of fiscal years 2012 through 2016.

TITLE V—LONG-TERM POLICY CHANGES

SEC. 501. POLICY STATEMENT ON SOCIAL SECURITY.

It is the policy of this concurrent resolution that Congress and the relevant committees of jurisdiction enact legislation—

(1) to ensure the Social Security System achieves solvency over the 75 year window; and

(2) that includes—

(A) progressive Price Indexing using a formula including wage and price indexing;

(B) life expectancy and longevity indexing; and

(C) a gradual increase in the retirement age.

SEC. 502. POLICY STATEMENT ON MEDICARE.

It is the policy of this concurrent resolution that Congress and the relevant committees of jurisdiction enact legislation—

(1) to ensure Medicare achieves solvency over the 75 year window; and

(2) that—

(A) includes free-market based health care;

(B) removes all mandates or laws require the purchase of health insurance;

(C) promotes individual and family based plans; and

(D) encourages interstate competition.

SEC. 503. RESCIND UNSPENT OR UNOBLIGATED BALANCES AFTER 36 MONTHS.

(a) APPLICATION.—Any adjustments of allocations and aggregates made pursuant to this resolution shall require that 36 months after such funds are made available, the Chairman of the Committee on the Budget of the Senate shall reduce the allocations of a committee or committees, aggregates, and other appropriate levels by the amount unobligated or unspent.

(b) EFFECT OF CHANGED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates resulting from these adjustments resulting from the required rescissions shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) BUDGET COMMITTEE DETERMINATIONS.—For purposes of this resolution the levels of new budget authority, outlays, direct spending, new entitlement authority, revenues, deficits, and surpluses for a fiscal year or period of fiscal years shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

AMENDMENTS SUBMITTED AND PROPOSED

SA 321. Mr. DURBIN (for Ms. LANDRIEU (for herself and Ms. SNOWE)) proposed an amendment to the bill S. 990, to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

SA 322. Mr. DURBIN (for Mr. SESSIONS) proposed an amendment to the resolution S. Res. 184, recognizing the life and service of the Honorable Hubert H. Humphrey, distinguished former Senator from the State of Minnesota and former Vice President of the United States, upon the 100th anniversary of his birth.

TEXT OF AMENDMENTS

SA 321. Mr. DURBIN (for Ms. LANDRIEU (for herself and Ms. SNOWE)) proposed an amendment to the bill S. 990, to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Additional Temporary Extension Act of 2011''.

SEC. 2. ADDITIONAL TEMPORARY EXTENSION OF AUTHORIZATION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958.

(a) IN GENERAL.—Section 1 of the Act entitled ''An Act to extend temporarily certain authorities of the Small Business Administration'', approved October 10, 2006 (Public Law 109–316; 120 Stat. 1742), as most recently amended by section 1 of Public Law 112–1 (125 Stat. 3), is amended—

(1) by striking ''Any'' and inserting ''Except as provided in section 3 of the Small Business Additional Temporary Extension Act of 2011, any''; and

(2) by striking ''May 31, 2011'' each place it appears and inserting ''June 30, 2011''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on May 30, 2011.

SEC. 3. EXTENSION OF SBIR AND STTR TERMINATION DATES.

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended—

(1) by striking ''TERMINATION.—'' and all that follows through ''the authorization'' and inserting ''TERMINATION.—The authorization'';

(2) by striking ''September 30, 2008'' and inserting ''May 31, 2012''; and

(3) by striking paragraph (2).

(b) STTR.—Section 9(n) of the Small Business Act (15 U.S.C. 638(n)) is amended—

(1) in paragraph (1)(A)—

(A) by striking ''IN GENERAL.—'' and all that follows through ''each Federal'' and inserting ''IN GENERAL.—Each Federal'';

(B) by striking ''that fiscal year'' and inserting ''a fiscal year''; and

(C) by striking clause (ii); and

(2) by adding at the end the following:

''(4) TERMINATION.—The authorization to carry out the Small Business Technology Transfer Program established under this section shall terminate on May 31, 2012.''.

