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No. 23

## Senate

The Senate met at 2 p.m. and was called to order by the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut.

### PRAYER

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

Let us pray.

Hear our prayers, Lord, and deal graciously with our petitions. We put our trust in Your word, as we lean upon Your loving kindness and tender mercies. Bless this land we love, infusing its citizens with strength, wisdom, and faith. Lord, guide those whom we ourselves have set in authority, keeping them from disorder, discord, and division. Lift them to the heights of Your great purposes so they will have daily insights into Your will and way.

We pray in Your merciful Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable RICHARD BLUMENTHAL 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. INOUE).

The bill clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 14, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut, to perform the duties of the Chair.

DANIEL K. INOUE,  
President pro tempore.

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

### RECOGNITION OF THE MAJORITY LEADER

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

### SCHEDULE

Mr. REID. Mr. President, following any leader remarks, the Senate will resume consideration of the FAA authorization bill. I have spoken to the chairman of the committee. I have spoken to the Republican leader. We are going to do everything we can to move this matter forward as quickly as possible. Those who have amendments should offer them. We will try to set up the votes for those that are already pending at the earliest possible date. We could do some of them in the morning. We may even be able to get a number of them out of the way tonight, if we can work something out on that. At 4:30, we will turn to executive session to consider the nomination of James Graves of Mississippi to be a U.S. circuit judge for the Fifth Circuit and Edward Davila of California to be a U.S. district judge for the Northern District of California.

At 5:30, there will be a voice vote on Graves and a rollcall vote on Davila. Senators should be prepared for additional rollcall votes this evening relating to amendments to the FAA bill.

### RECOGNITION OF THE MINORITY LEADER

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

### THE PRESIDENT'S BUDGET

Mr. MCCONNELL. Mr. President, earlier today, President Obama showed

the American people just how he intends to spend their tax dollars, and how much more intends to borrow, to fund his vision of the future. And it is a huge disappointment to those in both parties who were hoping the President would take this opportunity to address the grave and imminent fiscal crises we face. The President's budget is the clearest sign yet he simply does not take our fiscal problems seriously.

It is a patronizing plan that says to the American people that their concerns are not his concerns.

It is a plan that says fulfilling the President's vision of a future of trains and windmills is more important than a balanced checkbook.

It is a plan that asks our children to pay for an imaginary vision of the future that may or may not come about by adding trillions to a debt that will be very real to them indeed.

The President's budget comes in at close to a thousand pages. The people who voted for a new direction in November have a five-word response: We don't have the money.

We don't have the money.

Americans have been asking a crucial question as we approached this debate: how do we get back to balance, how do we get to a place where Washington spends less than it takes in. And the simple fact about this budget is that the President and all his advisers couldn't come up with a single year in the next 10 where we do that.

That is the key question in this debate, but it is the one question that the President and all of his advisers don't seem to have been the least bit interested in.

The White House wants us to engage in a debate this week about percentage cuts at this or that agency, about multi-year projections and CBO scores. It all misses the point. The real point is this: We are broke. We don't have the money.

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



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Look: there is a time to experiment with high-flown plans and to test theories. But we have to balance the check-book first. We have to be able to afford it. The American people get that. This administration doesn't seem to.

After 2 years of failed stimulus programs and Democrats in Washington competing to outspend each other, we just can't afford to do all the things the administration wants.

The President has said he wants us to win the future. But this budget abdicates the future. It spends too much, taxes too much, and borrows too much. It says that the President does not have the will or the ability to do what we need to do with the money that we have. But that is precisely what the Americans are demanding that we do.

Americans reject the idea that they have to live with another \$13 trillion in debt to fund the President's or anyone else's vision of the future.

This budget was an opportunity for the President to lead. He punted. It only pretends to do the things people want. And the reaction we have seen from across the political spectrum so far today suggests that nobody is buying it.

The President may be determined to keep spending levels at the current high levels—high levels he put in place—in the hope that people will get used to them. But he has clearly misread a public that has had enough.

We must live within our means. We must begin to do the difficult but necessary work of reining in a government that has grown beyond our ability to pay for it. We must acknowledge the mistakes of the past 2 years and work to correct them.

The stimulus failed. This budget says "Do it again."

The President has already added more than \$3 trillion to the debt as we lost another 3 million jobs. This budget says let's add more debt and see if we get a different result.

The President had an opportunity to cut domestic spending from the 25 percent he has increased it since he came into office. Instead, he locked it in place.

He had an opportunity to start to pay down the tremendous burden of debt that he has added over the past 2 years. He wants to increase it instead.

He had an opportunity to work with Republicans on reforming long-term entitlements such as Social Security, Medicare, and Medicaid. He took a pass.

This is a status quo budget at a time when serious action is needed.

This is business as usual at a time when bold, creative solutions are needed.

This is not an I-got-the-message budget. It is unserious, and it is irresponsible.

We need to look for ways to preserve what is good that does not put us on path to bankruptcy. That was the challenge of this budget. The administration failed the test.

After years of overspending by both parties, it is time to make tough choices, just as any family does when times are tough, even among very good things. We have to cut even from programs that are good, as difficult as it is, recognizing that the values we are fighting for in this debate are more fundamental than the survival of any one program. We need to face that fact that we do not have the money. It is not an American value to borrow from others to pay for programs we do not need and cannot afford. And it is not an American value to put off tough decisions because we refuse to say no to things we want.

If there is any good news in this debate, it is that we are finally beginning to talk about how much to cut in this town instead of how much to spend. But we are going to need more people to join the fight. We will need Democrats to join us. Above all, we need a President who gets it. And this President clearly does not get it yet.

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

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

The bill clerk proceeded to call the roll.

Mr. DURBIN. 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. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

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

### THIRD ANNIVERSARY OF THE NORTHERN ILLINOIS UNIVERSITY SHOOTING

Mr. DURBIN. Mr. President, 3 years ago today, a mentally disturbed gunman walked into a campus lecture hall at Northern Illinois University in DeKalb and shot 22 students, killing 5 of them.

John Peters, the president of Northern Illinois University, the students, families, faculty, and employees pulled together after that tragedy, and I joined them at an observance with then Senator and now President Obama to acknowledge the grief they all felt and we shared. I am proud to report that the Northern Illinois University community is stronger and more resilient today than ever.

In the aftermath of the shooting, we asked a lot of questions about what led to it. Naturally, there were so many innocent victims. We asked what we could have done to prevent it. Three years later, we are still trying to make sense of it.

Some believe that nothing can be done if a disturbed person is determined to commit an act of violence. But I believe something can be done.

For a long time, we have overlooked a very obvious and very compelling

fact. Many young people do not demonstrate serious mental illness until they have left their home and high school and go off to college. We have overlooked the mental health of students on campuses.

Many mental illnesses manifest in this period when young people leave the security of home, regular medical care, and the support of a network of family and friends.

A friend of our family, a young man, went to the same university over 30 years ago. Gary was a peculiar kind of his own type of person in high school. But within 30 days at the university, living in a college dorm, certain mental illnesses we were not even aware of manifested themselves and he suffered from schizophrenia the rest of his short life. It manifested itself at that campus.

It is easier for a young person's problems to go unnoticed when they are away from parents, old friends, and the high school community. Sometimes they get worse. People do not even notice.

The consequences of not detecting or addressing mental health needs among students are very real. Forty-five percent of college students report having felt so depressed it was difficult to function. Ten percent even contemplated suicide.

But while the needs for mental health services on campuses are rising, colleges are facing financial pressures of their own and are having trouble meeting the demand. A recent survey of college counseling centers indicates the average ratio of professional staff to students is 1 to 1,952, and at 4-year public universities it is 1 to every 2,600 students. It is little wonder that many young people with these problems go unnoticed.

Shortly after the tragedy at Northern Illinois University, I wrote a bill called the Mental Health on Campus Improvement Act to help schools meet the needs of their students. The bill would provide resources for colleges and universities to improve their mental health services and would call for the development of a public nationwide campaign to educate campus communities about mental health. We know troubled students who receive appropriate counseling and support can succeed in college and life. These services make an impact. Students who seek help are six times less likely to kill themselves.

By providing critical resources to colleges, the Mental Health on Campus Improvement Act would ensure that more young people receive the help they need before facing a crisis.

The main elements of this bill were included in a proposal to reauthorize the Garrett Lee Smith Memorial Act last year. I will continue to work on this legislation to get it enacted so we can give colleges the help they need to identify and treat students with mental health issues.

We also know from Northern Illinois University, as well as from the tragedies at Virginia Tech and Tucson, that we need to fill the gaps in the Federal gun background check system.

No one is proposing to take guns away from responsible American hunters and law-abiding citizens. The Supreme Court has made it clear that individuals have a right to own guns. I respect that decision. But the Court has also said that the second amendment is “not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose.”

For years, laws on the books have prohibited those with histories of serious mental illness and substance abuse from buying guns. State agencies and Federal agencies need to work more closely together to make sure the background check system is fully updated with this critical information.

Today is a time for our country to remember the lives and mourn the loss at Northern Illinois University of five promising young Americans whose life stories were cruelly cut short 3 years ago. But as we look back, we must also—as they say at Northern; their slogan—move “Forward, Together Forward” in the true Northern Illinois University spirit.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. ROCKEFELLER. Mr. President, might I ask, what is the pending business?

#### RESERVATION OF LEADER TIME

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

#### FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT

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

The bill clerk read as follows:

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

Pending:

Wicker modified amendment No. 14, to exclude employees of the Transportation Security Administration from the collective bargaining rights of Federal employees and provide employment rights and an employee engagement mechanism for passenger and property screeners.

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

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

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

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

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

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

McCain amendment No. 4, to repeal the Essential Air Service Program.

Rockefeller (for Leahy) amendment No. 50, to amend title 1 of the Omnibus Crime Control and Safe Streets Act of 1968 to include nonprofit and volunteer ground and air ambulance crew members and first responders for certain benefits and to clarify the liability protection for volunteer pilots that fly for public benefit.

Reid amendment No. 54, to allow airports that receive airport improvement grants for the purchase of land to lease the land and develop the land in a manner compatible with noise buffering purposes.

Reid amendment No. 55, to require the Secretary of the Interior to convey certain Federal land to the city of Mesquite, NV.

Udall (NM)/Bingaman amendment No. 49, to authorize Dona Ana County, NM, to exchange certain land conveyed to the county for airport purposes.

Udall (NM) amendment No. 51, to require that all advanced imaging technology used as a primary screening method for passengers be equipped with automatic target recognition software.