(c) COMMERCIALIZATION PILOT PROGRAM.—Section 9(y)(6) of the Small Business Act (15 U.S.C. 638(y)(6)) is amended by striking ''at the end of fiscal year 2010'' and inserting ''on May 31, 2012''.

SEC. 4. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

''(aa) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.''.

SA 322. Mr. DURBIN (for Mr. SESSIONS) proposed an amendment to the resolution S. Res. 184, recognizing the life and service of the Honorable Hubert H. Humphrey, distinguished former Senator from the State of Minnesota and former Vice President of the United States, upon the 100th anniversary of his birth; as follows:

On page 4, strike lines 10–14.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce that the Committee on Energy and Natural Resources will hold a business meeting on Thursday, May 26, 2011, at 10:00 a.m., in room SD–366 of the Dirksen Senate Office Building. If needed, the business meeting may reconvene Thursday afternoon.

The purpose of the business meeting is to consider pending energy legislation.

For further information, please contact Sam Fowler at (202) 224–7571 or Amanda Kelly at (202) 224–6836.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. COONS. Mr President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on May 19, 2011, at 9:30 a.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. COONS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on May 19, 2011, at 1:30 p.m. to conduct a hearing entitled ''Ten Years After 9/11: Is Intelligence Reform Working? Part II.''

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

COMMITTEE ON THE JUDICIARY

Mr. COONS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on May 19, 2011, at 10 a.m., in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. COONS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on May 19, 2011, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. COONS. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on May 19, 2011, at 10 a.m. to conduct a hearing entitled ''Small Business Recovery: Progress Report on Small Business Jobs Act of 2010 Implementation.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. COONS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 19, 2011, at 2:30 p.m.

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

AFRICAN AFFAIRS SUBCOMMITTEE

Mr. COONS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 19, 2011, at 3:30 p.m., to hold an African Affairs subcommittee hearing entitled, ''Next Steps in Côte d'Ivoire.''

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

SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT SAFETY, AND INSURANCE

Mr. COONS. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 19, 2011, at 10 a.m. in room 253 of the Russell Senate Office Building, to conduct a hearing entitled, ''Consumer Privacy and Protection in the Mobile Marketplace.''

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

SUBCOMMITTEE ON SECURITIES, INSURANCE, AND INVESTMENT

Mr. COONS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs' Subcommittee on Securities, Insurance, and Investment, be authorized to meet during the session of the Senate on May 19, 2011, at 10 a.m., to conduct a hearing entitled ''Public Transportation: Priorities and Challenges for Reauthorization.''

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

SUBCOMMITTEE ON WATER AND POWER

Mr. COONS. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power be authorized to meet during the session of the Senate on May 19, 2011, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

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

TEMPORARY EXTENSION OF SMALL BUSINESS PROGRAMS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 51, S. 990.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 990) to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent that a Landrieu-Snowe substitute amendment, which is at the desk, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The amendment (No. 321) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Additional Temporary Extension Act of 2011''.

SEC. 2. ADDITIONAL TEMPORARY EXTENSION OF AUTHORIZATION OF PROGRAMS UNDER THE SMALL BUSINESS ACT AND THE SMALL BUSINESS INVESTMENT ACT OF 1958.

(a) IN GENERAL.—Section 1 of the Act entitled ''An Act to extend temporarily certain authorities of the Small Business Administration'', approved October 10, 2006 (Public Law 109–316; 120 Stat. 1742), as most recently amended by section 1 of Public Law 112–1 (125 Stat. 3), is amended—

(1) by striking ''Any'' and inserting ''Except as provided in section 3 of the Small Business Additional Temporary Extension Act of 2011, any''; and

(2) by striking ''May 31, 2011'' each place it appears and inserting ''June 30, 2011''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on May 30, 2011.

SEC. 3. EXTENSION OF SBIR AND STTR TERMINATION DATES.

(a) SBIR.—Section 9(m) of the Small Business Act (15 U.S.C. 638(m)) is amended—

(1) by striking ''TERMINATION.—'' and all that follows through ''the authorization'' and inserting ''TERMINATION.—The authorization'';

(2) by striking ''September 30, 2008'' and inserting ''May 31, 2012''; and

(3) by striking paragraph (2).

(b) STTR.—Section 9(n) of the Small Business Act (15 U.S.C. 638(n)) is amended—

(1) in paragraph (1)(A)—

(A) by striking ''IN GENERAL.—'' and all that follows through ''each Federal'' and inserting ''IN GENERAL.—Each Federal'';

(B) by striking ''that fiscal year'' and inserting ''a fiscal year''; and

(C) by striking clause (ii); and

(2) by adding at the end the following:

''(4) TERMINATION.—The authorization to carry out the Small Business Technology Transfer Program established under this section shall terminate on May 31, 2012.''.

(c) COMMERCIALIZATION PILOT PROGRAM.—Section 9(y)(6) of the Small Business Act (15 U.S.C. 638(y)(6)) is amended by striking ''at the end of fiscal year 2010'' and inserting ''on May 31, 2012''.

SEC. 4. COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.

Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

''(aa) COMPETITIVE SELECTION PROCEDURES FOR SBIR AND STTR PROGRAMS.—All funds awarded, appropriated, or otherwise made available in accordance with subsection (f) or (n) must be awarded pursuant to competitive and merit-based selection procedures.''.

The bill (S. 990), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

RECOGNIZING THE 100TH ANNIVERSARY OF THE BIRTH OF HUBERT H. HUMPHREY

Mr. DURBIN. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. Res. 184, and the Senate proceed to its immediate consideration.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 184) recognizing the life and service of the Honorable Hubert H. Humphrey, distinguished former Senator from the State of Minnesota and former Vice President of the United States, upon the 100th anniversary of his birth.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that unless I am already a cosponsor, I be added as a cosponsor.

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

Mr. DURBIN. I ask unanimous consent that the Sessions amendment which is at the desk be agreed to, the resolution, as amended, be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the matter be printed in the RECORD.

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

The amendment (No. 322) was agreed to as follows:

AMENDMENT NO. 322

On page 4, strike lines 10–14.

The resolution (S. Res. 184), as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble, reads as follows:

S. RES. 184

Whereas Hubert H. Humphrey was born in Wallace, South Dakota, on May 27, 1911;

Whereas Hubert Humphrey, from his early years, recognized the importance of public service by becoming a registered pharmacist and serving his friends and neighbors in the Humphrey Drug Store in Huron, South Dakota, from 1933 to 1937;

Whereas Hubert Humphrey received a Bachelor of Arts degree in political science from the University of Minnesota in 1939 and a Masters of Arts degree from Louisiana State University in 1940, subsequently teaching political science at Macalester College from 1943 to 1944 and at Macalester College and the University of Minnesota from 1969 to 1970;

Whereas Hubert Humphrey served in a variety of leadership positions in Minnesota during World War II, dealing with war production, employment, and manpower;

Whereas Hubert Humphrey served as Mayor of Minneapolis from 1945 to 1948, and during his tenure as mayor, he drove organized crime from the city and, among other achievements, created the Nation's first municipal equal employment opportunity commission;

Whereas Hubert Humphrey was a driving force behind the creation of the Democratic Farmer-Labor Party in Minnesota and was a founding member of Americans for Democratic Action in the aftermath of World War II;

Whereas Hubert Humphrey led forces at the 1948 Democratic National Convention in Philadelphia in support of the minority platform plank on civil rights and equal opportunity, challenging the delegates to ''walk out of the shadow of States' rights into the bright sunshine of human rights,'' resulting in the convention's adoption of the minority plank;