Nelson (NE) amendment No. 58, to impose a criminal penalty for unauthorized recording or distribution of images produced using advanced imaging technology during screenings of individuals at airports and upon entry to Federal buildings.

Paul amendment No. 18, to strike the provisions relating to clarifying a memorandum of understanding between the Federal Aviation Administration and the Occupational Safety and Health Administration.

Mr. ROCKEFELLER. Mr. President, my cochair, Senator HUTCHISON, is on the floor, and I know she wishes to speak.

It occurs to me we are back on the Federal aviation bill. We have been on this bill for several years. There is an interesting sort of dilemma which has developed. If one listens to the conversation on the floor and around in the hallways, everything has to do with slots—how many flights in and out of National Airport, what are we

going to do about the west coast, Seattle, and all the rest of them. Actually, that is a very small part of the overall bill, reflecting on the overall health and progress of the Federal Aviation Administration, compared to things such as NextGen, the new air traffic control system entirely, and a variety of other things which are already in the bill which the Senate passed last year 93 to nothing. So I am losing my patience a little bit with slots.

KAY BAILEY HUTCHISON and I agree on most things in our work, and we have an amendment. Other people seem to be going back and forth—they are amenable, then they are not amenable—and we are running out of time. I think the leader, with that in mind, is going to ask for cloture on this to sort of force everybody's hand.

What I am really suggesting is that those who are working on slots try to come to an agreement during the course of the rest of this day because I think we are talking only about that, and perhaps a little bit of tomorrow morning. Then I think the Senate just kind of—and I know the leader on our side—has to do the bill. We have been debating these slots for 6½ months this year. We did it for a whole bunch of months last year. Progress is made, progress is unmade; people agree, people don't agree. Senator HUTCHISON and I are getting a little bit frustrated by that. We think we have a good amendment, but let's see.

So we have some pending amendments. I am hopeful we will be able to work through them this evening and the remainder of the week. I think we have made reasonable progress on some matters, but on the question of the bill itself and the substance of the bill and those amendments which are germane to the substance of the bill, I think we have made a lot of progress. A lot of that progress actually comes from last year on our unanimous vote to approve this issue. So I believe we can and must finish this bill this week. I think my cochair agrees with me on that. If not, we risk further extensions of the FAA and a less stable agency.

Again, I would point out that I think we are on our 18th extension of this massive bill keep all of our planes in the air and everybody at work and includes safety and all kinds of things. We need a very swift resolution. So I urge the Senate to promptly move forward on the passage of the FAA reauthorization act.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I am fully in support of what the chairman has said. We have been on this bill now for over a week of actual Senate time. It is an important bill for our country because we are trying to set in place the next generation of air traffic control. America has over 50 percent of the air traffic in the world. We need to be the leader of the next generation of

air traffic control systems. We are trying to transfer from the ground-based radar system to a satellite-based system. It will be more efficient. It will open many more opportunities for airspace. We need to be able to move forward so that more planes can use the airspace we have. Yet we are finding a reluctance to vote on amendments. There are several amendments that are pending. We need to have votes on those amendments. There are safety measures; there are consumer protection measures in this bill.

The chairman and I have worked together on making progress because we both want to pass this bill. It is a good bill. The sticking point is the slots at Reagan National Airport. Honestly, the chairman's staff and my staff have worked with all of the affected airlines and States and constituents to try to come to a fair opening of Washington National Airport to people who live west of St. Louis, MO. Basically, west of St. Louis, there are very few straight flights from Washington National. Most of them have to stop. So we are trying to gradually add to the capabilities for people who live out West to come into Washington National Airport, but we are also trying to keep the people who live around the airport from having undue noise or undue traffic or congestion at the airport. So we are trying to come up with a fair system. But, to be honest, the sides are not giving. There is a western Senator position. There is a Virginia Senator position. There is a far-Alaska, far-west position. And nobody is giving an inch. Well, it is kind of hard to negotiate when you keep putting things out there, which the chairman and I are doing, and we get no response but "I want everything my way." Well, "everything my way" is not going to work.

We are facing a deadline now where possibly we won't be able to get a vote. I think that would be very bad for the western half of the United States because I think they are being unfairly kept out of access to the convenience of the airport to the Capitol and to downtown Washington. So I hope the sides will meet and come together with something that accommodates all of the needs and concerns, and I hope we can pass this bill this week. I think both the majority leader and the Republican leader are in support of the bill going forward. So we need to get our amendments up, get them voted on, and let's try to make progress.

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

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

Mr. ROCKEFELLER. Mr. President, let me add to what my distinguished colleague said. People who are working on slot amendments should remember that in the bill that was passed and therefore the pending legislation, S. 233, there are no slot amendments. So they have to be under the discipline of understanding that slot amendments

at this point are nongermane, and that will change as circumstances change in the next day or they won't.

At this point, with the indulgence of Senator HUTCHISON, I know Senator MURKOWSKI from Alaska is going to give a speech, with whom I know I am going to fully agree.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I wish to acknowledge the chairman and the ranking member on the Commerce Committee. I know they have been working diligently throughout this process not only with this particular reauthorization, but they have been great leaders on this issue over the years, and I appreciate that. We are working on some difficult issues, some contentious issues, including the issue of the slots which the chairman just discussed. It is one that is critically important to a person such as myself who represents the farthest of the West, along with Hawaii, so we look at how we are able to gain access through our airways and to travel. So the issues in front of us are incredibly important, but I don't want to speak to the issue of the perimeter slots today.

I wish to address an amendment that was raised exactly a week ago by my colleague from Arizona, and this is regarding the importance of the Essential Air Service to my State of Alaska. I think the Members of this body have heard very often not only from myself but from Senator BEGICH and, prior to the two of us, the Alaskan Senators who for years stood on this floor and said: Alaska is different.

When we are talking about the Essential Air Service and what it allows and what it provides, I repeat, Alaska is different. It is unique from anywhere in the lower 48, and the necessity to maintain the Essential Air Service is yet one more example.

It was last week that the Senator from Arizona referred to a figure from the FAA that stated "99.95 percent of all Americans live within 120 miles of a public airport that has more than 10,000 takeoffs and landings annually." That statement clearly does not refer to Alaska.

When the Essential Air Service was created in 1978, after the airline industry was deregulated, Congress correctly determined that air carriers that supported our rural locations would need a financial subsidy to ensure their passengers could receive not only a price but quantity of flights and quality of service that was necessary to provide for effective transportation and movement of goods.

At the creation of the EAS Program, nearly every community in the State of Alaska was affected by the deregulation of the airlines industry. There were about 130 communities that were put on that list in 1978. Today we have 44 communities in Alaska that are receiving EAS.

Let me tell you some things about Alaska that do make it unique, and

when we refer to Essential Air Service one can see that title is actually a very apt description of what is provided in my State.

I have a map of the State of Alaska. The red lines that look like little arteries represent our road system. We have just short of 11,000 miles of a road system in the State of Alaska. I said that seems like a lot of roads. To put it in context, California has 2.3 million miles of roads.

Our road system is one—if you look at it—that is up and down. We do not have much in southeastern Alaska. We do not have a thing along the Aleutian chain. We do not have anything in the southwestern and northern part of Alaska. We have just a few roads around the Seward Peninsula. Eighty percent of communities in the State of Alaska are not connected by a road. How do you get there? If you happen to be in the southeast, you get there by boat.

The bottom line is we fly. This is not a luxury; this is a necessity. We have to fly. We are the most flown State in the country. About 80 percent of our communities are nonaccessible by road while in the rest of the country, if you want to get in your car, if you have an emergency, you need to get to the hospital, you hop in and drive. If you want to go for a spring break, you get in your car and drive 4 or 5 hours and you are at the beach. If you want to get somewhere—anywhere—you pretty much have an opportunity to do so.

We do not have that opportunity in Alaska. Given what we face with a limited road system—the weather and terrain issues—we in the State of Alaska treat airplanes or helicopters like most Americans would treat their minivan. Aircraft in Alaska are not just a nice thing to have. They are a lifeline for survival, for subsistence, for travel, for recreation. They are truly an essential part of our everyday lives.

The city administrator of Atka—Atka is all the way at the end of the Aleutian Islands—the city administrator of Atka, Julie Dirks, sent a letter to the Alaska delegation explaining how the loss of EAS subsidies would negatively impact the city of Atka and other rural communities in the State. In the letter, she writes:

Loss of this program would be devastating to remote rural communities such as Atka and others in our region. Atka is not on a road system connecting the communities to other places nor is there any type of marine ferry service connecting Atka to other islands or mainland Alaska.

Even though there is a lot of water out there, you cannot get there by boat.

Air transportation presently is the only method available providing access in and out of Atka. Costs of service are already high even with the subsidy. Without the subsidy service would be too expensive or even non-existent.

I ask unanimous consent to have printed the letter from the city administrator of Atka.

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

FEBRUARY 7, 2011.

Re Essential Air Service Program.

Alaska Delegation,  
Senator MARK BEGICH,  
Senator LISA MURKOWSKI,  
Congressman DON YOUNG,  
Washington, DC.

It is my understanding Senator John McCain has introduced legislation to the FAA Reauthorization Bill that, if passed, would repeal the Essential Air Services Program. I am writing on behalf of the remote Aleutian community of Atka, Alaska to protest the elimination of the program.

Without the federal government subsidy provided by the Essential Air Service program remote communities in Alaska like Atka are unlikely to have any air service at all and could cease to exist. Regular scheduled transportation service is important to the sustainability of the community and to support economic activity of the local seafood processing plant owned jointly by local residents and the regional CDQ organization.

Loss of this program would be devastating to remote rural communities such as Atka and others in our region. Atka is not on a road system connecting the communities to other places nor is there any type of marine ferry service connecting Atka to other islands or mainland Alaska. Air transportation presently is the only method available providing access in and out of Atka. Costs of service are already high even with the subsidy. Without the subsidy service would be too expensive or even non-existent.

Your efforts to keep this important program funded will be appreciated by Atka residents.

Sincerely,

JULIE DIRKS,  
*City Administrator.*

Ms. MURKOWSKI. Mr. President, we have 44 communities in the State of Alaska that receive an EAS subsidy. Thirty eight of those communities are not connected in any way to this road system so they are forced to use air travel as their primary means of travel. Then one has to say: OK, that means you have six that are on a road. Why can't they use the road? Why do we have to provide EAS for these six communities?

Let's look at some of these communities. McCarthy does not have any road maintenance during the winter months. Pretty much between October and April we are looking at a situation where this community is shut off. That means no mail. That means no emergency services. That means no ability to get food supplies. They basically have to wait it out until the road thaws in the spring. If we do not have air service in a community such as McCarthy, even though there is technically a road, for about 7 months they are without.

Another of the communities, Gulkana, is on a two-lane paved road, but it is over 210 miles to the nearest medium-hub airport. The other four communities, which are Circle, Central, Minto, and Manley Hot Springs, are all located on two-lane gravel roads. They require driving distances of at least 125 miles to the nearest hub airport.

Again, we need to remember what kind of roads they are driving on. This is not like jumping on to I-95 or I-10. These are, for the most part, single-lane roads during most of the year. They are snow covered, with limited visibility. They have tough temperatures they are dealing with in the interior. It is pretty dark during this time of year. It is not a road about which one says: Let's drive to town.

It has been noted by some of the opponents of the Essential Air Service Program that the spending in Alaska is just out of whack, that it is too much. Let's look at the facts as they relate to Alaska.

There are currently 153 communities that are receiving subsidies, according to the USDOT. The Department of Transportation says there are 44 communities in Alaska and 109 communities combined for the lower 48, Hawaii, and Puerto Rico. Critics say it looks as if Alaska has almost half as many EAS communities as the rest of the United States.

OK, that may be true. We will grant that. But what they ignore, what they forget is how we compare in Alaska in conjunction with the rest of the country. I know people get tired of looking at these maps about how big we are. The fact is, we do not make this up. We do not just superimpose Alaska on a map of the country and say: Isn't this a nice shape? We put it on the map of the lower 48 States to show the size. We are not that little State that is down in the water next to Hawaii or off California, despite some of the maps that are still out there on people's walls. We are this big.

We have over 47,000 miles of shoreline, going all the way out to the Aleutians and coming all the way up—47,000 miles, more than all of the other 49 States combined. We cover an area of over 586,000 miles. We go from California to Florida, beyond the Great Lakes and into Canada.

The comment was made that if I want to go from Adak, which is one of the EAS communities, to Anchorage, which is the largest city in our State, it is a \$1,400 round-trip airfare—with EAS subsidies, I might add. But it is almost 1,200 miles. That just gets you from Adak into Anchorage. It does not get you down to the rest of the lower 48.

Put that in context and that is like going from Kansas City to Boston where, I might add, their round-trip airfare is \$571. It helps to put things in context when people are saying that Alaska is getting too much of a share of this program. Monetarily, Alaska gets about \$12.6 million in EAS subsidies. The rest of the Nation gets over \$163 million in EAS subsidies. In Alaska, we have over 700 registered airports, 1,200 airstrips, and over 10,000 registered aircraft.

When we look at how our 44 communities that receive the subsidies receive less than 10 percent of the subsidies of the lower 48, to suggest somehow they

are getting something that is not equitable, again, is important to put into context. There are no roads to most of these communities.

It was commented by my colleague from Arizona that there was a 2009 GAO report on the Essential Air Service Program. It was indicated that the GAO thought the Essential Air Service Program might have outlived its usefulness. But there is a section of that report that was left out. I think it is important to note that the writers of that report stated:

[The] review focuses on communities within the continental United States that have received EAS subsidized service. We focused our review on these communities because the requirements for communities in Alaska are different than for communities in other States, and airports outside the contiguous States are not representative of the program in the rest of the country.

It is critically important that we look to what that full GAO report said and how it recognized that the circumstances in Alaska are entirely different and are not representative of what we see in the lower 48.

When we look to that GAO report, we need to put that into context again. Another thing that must be kept in mind when we are talking about Essential Air Service is that—what we are all talking about on the Senate floor—is jobs, what is going on with jobs. The number of jobs that would be lost, the economic impact that would result from the repeal of this program in Alaska would be consequential.

Aviation in our State provides \$3.5 billion to the economy. It represents 8 percent of the gross State product. It is the fifth largest employer in the State, employing about 10 percent of our total workforce. And it is not just the jobs that would be lost, these folks who handle and sort the mail, load the packages into the aircraft would likely lose their jobs. The commercial fishermen, the workers at the fish processing plants would be impacted. Emergency medical professionals, the tourist industry, recreational professionals—they would all feel the negative impact of the repeal of EAS in Alaska. All of these vital industries and services are connected to the everyday Alaskan by one common thread, and that is aviation.

Many of us look forward to the wild fresh salmon that comes out of the Copper River in May. That comes from a community in Prince William Sound, Cordova. Mr. President, 2,200 people live there. They receive Essential Air Service. The fact that they are able to fly into this community that does not have access to a road allows those fishermen to receive a price for their product that maintains and sustains them. The repeal of EAS means hundreds of my constituents would be forced to purchase expensive airline tickets just so they would have access to the most basic and yet very essential things.

Kodiak Island is the recipient of a lot of our EAS communities. Island Air is an airline that services these 12 communities. Eleven of these communities

are served by float planes because there is no runway. So we don't even have the basic runway. You are flying in on a seaplane. Two of the communities Island Air supports are Karluk and Alitak. Round-trip airfare from Karluk to Kodiak, which is sitting right in here, is \$254 a person, to Alitak it is \$346 a person. Flights to these locations occur only three times a week. So if you are going to fly into Kodiak, you have to assume you are going to have a couple nights of hotel costs—lodging expenses—so this brings the price of your trip to about over \$500. But if the EAS Program is repealed, the cost per person to get to these locations jumps to over \$1,800, and that is just to get from the little village to Kodiak. This is not getting you to Anchorage, where you can get medical services. It is not getting you to where you can get to the shopping you and your family might need. These expenses are also just for the airfare and not for the lodging. It doesn't allow for the purchase of supplies, mail, tourism or any of the other activities that members and visitors to these communities might engage in. So I think it is fair to say if we repeal EAS, Island Air will no longer be able to serve these communities. They would be forced to lay off their employees. But you don't have service to these areas.

I can't speak for every location in the United States that receives funding from EAS and tell you how each would be impacted by the McCain amendment, but I can say, without any reservation, that this amendment would create an economic and a transportation disaster for Alaska, including the loss of jobs, livelihoods, and would potentially impact health and medical situations. The complete elimination of the EAS Program could destabilize many of our rural communities, could negatively impact the integrity of Alaska's interconnected aviation system, and severely reduce air services to essential parts of the State. EAS has been and will continue to be a critical and instrumental component of Alaska's aviation transportation system network, while providing important jobs and allowing necessary and critical access to rural and isolated communities within our State and across the Nation.

I have consumed the time I was allotted this morning, but I cannot repeat enough, I cannot reiterate enough the importance of a program such as Essential Air Service to a remote and rural State such as Alaska. It truly is essential. When this amendment comes before the body, I would urge defeat of the McCain amendment.

With that, I yield the floor.

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

Mr. ROCKEFELLER. Mr. President, I am only going to comment for a minute, but what the Senator from Alaska has just said is completely true. It also points out the overall philosophical question of what are we doing

with this bill: Are we going to pass it or fight over all these slots? I am for passing the bill and leaving slots for conference or whatever, unless we can work something out. Nobody wants to agree. Everybody thinks they have the leverage. Maybe they do, maybe they do not. But in the meantime, this bill, which has been languishing for all these months, in fact, solves one of the problems of Alaska in its entirety because of the NextGen system, which I have been talking about—and which I could talk about more but not today—which is a global satellite network. It will provide the safety and capacity that is needed for safe flight in tricky weather, where weather changes very quickly, and, in fact, it is now in place in Alaska.

So that doesn't, in any way, take away from the Essential Air Service problems which the Senator from Alaska is talking about. I totally agree with her on that. But it just shows that if we hold up this bill and make ourselves slaves to working out slots agreements, which probably can't be worked out on this floor—maybe they can, I hope so, but I doubt it—we are depriving her State and others—but hers in particular since hers is a test State which has this system in place because of the changing weather, because of the unpredictability of virtually everything when you are flying. It is in effect there and in four other States. We are trying to get it to all States. This will change the whole future of aviation.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

#### THE PRESIDENT'S BUDGET

Mr. HATCH. Mr. President, today, the President released his budget for fiscal year 2012. If this is his idea of a Valentine's gift to America and to the American people, he has an odd way of showing his affection. It is the equivalent of taking your fiancée to dinner, asking her to marry you, and then leaving her to take care of the check, your maxed out credit cards, your underwater mortgage, and the bill for the ring.

This budget is, quite simply, an abdication of adult responsibility, and it is a particular abdication of the responsibility of the President of the United States, who takes an oath to protect and defend our Constitution. Our economy is dealing with the hangover from the 2008 economic collapse, the greatest fiscal crisis I have seen and that we have seen in several generations. Our recovery has been sluggish, and it is not being helped by this administration's regulatory overload and ObamaCare, which is set to kill 800,000 jobs.

We can already see a still larger crisis approaching. This is nothing short of an existential challenge. Continued deficits and accumulated debt are a genuine threat to individual liberty, continued prosperity, and national security. Absent immediate action—and

let me stress this needs to be immediate action—we face a future where our union is not more perfect and where government will stand in the way of enterprising businesses and citizens whose only wish is the opportunity to thrive. Yet the President's response to this impending disaster is to vote present. His response is to pass the buck.

With due respect, the budget released today is a sorry joke. I would hate to be the White House staffers forced to spin this budget as a step in the right direction. The United States is demanding a "Churchill" on the issue of deficits and debt, but the administration has delivered us a "Chamberlain."

Let me break this down. The administration is going to reduce the deficit by \$1.1 trillion over 10 years. That sounds like a mighty big number, and I am sure the White House has some consultants who have told them the American people can be duped into thinking this represents meaningful deficit reduction or change. Let me be clear. This is not meaningful deficit reduction. The administration wants to reduce the deficit by \$1.1 trillion over 10 years. What does the administration project the deficit to be for this fiscal year—\$1.65 trillion. At 10.9 percent of the gross domestic product, this is the largest deficit as a share of the economy since World War II. Unbelievable.

But it is consistent with the way Democrats have behaved since taking over Washington. In 2010, the deficit was \$1.3 trillion and in 2009 \$1.4 trillion. So let us put this in perspective. The administration is out there touting today its fiscal responsibility. Yet its 10-year total deficit reduction is smaller than this year's deficit.