Whereas in 1948, Hubert Humphrey became the first Democrat from Minnesota elected to the Senate;

Whereas during his total 23 years of service in the Senate (including service from 1949 to 1964 and service from 1970 to 1978), Hubert Humphrey compiled a record of accomplishment virtually unmatched in the 20th century, encompassing, among other issues, civil and human rights, workforce development, labor rights, health care, arms control and disarmament, the Peace Corps, small business assistance, education reform, wilderness preservation, immigration reform, and agriculture;

Whereas his service as floor leader during the Senate's consideration of the Civil Rights Act of 1964 was essential to the eventual passage of the Act in the aftermath of breaking the filibuster against this historic legislation;

Whereas Hubert Humphrey, although a dedicated leader of the Democratic Party, always sought bipartisan support for his legislative goals and routinely shared credit with other Senators for his legislative victories;

Whereas Hubert Humphrey, as Vice President of the United States, loyally served President Lyndon Baines Johnson and successfully carried out a number of domestic and overseas assignments;

Whereas Hubert Humphrey, as the Democratic Party's nominee for President of the United States in 1968, waged one of the most courageous and hard-fought campaigns in the history of the United States, losing to Richard Nixon by less than 1 percentage point of the popular vote when he started the campaign some 15 points behind;

Whereas Hubert Humphrey was reelected by the people of Minnesota (in 1970 and 1976) to 2 additional terms in the Senate, thereby continuing his extraordinary record of legislative achievement with passage of such bills as the Humphrey-Hawkins Full Employment Act;

Whereas Hubert Humphrey, terminally ill with cancer, pursued his active public life with great courage, fortitude, and good humor, and in the memorable words of Vice President Walter F. Mondale at Hubert Humphrey's memorial observance in the rotunda of the United States Capitol, ''Hubert Humphrey taught us how to live and he taught us how to die''; and

Whereas the life and service of Hubert Humphrey were posthumously honored by Congress with the presentation of the Congressional Gold Medal, and by the President of the United States with the award of the Medal of Freedom: Now, therefore, be it

Resolved, That the Senate—

(1) honors the life, achievements, and distinguished career of Senator and Vice President Hubert H. Humphrey upon the occasion of his 100th birthday;

(2) recognizes that Hubert H. Humphrey's legislative achievements helped resolve many of this Nation's most polarizing issues, such as civil rights, equal opportunity, and nuclear arms control.

NATIONAL KIDS TO PARKS DAY

Mr. DURBIN. Mr. President, I ask unanimous consent the Senate proceed to the consideration of S. Res. 192 submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 192) designating May 21, 2011, as ''National Kids to Parks Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. UDALL of Colorado. Mr. President, I rise to talk about an issue that is close to my heart: introducing our children to National Parks across the country.

Enjoying the outdoors has been a lifelong passion for me and it began in my youth. Growing up in the American Southwest, my parents would take our family on frequent trips to the nearby parks. This helped inspire my brother, Randy, and I to take a 10-day backpacking trip to Glacier National Park in Montana when we were in college. I know now these important visits to the parks were the building blocks of a life filled with enthusiasm for mountains and the outdoors.

I have always enjoyed being outdoors with others, first as an instructor with Outward Bound and then with my wife and kids. In Congress, I have similarly tried to ensure that open spaces in both urban and rural areas are preserved so that families in Colorado and across America have ample opportunity to get out and take advantage of our greatest natural resources, our parks and open spaces.

I believe today more than ever it is important that we are encouraging our Nation's youth to get outdoors. In America today, one in three children are overweight or obese. Kids between the ages of 8 and 18 spend an average of 7½ hours a day using some sort of entertainment media such as TVs, computers, video games, cell phones and movies. I believe this is a major reason why only one-third of all children get the recommended level of physical activity every day, contributing to childhood obesity.