The President's much touted 5-year freeze on discretionary spending, which will save \$400 billion, is smaller than the Congressional Budget Office's recent upward revision of the 2011 deficit. Spinning this budget as the fiscally responsible thing to do betrays a profound lack of respect for the intelligence of the American citizens.

This budget contains \$53 billion for construction of high-speed rail in Florida, California, and several other States. If there is a bigger government boondoggle out there, I am not aware of it. But the Vice President, in promoting this spending spree, tells Americans they need to get a grip. With due respect, the American people's grip on the situation is fine. They understand something that apparently has eluded the best and brightest over on Pennsylvania Avenue—we are out of money.

The well that has been financing the New Deal, and the New Frontier, and the Great Society, and the stimulus, and ObamaCare has finally run dry. It is past time that we stop playing politics with the deficit and debt and make the tough choices necessary to put America's finances back on solid ground. Yet there is no effort in this budget to take care of our long-term fiscal problems—none at all.

Not even the Washington Post is able to spin this one. This is a \$3.7 trillion budget. What is the future of our deficit and debt? This is what the Post had to say. After next year, the deficit will begin to fall, “settling around \$600 billion a year through 2018, when it would once again begin to climb as a growing number of retirees tapped into Social Security and Medicare.”

The new normal under this budget is one of permanent budget deficits, long after President Obama has returned to private life. He will be out working on his Presidential library while Americans are left holding the bag for his big spending policies. He may not want to admit it, but the most fitting volume for his Presidential library might be “The Road to Serfdom.”

How exactly does the administration propose to pay for Social Security and Medicare and national defense under this budget? The bottom line: It doesn't. This budget amounts to gross negligence. Even the progressive blogger, Ezra Klein, concludes that when reading this budget, it is almost like the fiscal commission never happened.

Remember that? The President's fiscal commission? It issued a report recommending over \$4 trillion in cuts, including adjustments to entitlements. It offered controversial but appropriately bold proposals to get our Nation back on track. The President and his team looked at those proposals and bravely decided to leave this problem to the next administration and future generations.

Clearly, I am not a fan. But there is one useful item to consider in this budget. It is what progressives might call a teachable moment.

To achieve these paltry deficit reduction numbers, the administration had to resort to massive tax increases.

As the Post concludes, the tax hikes in this bill will be around \$1.6 trillion over 10 years.

Here is the point that people need to be reminded of.

Even with possibly more than \$1.6 trillion in job killing tax increases in this budget, it still comes nowhere close to reining in our deficits and debt.

For years we have heard Democrats say that if the rich people and businesses paid their fair share in taxes, we could balance the budget and reduce the debt.

Well, they sure tested it out in this budget.

They soak the so-called rich and American business with a fire hose, and yet we are still facing trillions in debt and hundreds of billions in deficits.

After the much maligned Bush tax cuts expire and undermine small business job creation, according to the President's own numbers we will still have to borrow an additional \$7.2 trillion through 2021 to pay the bills that are coming due from the Obama administration's spending policies.

This budget should be a turning point in our debate about deficit and debt reduction.

Tax increases simply cannot get us there.

Unfortunately, the message that tax increases lead to deficit reduction is the Democrats' good word.

Over the past decade, I have participated in many discussions about spending and tax policy.

As my colleague from Iowa, Senator GRASSLEY, has noted, Democrats basically have two talking points.

First, all of the good fiscal history of the 1990s was derived from the partisan tax increase bill of 1993.

And second, all of the bad fiscal history taking place within the past 10 years is owing to the bipartisan tax relief plans originally enacted during the last administration and continued under the present administration.

The Democrats' platform does have the virtue of simplicity: higher taxes—good; lower taxes—bad.

This record needs to be corrected. Regular viewers of C-SPAN 2 have probably heard others on my side do so before.

But it bears repeating, particularly in light of today's budget, that higher taxes will not right our fiscal ship.

The myth that higher taxes lead to lower deficits is a persistent one.

This is the mainstream account of the Clinton tax hikes.

According to this theory, the positive fiscal history of the 1990s resulted from the 1993 tax increases.

It is a simple enough argument.

According to the other side, by raising taxes and taking more money out of the economy, the government successfully reduced the deficit.

Yet, as you can see from this chart, the Clinton administration's own Office of Management and Budget concluded that the 1993 tax increase accounted for only 13 percent of deficit reduction between 1990 and 2000.

As a percentage of deficit reduction, the 1993 tax increase ranks behind other factors such as defense cuts—and interest savings.

The message here is simple.

Tax increases did not drive deficit reduction.

It may seem counterintuitive, but raising taxes does not necessarily mean that revenues collected by the government, as a percentage of GDP, will increase.

Consider this chart, which compares changes in Federal revenues as a percentage of GDP for two key 4-year periods. Each of these 4-year periods was preceded by a major tax policy change.

The first 4-year period occurred after the 1993 tax increase was enacted.

The second 4-year period occurred after the Jobs and Growth Tax Relief Reconciliation Act of 2003 was enacted.

The Jobs and Growth Reconciliation Act was the second of the major tax relief bills enacted during the last administration. It featured reductions on tax rates of capital gains and dividends.

Let's take a look at the first of those 4-year periods in each case.

One year after the 1993 hike, we do see increased revenues.

One year after the 2003 tax cut, revenues drop.

But take a look at the second through fourth years following the adoption of each bill.

You will see that the trend of the first year reverses itself in the second year after the tax hike.

As the policies in both bills had time to take effect, the revenue patterns are clear. The positive change in revenue was generally greater after the tax cut bill than it was after the tax increase bill.

There is no doubt that our deficits are a serious issue. They threaten the future of our Nation. It is irresponsible, however, to say that our dire fiscal situation is the result of the government not extracting enough money from the people who actually earn it.

The President's budget, with its massive new tax increases and permanent deficits, demonstrates yet again that our problem is spending.

Our budget deficits are being driven by spending.

Spending has not grown arithmetically.

Spending has not grown geometrically.

Spending has grown exponentially.

Over the past few years, while Democrats exercised complete control over Washington, non-defense discretionary spending has grown by 24 percent. As I have said before, that figure does not even include the bloated stimulus bill, enacted in early 2009.

Yet these deficits continue to grow in spite of increased revenues.

On January 26, CBO published its Budget and Economic Outlook for Fiscal Years 2011 through 2021. I am going to quote from that report. By CBO's estimates, Federal revenues in 2011 will be \$123 billion—or 6 percent—more than total revenues recorded two years ago, in 2009.

This increase in Federal revenues for 2011 includes the net effect from a 1-year across-the-board reduction in payroll taxes.

The important fact here is that revenues have increased over the past 2 years, and the deficit has still increased. Our deficit and debt problems are not being driven by tax relief.

Despite this evidence, many of my friends on the other side still see raising taxes as the best and only solution.

They want to fund out-of-control spending by taking even more money from the people who actually earn it.

Proponents of this approach know that the confiscation of what has been lawfully earned can be a hard sell.

That is the reason they resort to clever rhetoric, telling us that paying taxes is inherently patriotic.

Or we hear talking points about some people not paying their fair share.

These sound bites might sound good to the base, but they are not grounded in reality.

CBO has published a booklet entitled “The Long-Term Budget Outlook.” In

its most recent version CBO confirmed that Federal revenues have fluctuated between 15 percent and 21 percent of GDP over the past 40 years, averaging about 18 percent.

Because of the recession, revenues dipped to around 15 percent recently. But that should not deceive us into thinking taxes are abnormally low. Using current-law assumptions, CBO projected revenues to reach 23 percent of GDP by 2035.

Arguably, those current-law assumptions are unrealistic, since they assumed the bipartisan tax relief enacted in 2001 and 2003 would expire along with relief from the alternative minimum tax, at the end of last year.

Yet CBO evaluated an alternative, more realistic, fiscal scenario. In that scenario, CBO assumed that most of the tax relief enacted in 2001 and 2003 would be extended through 2020. It still assumed that tax relief would expire for so-called high-income taxpayers. But CBO did anticipate that AMT relief would continue, along with other deviations from current law.

Even using this alternative fiscal scenario, CBO found that revenues as a percentage of GDP would increase to just over 19 percent in 2020 and stay at that level for several years.

That is to say, in this scenario, the level of taxation would still be above the 40-year historical average of about 18 percent of GDP.

I want to briefly return to the January CBO analysis that I referred to earlier.

That analysis, which assumes that most of the components of the tax package enacted at the end of 2010 will continue to be extended, along with the modified estate and gift provisions also in that same legislation, calculates that annual government revenues will steadily increase going forward, but will still average about 18 percent of GDP through 2021.

I have spent the past few minutes discussing CBO projections of various policy scenarios.

I am sure this presentation has made for some very gripping television.

But the point I am trying to convey is a critical one.

The fiscal reality is that taxes are not abnormally low.

Continuing current tax policy yields Federal revenues at about the historical average of GDP for the past 40 years.

Increasing taxes on anyone, even so called high-earners, will push government revenues above the 40 years' historical average, as a percentage of GDP.

I know there are many who would still support raising taxes above this historical level.

The President made clear today that he certainly does.

But it is important to heed the words of the CBO before we raise taxes.

In its Long-Term Budget Outlook, CBO had this to say about a scenario where the bipartisan tax relief of 2001

and 2003 expired, along with AMT relief.

According to CBO:

Marginal tax rates on income from labor and capital would rise considerably under the extended-baseline scenario. The increase in the marginal tax rate on labor would reduce people's incentive to work, and the increase in the marginal tax rate on capital would reduce their incentive to save.

The basic point I am making is that tax hikes are not like finding a pot of gold at the end of a rainbow. That money comes from somewhere, and there will be consequences to redistributing it.

Moreover, as we saw in the budget released today, even spiking taxes by over \$1.6 trillion will not help us to balance our books.

Abnormally high spending drove the deficits of the past. It is driving the deficits of today. And it will drive the deficits of the future.

Some folks, in response to the question of whether the President is triangulating after the drubbing Democrats took in November, have answered no. He's just being himself.

You can say that again. He supported big government as a community organizer. He supported it as a Senator, on this floor and in committees.

He supported it as a presidential candidate, and he supports it today.

But the stakes are higher now.

He is the Nation's chief executive, and ultimately the President is responsible for guiding our Nation through the treacherous waters of an impending fiscal crisis. These are not easy shoals to navigate yet the statesman cannot shirk his duty.

As Senator Henry Clay once put it, "I would rather be right than be President."

Some things are bigger than the next election, and getting our deficits under control is one of those things.

The American people know that President Obama's budget is not right.

The present administration is spending almost 25 percent of our GDP, historically high except during and shortly after World War II. The last time we had that kind of expenditure was in 1950. That is why I am so strongly for a balanced budget constitutional amendment. I wish we did not have to go to that, but I don't see any other way we will get spending under control because I think Congress has been institutionally incapable of bringing down spending.

One reason is that with the help of the mainstream media, Members of Congress actually believe they will be kept in office by spending, and up to now that has been pretty true. But the American people are starting to wake up, they are starting to realize that, as sincere as my colleagues are on the other side, their economic policies are corrupt—maybe "corrupt" is too strong word, but it is wrong, definitely wrong.

We know the American people are not going to stop demanding real lead-

ership on this issue. I feel badly because I know I personally like the President. There is no question about it. I showed him great friendship when he was here. I have shown him friendship since he was elected.

We all know that in order to resolve these problems we have to get entitlements under control. As good as some here in Congress are, we can't do it without Presidential leadership. We just can't.

I have a suggestion for the President. He would go down in history as one of the truly great Presidents if he would work with us, work together, bringing bipartisan people together and work to resolve these conflicts. You cannot do it with just 15 percent of the budget and you cannot do it with just tax increases. You cannot do it with an ever-expanding Federal Government. You cannot do it with an ever-expanding set of Federal employees. You cannot do it with ever-expanding regulations—although some of them are important. All of these things may be important, but you can't do it with those concepts. The only way you can do it is to get in and take the whole budget and work with both sides and see what we can do to bring people together and see if we have the courage to resolve these problems, not only for today but for our kids and grandkids, and, in my case, great-grandkids as well, hereafter.

I don't want the President to fail, but I have to point these things out. Let's face it, he is getting some very poor advice. Even when he wants to come to the center he gets rapped hard on the knuckles by the far left of his party, most of whom are far left, as least those here on the floor.

There are very few moderates on the Democratic side. I found most of the people who are moderates are moderate when their vote doesn't count. I think if you go back and look at the record you will find that to be true. The vast majority of our friends on the other side believe we should keep spending, keep taxing, and that will keep them in power. But all the power in the world doesn't count if we are wrecking the greatest country in the world.

I think our side has to wake up a little bit, too. We can't just do it with tax cuts either. On the other hand, I would rather have tax cuts that spur on the economy and create small business jobs than continue to spend us into oblivion.

Nevertheless, we are all going to have to work together if we are ever to get this problem solved. The only way I know to solve it is through Presidential leadership combined with courage on the part of Members of Congress.

But what they are pursuing with this budget is pathetic. There are so many budgetary gimmicks in this bill that it is plain pathetic. I will repeat what I said earlier; that is, the little over a trillion dollars, \$1.1 trillion, in deficit reduction this budget will achieve over 10 years is barely \$100 billion a year.



The total proposed deficit reduction is not even as much as our deficit for this year alone. During those 10 years, there will be hundreds of billions, if not trillions, of dollars of additional deficits until we reach a point, in about 2022, where we will be around \$22 trillion in debt.

I do not know about you, Mr. President, or anybody else in this Chamber, but I think it is time for us to start standing up. I think it is time for the President to lead. I think the Democrats who have control of the bureaucracy ought to start working with us on to get that bureaucracy trimmed down. Let's consider the one aspect of constitutional politics that has worked; that is, allowing 50 States to participate, and through 50 State laboratories we can pick and choose the things that work best. Had we done that with health care, we would not be in the mess health care is today, and the oblivion it is headed for.

We cannot fix this deficit problem with tax increases. Frankly, my experience has been that tax increases do not work. What does work is giving the small business sector incentives, real incentives, not "investments" but real incentives to keep creating the 70 percent of jobs that only the small business sector can do.

If we increase those taxes, we are going to be in a mess. I can tell you, the budgeteers at OMB and CBO, as sincere and dedicated as they may be—I like Mr. Lew very much, and I think Mr. Elmendorf is a very fine budgeteer and economist—are always low in their estimates of deficits. It could be much worse than what we know right now. I hope we will have the guts, I hope the President will have the guts to lead, and I hope we would have the guts to follow that lead, and hopefully turn this ship of state around.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. BEGICH. Mr. President, I want to talk on Essential Air Service, but I do want to make a couple of comments after hearing my colleague from the other side talk about the budget. I want to assure him, there are some moderates over here who understand the value and the managing of the budget. If someone comes from Alaska, you know we support gun rights, oil and gas drilling, we support a lot of things as Democrats that the Senator may not be aware of.

But the other thing is, leadership is about all of us working together. I look for the President's budget, but that does not mean we are going to sit here and wait for him to make all of the decisions. We have a responsibility here. I know last year, I sat here and voted for the Sessions-McCaskill amendment that would have reduced some of the spending, controlled some of the spending. We could not get all of the votes on the other side to make it happen.

I supported every dime that came back from the TARP repayment to go

to pay off the deficit, which now we are close to 80 percent or better of that money coming back, maybe as much as 90 percent. I supported the Gregg and Wyden legislation, a bipartisan effort to deal with tax reform to get corporate rates from the second highest in the world back to about midstream; lowering the six individual rates down to three rates; making it simplified so people can fill out their taxes on one form, and getting rid of a bunch of loopholes.

It is the combination of all of us that will create leadership. It is not one person; it is not one President. It is Republicans and Democrats and Independents sitting on the floor making tough decisions, not a bunch of political speeches. Let me end there and get to the topic I wanted to talk about. At some point I will come down here and talk about the budget as it is rolled out. I know on the Budget Committee we will have plenty of presentations on that.

I came down here to talk about Essential Air Service. I want to thank Chairman ROCKEFELLER and Senator HUTCHISON for their leadership on this very important bill. They have worked tirelessly to pass this bill in the 111th Congress, and they are again putting in long hours on it this year.

The bill before the Senate is an incredibly important piece of legislation. The FAA bill is about creating jobs. It puts Americans to work rebuilding our Nation's deteriorating airport infrastructure. It modernizes our air traffic control system to reduce congestion in the skies, and it makes our Nation's air space safer and more efficient.

There are so many important reasons why we should succeed in passing this legislation, which passed the Senate 93 to 0 last year. Even in a year that was marked with contentious and partisan battles, this FAA bill was truly a bipartisan piece of legislation, and this can largely be credited to the hard work of Chairman ROCKEFELLER, Senator HUTCHISON, and their staffs.

This bill has been delayed far too long. We are currently on the 17th short-term extension since the last comprehensive FAA bill expired in 2007. We owe it to the American people to help reduce airport delays, put Americans back to work, and provide the 21st century air space our Nation needs to facilitate commerce and compete in a world economy.

This bill is especially important for States such as mine. Aviation is the lifeblood of Alaska. It is truly our highway in the sky. We have six times more pilots and 16 times more planes per capita than the rest of the country. In Alaska small planes are the equivalent of minivans in the lower 48. They are how Alaskans get around.

I wish to talk briefly about the Essential Air Service Program, which is vital to my constituents. My friend from Arizona has introduced an amendment which would repeal the Essential Air Service Program. I truly have

grave concerns for what this would mean, not only for my rural Alaskans but for rural Americans as a whole.

The Essential Air Service Program originated at the same time as airline deregulation in 1978. When airline deregulation passed, it gave airlines almost total freedom to determine which markets to serve domestically and what fares to charge for that service. This is not a bad thing. Some good things came out of airline deregulation. It fostered competition among airlines. It brought down ticket prices for many air routes between large urban centers.

But when Congress passed airline deregulation, it also recognized that something needed to be done to protect rural communities. They were not the most profitable routes for air carriers, so the idea was to maintain a minimum level of service. That is where the Essential Air Service Program came in. The program provided modest subsidies to air carriers to provide service to communities that would have otherwise lost all air service through deregulation. Since 1978, the Essential Air Service Program has successfully guaranteed small communities that were served by certified air carriers before deregulation that this would maintain a minimum level of scheduled air service. The program has been a vital link for rural America.

There are very real consequences to eliminating this program for my constituents, especially in the 44 communities served by the EAS Program. Let me show you this poster. This poster shows Alaska's limited road infrastructure. Eighty-two percent of Alaska's communities are not on the road system and rely on aviation as a primary means of transportation, for goods, people, mail. It all has to come by aircraft. Let me not confuse those who are watching. We did not oversize the State of Alaska. Alaska does not sit down here by California or in a little box somewhere. This is actually the size of Alaska in comparison to the lower 48.

The red lines show the road network. You can imagine the road network that would be shown in the lower 48. But this is all of the road network we have. So for the rest of the State it is by air or boat. People in communities face some of the highest costs of living in the country. Rural Alaskans cannot drive to a Safeway when they need something. There are no roads, and there are no Safeways. If you eliminate the EAS Program, it is going to drive these prices even higher in rural Alaska.

Gary Williams, from the village of Kake, sent me a letter about what the McCain amendment would mean for his community. By the way, the EAS ensures Kake receives at least three weekly flights from a small Cessna 208 aircraft during the winter. Again, this is not a jetliner. Maybe in Alaska we think a Cessna 208 is a jetliner, but that is a very small plane.

Gary Williams in Kake says:

I frankly cannot imagine being without service. It would isolate and cripple us on many levels.

In addition to eliminating the only source of transportation for many communities, Senator MCCAIN's amendment would actually put people out of work. It would hurt small businesses in Alaska and across this country. It is truly a job-killing amendment.

I wish to read from a letter my office received from the owner of PenAir. PenAir is a family-owned business, started in 1955 by a young 19-year-old teenager named Orin Seybert. When Orin started his business in 1955, he had a two-seat Taylorcraft and a four-seat Piper Tri-Pacer. Orin is a great example of the pioneering spirit that embodies Alaska. Over the years Orin grew the business into a successful regional air carrier, serving communities throughout rural Alaska. PenAir is now run by Orin's son Danny. This is a letter from Danny Seybert, the president of PenAir:

For many of these communities, PenAir is the only scheduled passenger air service link to the rest of the world.

He goes on to say if the McCain amendment is passed, it:

would have a devastating effect on many remote communities in Alaska, on many air carriers who provide those communities with air transportation services, and on Alaska's economy.

Here is an e-mail my office received from the Copper Valley Air Service. Copper Valley flies two EAS routes serving the communities of McCarthy and May Creek. The e-mails read:

If this amendment is approved, it will put Copper Valley Air Service out of business. It will cost eight jobs. This cannot pass.