In this spirit, on Saturday families all across the Nation will get outside and visit a city, State or national park in honor of the first annual National Kids to Parks Day. National Kids to Parks Day celebrates America's commitment to getting kids outdoors and highlights the importance of preserving open spaces for American's to recreate.

That is why today I will be submitting a bipartisan resolution that recognizes Saturday, May 21, 2011, as the first annual National Kids to Parks Day. National Kids to Parks Day encourages more of our Nation's youth to get outdoors and enjoy the great system of city, State and national parks we have in this country.

I thank Senator BURR, Senator MURKOWSKI, and Senator BINGAMAN for their cosponsorship and support.

Getting kids outdoors won't completely solve our childhood obesity problem, but it may help them get excited about being active and healthy outdoors, and it may help inspire the next generation of American stewards to enjoy and protect our Nation's special places.

I plan to celebrate National Kids to Parks Day by attending the 100-year anniversary of Colorado National Monument near Grand Junction, CO. I encourage my colleagues to do something similar—highlight the national, State, and local parks in your State and encourage American families to get outdoors.

I ask my colleagues to support my National Kids to Parks Day resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the matter be printed in the RECORD.

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

The resolution (S. Res. 192) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 192

Whereas the first National Kids to Parks Day will be celebrated on May 21, 2011;

Whereas the goal of National Kids to Parks Day is to empower young people and encourage families to get outdoors and visit the parks of the United States;

Whereas on National Kids to Parks Day, rural and urban Americans alike can be reintroduced to the splendid National, State, and neighborhood parks that are located in their communities;

Whereas communities across the United States offer a variety of natural resources and public land, often with free access, to individuals seeking outdoor recreation;

Whereas the United States should encourage young people to lead a more active lifestyle, as too many young people in the United States are overweight or obese;

Whereas National Kids to Parks Day is an opportunity for families to take a break from their busy lives and come together for a day of wholesome fun; and

Whereas National Kids to Parks Day aims to broaden the appreciation of young people for nature and the outdoors: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 21, 2011, as ''National Kids to Parks Day'';

(2) recognizes the importance of outdoor recreation and the preservation of open spaces to the health of the young people of the United States; and

(3) calls on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

HONORING THE BICENTENNIAL OF THE CITY OF ASTORIA

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 193, submitted earlier today.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 193) honoring the bicentennial of the City of Astoria.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the matter be printed in the RECORD.

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

The resolution (S. Res. 193) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 193

Whereas Astoria is a scenic gem on the coast of Oregon, and the residents of Astoria have long represented the essence of what it means to be an Oregonian;

Whereas the site of Astoria, located at the mouth of the Columbia River where the Columbia River meets the Pacific Ocean, marks the endpoint of the epic Lewis and Clark expedition to explore the American West, and was founded by fur traders in 1811;

Whereas Thomas Jefferson recognized Astoria as the Nation's first significant claim to the West and noted that were it not for the settlement of Astoria, the United States may have ended at the Rocky Mountains;

Whereas Astoria evolved from being a fur trading hub to serving as the ad-hoc capital of Oregon Country, and later became a prominent leader in the fishing and timber industries and an important port city;

Whereas Astoria was incorporated in 1856, and today is a center for manufacturing, art, tourism, and fishing;

Whereas settlers from Scandinavia and China were among the first to come to Astoria, and the presence of their descendants has contributed to a town rich in both history and culture;

Whereas Astoria is a vibrant tourism destination that has chronicled its remarkable history with the establishment of superb museums and well-preserved historical sites;

Whereas citizens of Astoria and visitors from around the country and the world enjoy boating, fishing, and hiking in one of the most beautiful areas on the West Coast; and

Whereas the natural beauty of the region has been noted by many artists, filmmakers, and writers, serving as the backdrop for many stories, including the beloved film ''The Goonies'': Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) Astoria's bicentennial should be observed and celebrated;

(2) the people of Astoria should be thanked for their many pioneering contributions to the State of Oregon and the United States; and

(3) an enrolled copy of this resolution should be transmitted to the State of Oregon for appropriate display.