This is an e-mail from Bruce Phillips, the chief pilot of Wings of Alaska: Repealing EAS would "not only diminish jobs and raise costs, but also potentially abolish air service to some communities entirely. Villages in Southeast Alaska have no roads and limited, if any, ferry service making air service a lifeline. This is how they receive everything from medication to mail to groceries as well as how they travel for medical, personal and business."

I have got a stack of these letters that my office has received in the past few days from communities that would lose air service if the McCain amendment is adopted, from individuals in the communities who are terrified about what this would mean for the price of goods in their communities, from those worried about the cost of air travel if they get sick and they need to seek medical attention at a hospital, and from small air carriers worried that they will either have to lay off employees or go under altogether.

I ask unanimous consent that some of these letters be printed in the RECORD.

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

NORTON SOUND HEALTH CORPORATION,  
Nome, AK, February 2, 2011.

Senator MARK BEGICH,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR BEGICH: We are extremely concerned and worried by Senator McCain's efforts to repeal EAS in Alaska. We know that these efforts will more than double ticket prices within rural Alaska. Just for our Materials Management department alone we spent over \$46,000 in freight from October 2009 to October 2010. Norton Sound Health Corporations expenditures for freight, company-wide exceed \$250,000 for that same time period.

We are asking you to please speak against the repeal of EAS in Alaska. People in rural Alaska will be terribly affected by the repeal if it passes. Recruitment and retention for medical professional staff is dependent on our ability to fly staff and household goods to our region. If passed, the repeal will more than double the costs of transporting goods, patients, critical service workers and will have an insurmountable affect on an already challenged economic situation in rural Alaska.

At Norton Sound Health Corporation we rely completely on travel to provide critical patient access to and from our villages. Air transport is the only way to bring patients into Nome, our regional hub, and to Anchorage, when needed, for appointments. We rely entirely on the Essential Air Services for keeping the cost of transporting medicine and supplies to an already exorbitant minimum.

Sincerely,

CAROL J. PISCOYA,  
President/CEO.

NANA REGIONAL CORPORATION, INC.,  
February 2, 2011.

Hon. MARK BEGICH,  
U.S. Senate, Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR BEGICH: I am writing you to express NANA Regional Corporation's (NANA) opposition to Senate Amendment 4 to S. 223, the Federal Aviation Administration (FAA) Air Transportation Modernization and Safety Improvement Act, which proposes elimination of the Essential Air Service (EAS) program. Dismantling the EAS program will create an unreasonable burden on rural Alaskans; further increasing the already high cost of living, further limiting rural residents' access to basic services, and potentially increasing rural Alaska's already high rate of unemployment.

As you know, the majority of communities in Alaska are not connected by any road system. Many of these communities are surrounded by lands that are federally protected from basic roadway transportation infrastructure or located in areas where building bridges is not economically feasible. Weather also limits transportation to many of these areas of the state.

Air transportation is the only year-round means of accessing most rural Alaska communities. Air freight brings essentials supplies like food, home heating fuel, transportation fuel, construction materials, vehicles, medical supplies and other goods and services to our villages. Even with EAS in place, the cost of air transportation affects all aspects of rural Alaskans' lives, affecting the consumer price of most goods. Transportation costs dramatically affect the cost of living in Kotzebue, the NANA region's hub village, where the cost of living is 61 percent higher than Anchorage, Alaska's most urban city located on a road system.

In addition to living costs, the cost of air transportation affects rural Alaskans' ability to access basic services that are available

to urban Americans or Americans connected to a road system. Air transportation is often the only access that rural Alaskan's have to critical medical care that cannot be supplied locally. Public safety is also affected by access to air transportation. Many communities do not have local public safety officers and, in the event of an incident, public safety officers have to be flown into communities.

The EAS program exists to ensure rural communities have access to air transportation services despite the fact that they have a limited number of passengers to offer certain air carriers. As you know, 45 communities in Alaska receive financial support from the EAS program and with most of these areas receiving guaranteed service, even if it is not subsidized, because of the EAS program.

The EAS program has a profound economic affect on our region and all of rural Alaska, creating reliable air service and making air transportation affordable for most rural Alaskans. Eliminating this essential program would create further barriers to the success of the most rural reaches of our state. Organizations in Alaska, including NANA, are working hard to create viable rural economies. Eradicating the EAS program would strike a significant blow to the progress these organizations have been able to make.

It is important for citizens of the United States to have reasonable access to the rest of the country. EAS guarantees Alaskans, who are citizens of this great nation, the same access afforded to Americans who live in areas of the country where the federal government has spent trillions of dollars to develop surface transportation alternatives. Preserving the EAS program will ensure that our rural Alaska communities are not forgotten as Congress and the federal government work to improve our national economy. NANA supports the EAS program and it is our hope that SA 4 to S. 223 will be defeated.

Taikuu,

MARIE N. GREENE,  
President/CEO.

CALISTA CORPORATION,  
Anchorage, AK, February 1, 2011.

Re SB 223 Repealing Essential Air Service.

Senator MARK BEGICH,  
Russell Senate Office Building,  
Washington, DC.

HONORABLE SENATOR BEGICH: Senator McCain has introduced amendments to bill S. 223, to modernize the air traffic control system, improve safety, reliability, availability of air transportation in the United States, provide air traffic control modernization, reauthorize Federal Aviation Administration, and repeal Essential Air Service subsidy program (EAS). We strongly oppose any actions to repeal the EAS program for the eligible communities for which it was intended for.

The essential in EAS is just that: "Essential" to the access, survival, and economy of isolated and rural communities throughout America, as well as Alaska which do not have alternatives:

The EAS program was intended for—and has successfully kept—scheduled air service to those cities and rural Alaskan communities that were served at the time of deregulation, and, which would otherwise lose or have lost ALL air service after the airline deregulation of 1978, and in any anticipated subsequent and more recently poor market conditions.

EAS ensures small communities served by air carriers before the deregulation, can maintain minimal service to retain their

link to the national air transportation system. It guarantees air service even during: low passenger volumes; low profitability to air carriers; less than ideal operating conditions (great distances and remote areas, weather, and mountainous terrain); and periods where air carriers will simply leave for better, easier, and more profitable market areas.

EAS provides and maintains stability to the National Aviation Transportation System and network in America, by ensuring the system is not overly modified or changed suddenly, again simply due to carrier profitability in some communities or areas at the expense of those smaller and less profitable markets.

EAS keeps ticket prices to MANY smaller rural communities down. As an example, even with EAS subsidies, ticket costs to some communities can be over \$1,100, such as Adak, Alaska, and other cities ranging in population from 35,000 to a few hundred. Nearly every community in Southeast Alaska depends on EAS to receive jet and even any scheduled air service in that area. Without EAS, ticket prices would more than DOUBLE costs of air travel to RURAL communities throughout Alaska; as well as in many cities throughout the U.S.

In Alaska, EAS provides funding subsidies to 44 of 300+ communities, with 38 of those relying on aircraft as the primary access and transport mode because there is NO other transportation access alternative—they are completely isolated from any roads.

The EAS program provides an average \$285,559 community subsidy in Alaska, as compared to the average subsidy in other U.S. communities of \$1,495,505. Other U.S. communities actually have roads and other transportation mode options and backup.

Unlike most parts of the U.S. with a long history of infrastructure building and access to well established National Transportation System roads, highways, railroads, buses, ferries, and airports; Alaska is a new state and the only state in the union where a majority (82 percent) of our 300+ remote communities are inaccessible and unlikely (due to being largely or entirely surrounded by Federal wilderness, preserves, park, and restricted lands) to ever become accessible by roads! This problem was realized during the original drafting, debates, and establishment of the EAS program. Airports and airways in Alaska have had to by necessity, had to serve as 'highways' in order to provide reliable, scheduled air service that would become essential to the health, safety, economy, and literally survival of people living in our state. We have 8 times the enplanements and 39 times the freight per capita compared to the rest of the U.S.; and aviation provides 1 in 10 jobs and is the 5th largest employer in Alaska.

Even the smallest of air carriers often provides a full or part time job in most communities they serve assisting with schedules, passengers, and cargo; while, each runway and airport also has an employee to maintain and operate the smallest of facilities. Airport, carrier, and related service positions provide critical jobs that help support the economy and rural communities.

A better solution (rather than repeal an entire important program such as EAS), would be updating the criteria utilized for EAS eligibility; as well as, including consideration of what nearby airports, carriers, and modes of transportation communities have for access options to receive EAS program funds.

In summary, complete elimination of EAS could destabilize some small communities, would have an extremely negative impact on the integrity of Alaska's interconnected aviation system, and seriously reduce air

service. EAS has been and will continue to be critical for the aviation transportation system network, provides important jobs, and enables access for rural isolated communities across America.

Thank you for your attention and consideration to this serious matter. Please do not hesitate to contact us with questions, or if we can assist in defending this essential program (907) 644-6309.

Sincerely,

CHRISTINE KLEIN, AAE,  
*Executive Vice President & COO.*

ORGANIZED VILLAGE OF KAKE,  
*Kake, AK, February 1, 2011.*

Re Essential Air Service to Rural Alaska.

Senator MARK BEGICH,  
*Hart Senate Office Building,*

Washington, DC.

DEAR SENATOR BEGICH: Our office received word late this afternoon that was released by the Alaska Air Carriers Association, reporting that a bill (or amendment to a bill) is being introduced in the Senate for the repeal of the Essential Air Service program. This program serves rural areas throughout the U.S., including many areas in Alaska. Further, we understand that you will be speaking tomorrow against this bill; thus, we are providing this letter in the hope that it can assist your efforts, and we are confident similar efforts from Senator Murkowski and Congressman Young.

As fellow Alaskans, we all know the need to retain the Essential Air Service program for our rural areas. Loss of the program would be crippling to the many rural communities that rely on it—its title so accurately describes its function—it is "essential" to the health & welfare, economy, education, and the list goes on and on. All of these communities are an integral part of the fabric of Alaska and we cannot let them be unjustly harmed, which would surely occur if a necessity as basic as transportation is crippled.

Each community has a story, with many similar needs around the State, and ample justification to retain the Essential Air Service Program. Allow me to briefly share our situation, with the hope that it can assist in the defense of this important and essential program. The community of Kake is located on an island in Southeast Alaska and is without road access to other communities. We are extremely reliant on safe and effective air service for basic transportation to/from other cities for health care, business, education, pleasure, etc.—essentially any goods or services that require a transportation connection. In addition to passengers and freight, reliable and daily delivery of U.S. mail to/from Kake is critical for both business and personal. The reasons for this necessary service to Kake are based on essential requirements that will allow the community to function and live in today's society—with an adequate number of daily flights absolutely required to meet those needs.

Please feel free to contact our office for further information and as always, thank you for your efforts on behalf of our community and others around our great state.

Sincerely,

CASIMERO A. ACEVEDA,  
*President.*

PENAIR,

*Anchorage, AK, February 1, 2011.*

Re Essential Air Service in the State of Alaska.

Hon. MARK BEGICH,  
*U.S. Senator, Russell Senate Office Building,*  
*Washington, DC.*

DEAR SENATOR BEGICH: I am President and Chief Executive Officer of Peninsula Air-

ways, Inc. ("PenAir"), the largest commuter airline in Alaska with several hundred employees. PenAir provides critical passenger, cargo, and mail services to dozens of remote communities throughout southwestern Alaska, from the Aleutian Islands in the west to Unalakleet in the north, to our base at Anchorage in the east. For many of these remote communities, PenAir is the only scheduled passenger air service link to the rest of the world.

It has come to our attention that an amendment has been proposed in the U.S. Senate to eliminate the federal government's Essential Air Service ("EAS") Program. Such an amendment, if passed, would have a devastating effect on many remote communities in Alaska, on many air carriers who provide those communities with air transportation service, and on Alaska's economy. Accordingly, PenAir respectfully asks that you vigorously oppose any such amendment.

The EAS Program was established by the U.S. Congress to ensure that smaller communities would retain a link to the national air transportation system even if federal subsidies were necessary to maintain such service. It is a particularly important program for Alaska because, as you well know, the federal government's ownership of lands in Alaska and the limited access to those lands means that air transportation is the only way to reach most rural communities in Alaska.

For its part, PenAir currently provides subsidized essential air service to the remote communities of Akutan, Atka, and Nikolski. Other small and large air carriers provide subsidized air service to dozens of other communities throughout Alaska.

Without the EAS Program and corresponding federal subsidies, service to these remote Alaskan communities would simply not be economically viable, and therefore these services—including PenAir's scheduled Atka, Nikolski, and Akutan service—would be discontinued. As a result, the residents and businesses in these communities would lose their only scheduled passenger air transportation service, effectively cutting them off. PenAir would also be compelled to reduce the ranks of its employees and its aircraft fleet as its route network contracted with the discontinuation of these essential air services. And, of course, with the loss of these scheduled passenger air services and the jobs associated with those services, Alaska's economy would suffer greatly as well. In sum, the elimination or repeal of the EAS Program would have devastating effects on the remote EAS communities in Alaska that rely on these services and on the air carriers that serve them.

PenAir therefore respectfully asks that you vigorously oppose any such elimination or repeal of the EAS Program.

Sincerely,

DANNY SEYBERT,  
*President.*

TO WHOM IT MAY CONCERN: I would like to express my immense concern over Senator McCain's amendment to bill 223 proposing to repeal Essential Air Service. This would not only diminish jobs and raise costs but also potentially abolish air service to some communities entirely. Villages in Southeast Alaska have no roads and limited, if any, ferry service making air service a lifeline. This is how they receive everything from medication to mail to groceries as well as how they travel for medical, personal and business.

Air carriers cannot afford to personally subsidize service into small communities whose population is not great enough to support air service. Disruption in air service

will have deep reaching effects that are far removed from simply loss of airline service, loss of airline service may well affect the viability of some communities that we presently serve.

Sincerely,

BRUCE PHILLIPS,  
Chief Pilot.

40-MILE AIR,

Fairbanks, AK, February 1, 2011.

TO WHOM IT MAY CONCERN: We serve two communities under an Essential Air Service contract. Then communities are in remote, road less areas of Alaska. These communities, others like them and businesses like ours will be economically devastated if the Essential Air Service contract was to end.

Their ability to get essential things, like groceries and medications will become very difficult and cost prohibitive. I believe communities that do not have year round roads should continue to receive Essential Air Service subsidies.

Thank you for your time and consideration.

Sincerely,

LEIF WILSON,  
President.

ALASKA AIRLINES,  
Seattle, WA, February 2, 2011.

Hon. MARK BEGICH,  
U.S. Senate,  
Washington DC.

DEAR SENATOR BEGICH: We are writing to express our concerns regarding Senator McCain's proposed amendment to the pending FAA reauthorization bill to repeal the Department of Transportation's Essential Air Service program. Given the vital importance of the EAS program to the state of Alaska, we are opposed to any modifications to the program that in any way affect EAS service in the state.

The EAS program is part of the critical transportation infrastructure in the state of Alaska. On a statewide basis, the EAS program provides compensation for service by 13 carriers to 47 communities. Quite understandably, no other state has comparable air service needs. Without it, many parts of the state would suffer from lack of connectivity to the larger cities within the state and beyond. Alaska Airlines operates under two EAS agreements in the state of Alaska, one to serve Adak and the other to serve the Southeast Alaska communities of Cordova, Gustavus, Wrangell, Petersburg and Yakutat. Under these agreements, we connect these communities on a single-flight basis to our Anchorage, Juneau and Seattle hubs, providing for both their passenger and cargo needs. It also bears mentioning that, in enacting EAS legislation, Congress recognized the state of Alaska's special needs by providing that the EAS program would uniquely cover cargo as well as passenger service in the state. As you are very much aware, these EAS communities are extremely remote and not accessible by road. Air service is truly "essential" for them.

Alaska's air service to Adak and these Southeast Alaska communities would simply not be economically feasible without EAS compensation. Alaska Airlines, having provided EAS service to these communities for decades, views its relationship with them as extending well beyond a traditional commercial airline relationship. The company readily acknowledges its special continuing obligation to serve as their vital transportation link to our hubs within the state and beyond. The EAS program is critical to our ability to provide such service.

We sincerely appreciate your support for the program and respectfully encourage you to oppose Senator McCain's amendment.

Sincerely,

W. L. MACKAY,  
Senior Vice President.

ALASKA AIR  
CARRIERS ASSOCIATION,  
Anchorage, AK, February 2, 2011.

Hon. MARK BEGICH,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR BEGICH: The Essential Air Services program allows 45 communities in Alaska to be connected to life sustaining services. Alaska is approximately 1/3 of the communities served under EAS contracts, however, expenses to serve these 45 communities are less than 10% of the EAS program.

Alaska has the largest aviation system in the US, which includes 700 airports and 1,200 airstrips. Over 10,000 aircraft are registered in the State of Alaska. These aircraft are the backbone of transportation for the State. Alaska is served by 304 certificated carriers, of which over 90% employ less than 10 employees.

Eighty-two percent of our communities are not accessible by road and rely on air transport for all life sustaining goods and services. Alaska's people travel by air eight times more often per capita than those in rural areas of the Lower 48, and ship 39 times more freight per capita—nearly one ton per person per year.

Aviation in Alaska provides \$3.5 billion to the State's economy, is eight percent of the Gross State Product, and is the fifth largest employer in the State, employing 10% of our total workforce.

Since 1966 the Alaska Air Carriers Association (AACA) has represented the interests of aviation businesses in Alaska. AACA is a statewide organization representing over 150 members. Our members meet the needs of the traveling public and rural Alaskans by providing scheduled commuter travel, on-demand air charter, cargo transport, mail delivery, emergency medical evacuation, flight seeing, pilot training, aircraft maintenance, parts sales, fuel sales, storage, rental, and airline servicing.

Please help insure that the viability of communities in Alaska and small businesses struggling to survive are not unfairly swept away or categorized alongside communities on road systems in the Lower 48.

Sincerely,

C. JOY JOURNEY,  
Executive Director.  
GERARD H. ROCK,  
President.

ALASKA FEDERATION OF NATIVES,  
Anchorage, AK, February 13, 2011.  
Re AFN BOARD RESOLUTION 11-04, SUPPORTING THE CONTINUED FUNDING OF ESSENTIAL AIR SERVICES PER S. 223.

Hon. MARK BEGICH,  
U.S. Senate, Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR BEGICH: On behalf of the Alaska Federation of Natives (AFN), thank you for opposing the proposed McCain amendment repealing Essential Air Services (EAS) as it affects the air transportation services to communities in rural Alaska. EAS is a program that was set in place when the airline industry was deregulated, and it was intended to provide a notice and subsidy when community (that had regularly scheduled service as of 1978) received notice that it would no longer receive regularly scheduled air service.

The significance of the EAS program in Alaska is that it provides a vital link that

connects, sustains, and maintains our communities in rural Alaska. The communities that depend on EAS would be effectively cut off from the rest of the United States resulting in the cessation or decreased delivery of mail, food, and fuel to most rural parts of the United States, and particularly in rural Alaska, if the McCain Amendment is enacted.

The attached AFN Board Resolution 11-04 was passed unanimously by the Board of Directors of AFN in a duly called meeting where a quorum was present. This resolution fully supports your efforts on the floor of the U.S. Senate as the U.S. Senate is considering S. 223. Keep up the good fight!

Sincerely,

JULIE E. KITKA,  
President.

RESOLUTION 11-04

SUPPORTING THE CONTINUED FUNDING OF  
ESSENTIAL AIR SERVICE

Whereas: The U.S. Senate is considering S. 223 to "modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes;" and

Whereas: Senator John McCain has proposed an amendment to repeal Essential Air Service (EAS), and its repeal will likely have a negative impact on air transportation and communities in rural Alaska; and

Whereas: EAS provides a vital link that connects, sustains, and maintains our communities; and

Whereas: Alaska is a vast state, with millions of acres of wilderness and has few transportation options and ground transportation is non-existent to most rural communities; and

Whereas: EAS is a program that was set in place when the airline industry was deregulated, and it was intended to provide a notice and subsidy when community (that had regularly scheduled service as of 1978) received notice that it would no longer receive regularly scheduled air service; and

Whereas: The communities that depend on EAS would be effectively cut off from the rest of the United States, which would result in the cessation or decreased delivery of mail, food, and fuel to the most rural parts of the United States; and

Now therefore be it Resolved by the Board of Directors of the Alaska Federation of Natives, That it conveys its thanks and support to the Alaska Congressional Delegation for its support and effort to maintain the Essential Air Service (EAS) as it now exists and respectfully urges them to continue to oppose any legislation repealing EAS as it applies to Alaska.

Passed This Day, 10th of February 2011.

JULIE E. KITKA,  
President.