ORDERS FOR MONDAY, MAY 23, 2011

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Monday, May 23; that following the prayer and pledge, the Journal of the 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; that following any leader remarks, the Senate proceed to a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each; that following morning business, the Senate resume consideration of the motion to proceed to S. 1038, a bill to extend expiring provisions of the PATRIOT Act, under the previous order.

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

PROGRAM

Mr. DURBIN. Mr. President, there will be a rollcall vote Monday at 5 p.m. on the motion to invoke cloture on the motion to proceed to S. 1038, relating to the PATRIOT Act.

ADJOURNMENT UNTIL MONDAY, MAY 23, 2011, At 2 P.M.

Mr. DURBIN. 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 6:40 p.m., adjourned until Monday, May 23, 2011, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate on Wednesday, May 18, 2011:

THE JUDICIARY

MORGAN CHRISTEN, OF ALASKA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT, VICE ANDREW J. KLEINFELD, RETIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant

KRISTIN L. CONVILLE

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant

EDWARD L. LACY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT COMMISSIONED REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 211:

To be lieutenant commander

JASON M. BIGGAR

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. DAVID H. BUSS

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

KENDALL C. JONES, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

KIRK R. PARSLEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

CHRISTIAN F. JENSEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant commander

JOSEPH M. HOLT

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

ANDREW L CARTER, JR., OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE VICTOR MARRERO, RETIRED.

JAMES RODNEY GILSTRAP, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS, VICE THAD HEARTFIELD, RETIRED.

GINA MARIE GROH, OF WEST VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF WEST VIRGINIA, VICE W. CRAIG BROADWATER, DECEASED.

SECURITIES AND EXCHANGE COMMISSION

LUIS A. AGUILAR, OF GEORGIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM EXPIRING JUNE 5, 2015. (REAPPOINTMENT)

DANIEL M. GALLAGHER, JR., OF MARYLAND, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM EXPIRING JUNE 5, 2016, VICE KATHLEEN L. CASEY, TERM EXPIRING.

SECURITIES INVESTOR PROTECTION CORPORATION

GREGORY KARAWAN, OF VIRGINIA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 2013, VICE WILLIAM HERBERT HEYMAN, TERM EXPIRED.

EXPORT-IMPORT BANK OF THE UNITED STATES

PATRICIA M. LOUI, OF HAWAII, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2015, VICE DIANE G. FARRELL, TERM EXPIRED.

DEPARTMENT OF STATE

DAVID S. ADAMS, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE (LEGISLATIVE AFFAIRS), VICE RICHARD RAHUL VERMA, RESIGNED.

JOHN A. HEFFERN, OF MISSOURI, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ARMENIA.

SUSAN LAILA ZIADEH, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF QATAR.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CONSTANCE SMITH BARKER, OF ALABAMA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2016. (REAPPOINTMENT)

NATIONAL MEDIATION BOARD

HARRY R. HOGLANDER, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2014. (REAPPOINTMENT)

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

CHARLES R. KORSMO, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING OCTOBER 13, 2011, VICE MICHAEL PRESCOTT GOLDWATER, TERM EXPIRED.

CHARLES R. KORSMO, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING OCTOBER 13, 2017. (REAPPOINTMENT)

JOHN H. YOPP, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING OCTOBER 13, 2011, VICE RAQUEL EGUSQUIZA, TERM EXPIRED.

JOHN H. YOPP, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING OCTOBER 13, 2017. (REAPPOINTMENT)

MARCOS EDWARD GALINDO, OF IDAHO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING APRIL 17, 2014, VICE EDWARD ALTON PARRISH, TERM EXPIRED.

MARIA E. RENGIFO-RUESS, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION FOR A TERM EXPIRING FEBRUARY 4, 2014, VICE JULIA L. WU, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. MICHAEL J. LALLY III