Mr. BEGICH. It is easy to call this wasteful if you do not understand the needs of rural communities. They do not have any other means of transportation. When he introduced the amendment, my friend in Arizona suggested that folks are bypassing Essential Air Service flights to drive to a hub and the hub airports, where they can get cheaper fares to more destinations. Consider how that applies in my State. For the community of Adak, in the Aleutian Islands, the connection to the nearest medium hub is Anchorage. I laugh a little bit, because I want to put this truly in perspective. It is almost 1,200 miles.

So if one wants to, as Senator MCCAIN says, drive to the hub, they can't do that because they are here. In order to get to here, they have to go by air or catch a boat, assuming the weather is good. So his analysis that the people are just driving off to these hubs and catching flights that are cheaper is inaccurate. He is unfamiliar, obviously, with what is going on in Alaska.

To put the number in perspective, it is about the same distance from Los Angeles to Houston, except, unlike Los Angeles and Houston, there are no roads between these two places.

I agree with Senator MCCAIN that we need to do something to address our Nation's budget deficit. Before I started this conversation, I made some comments on things I have done, and I will continue to work on that. But I don't believe we should balance the Federal budget on the backs of communities and people facing some of the highest costs of living and the toughest conditions in the country, and that is exactly what the McCain amendment would do.

When Senator MCCAIN introduced this amendment, he cited a July 2009 GAO report and suggested that the EAS has outlived its usefulness. I have that very same report. Sometimes when people make speeches, they read selectively. I wish to go to page 2 of this report. There, the GAO said:

Our review focused on communities within the continental United States—

We like to refer to them as the lower 48—

that received EAS subsidized service. We focused our review on these communities because the requirements for communities in Alaska are different than for communities in other states, and airports outside the contiguous states are not representative of the program in the rest of the country.

I can't speak for Senator MCCAIN's constituents in the four communities in Arizona that receive Essential Air Service. Maybe the folks of Kingman, Page, Prescott, and Show Low, AZ, who receive EAS don't think it is necessary. I am not sure if Senator MCCAIN has checked with them; maybe that is how they feel. But I can speak for rural Alaskans who have contacted my office, who are terrified about this amendment and what it would mean for their community, for their way of life, for the very health and well-being of their families. We are in the midst of a recovery from an economic collapse. It makes no sense to eliminate a valuable program that helps rural America and puts small business to work.

This amendment would take us in the wrong direction. I strongly urge my colleagues to oppose this amendment.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

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

#### THE PRESIDENT'S BUDGET

Mr. DURBIN. Mr. President, each year the President presents a budget. It is the beginning of the formal conversation about what next year's budget will be, and each President presents their offering and their suggestion. Then, of course, the House and the Senate have to try to reach an agreement as to what the actual budget will be. The President suggests a bottom line in spending, and then the House and the Senate make appropriations decisions within that bottom line.

Today, President Obama kicked off this conversation by presenting his budget to America. He presented it at a time when he faces two very significant challenges: how to create more jobs and less debt. It is a tough balancing act because we know that to reduce the debt, we need to reduce spending. What the President reminds us is, let's not cut spending in areas that are critical for the growth of our economy and the creation of good-paying jobs in America.

The unemployment rate is about 9 percent. Mr. President, 13.9 million Americans are out of work. In Illinois, it is 9.3 percent, with 620,000 people actively looking for jobs. Too many people want to work so they can keep a roof over their heads but cannot find a job.

At the same time, though, we have a \$14 trillion debt. I hope the Presiding Officer will forgive me for a little history because I think it is worth noting when we talk about the debt of America how we have reached the point we are at today.

The fact is, 10 years ago—10 years ago—when President William Jefferson Clinton left office, the debt of America was \$5 trillion. The President said to his successor, President George W. Bush: The budget is in surplus as I leave office. We are collecting more money than we are spending in Washington, and we project a \$120 billion surplus in the next fiscal year. Welcome to Washington, President Bush.

Now fast-forward 8 years later—the next transition, from President George W. Bush to President Obama. What was the state of play? The national debt was no longer \$5 trillion; 8 years later, it was \$12 trillion—\$12 trillion. President George W. Bush said to President Obama: Welcome to Washington. I can't give you a surplus, but I can give you a deficit of \$1.2 trillion for the next fiscal year.

In 8 years, what a massive turn of events. How did we go from a \$5 trillion debt to a \$12 trillion debt? How did we go from surplus to deep deficit in 8 years? Well, you do it by waging two wars you do not pay for, being the first President in history to call for tax cuts

in the middle of a war, and by creating programs, such as the Medicare prescription drug program, that are not paid for. Put those policies together, and you end up with the sorry state of affairs President Obama inherited. Now that deficit has gone from \$4 trillion to \$14 trillion because of the recession he inherited, and we are still struggling to get out from this mountain of debt that was created during the 8 years of the President George W. Bush administration and continues to this day.

So President Obama is trying to strike the right balance: How do you responsibly go after a deficit that calls on us to borrow 40 cents for every \$1 we spend and at the same time not kill the economic recovery? So he has tried to parse out those things that he thinks and I agree are critical for economic growth: education, innovation, and building America's infrastructure. He has done it with this budget and I think done it in a responsible way. He calls for freezing our spending for 5 years, which will save us \$400 billion off of the anticipated deficit, and he also talks about in the same period of time reducing the amount of money for domestic discretionary spending to a level, as a percentage of GDP, where it was under President Eisenhower back in the 1950s. We understand there is more to do, but I think the President sets out on a course that is responsible. We will change it—we always do—but I think the goals he has given us are worthy goals.

We know we have to act on our fiscal situation. I was appointed by the majority leader to be a member of the President's deficit commission. With Erskine Bowles, a former chief counsel to the President, and Alan Simpson, our former colleague in the Senate, our bipartisan Commission studied it for 10 months and came up with a proposal that we should deal with this budget deficit in a sensible way.

One of the things they suggested and I agreed with is, let's not cut too soon. If you cut too soon in some areas, you are going to spoil the recovery, you are going to slow down the recovery. You have to make sure the investments are there that will help us build jobs.

Now, the House Republicans see things differently. They started calling for cuts in spending and then were trumped within their own membership to raise those cuts to a level of about \$100 billion. Among the things the House Republicans want to cut are the following: \$74 million from the Small Business Administration at a time when small businesses are turning to the SBA for loans so they can stay in business and hire more people; \$1.4 billion from the clean water revolving loan fund that local communities use for basic infrastructure so they have good, clean drinking water for the families in their communities; \$600 million in TIGER II grants. These were grants that went directly from Washington to local units of government—no middleman involved at any State capital—for

economic development. We need them in my State in communities such as Peoria and Moline. They also want to cut \$2.5 billion from high-speed rail. That is a national project of significance that hires thousands of private sector employees who would be out of work if the House Republicans have their way.

In education, the House Republicans would cut \$1.1 billion from Head Start. How many people have to remind us if we don't intervene in the lives of small children from families at risk, that those kids, sadly, may end up as poor students or worse. Head Start gives them a chance, and it is one of the first programs the Republicans called to cut.

They propose to cut \$700 million from schools across America serving disadvantaged students. They are going to have to lay off 10,000 teachers because of this House Republican cut.

House Republicans also call for an \$845-per-student cut in Pell grants for 8 million college students across America. There is a way for us to make sure Pell grants are well spent, but cutting the assistance for these students will discourage some from the training and education they need to find a job in the future.

House Republicans propose to cut \$1.5 billion from grants to States for job training. Again, at a time when we need new skills, when many people have lost a job to which they can never return, cutting this money could be very tragic.

Then, when it comes to research and development, I think the House Republicans have lost their way. They want to cut \$300 billion from the National Science Foundation, cutting grants to researchers, teachers, and students across America.

They want to cut \$1 billion from the National Institutes of Health. What are they thinking, to cut \$1 billion in medical research funds from the National Institutes of Health? If there is ever an area where we cannot lose our edge, not only for the good of humanity but for the good of our own people, it is in medical research. That is one of the first areas the Republicans turn to, to cut \$1 billion; and money from the Office of Science at the Department of Energy, \$1.1 billion. That is research for innovation in areas such as batteries for electric vehicles and other forms of clean energy, and that is clearly the future. What the Republicans want to cut, sadly, is too much in areas that promise a better future for America. We can do better.

Government can't directly create jobs at the pace we need to get this economy moving forward, but we can make the right investments. For example, infrastructure. In Illinois, we need to make sure we invest in high-speed rail. I am glad our State was chosen. It is going to mean more and more passenger service within our State, fewer cars on the highway, more construction. Ultimately, it is a benefit to the

environment. So high-speed rail is an important infrastructure investment.

Modernizing O'Hare Airport, not just for the flight times so they will be more on time for arrivals and departures, but also for safety—the modernization of O'Hare needs to continue.

We need to have safer roads and bridges.

We need broadband across Illinois and across America so small towns have the same advantages as big cities.

We need to put money into Head Start for education.

We can do this. There is waste in this government to be cut. We can work on that together and find it, but let's not eliminate the jobs of teachers whom we need so badly or the money for elementary and secondary schools or grants for families and loans to help them put their kids through college, and worker training. These are things where the President has the right priorities and, sadly, the House Republicans do not. It is a sharp contrast. It is an important debate, and it is one we will hear on the floor of the Senate and the House in the weeks ahead.

We can reduce our debt. I think the President is right. His budget would reduce projected deficits by \$1.1 trillion over the next 10 years. He wants to freeze nonsecurity discretionary spending for 5 years, and I think he has shown leadership in making that proposal. We need to work with him to come up with a bipartisan plan that reaches our goal of reducing debt in America while still creating jobs.

I went through that exercise with the deficit commission. I didn't agree completely with their product, but I thought it was a move in the right direction and I joined the bipartisan group of 11 who supported it. The fiscal commission report was called the moment of truth, and it was. With funding for the current fiscal year unresolved, with the next fiscal year looming, and with the debt ceiling within shouting distance, this is a seminal moment for the fiscal and economic future of America.

I commend the President for his approach in the fiscal year 2012 budget proposal. Just as America has faced down great challenges throughout our history, we can do this too. We can meet the dual challenges of more jobs and less debt. It takes leadership and constructive activism and realism. Bringing those together, Democrats and Republicans can work together to make equally painful but important political sacrifices. It will take a lot of work, but we can do it if we work together.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## EXECUTIVE SESSION

NOMINATION OF JAMES E. GRAVES, JR., TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

NOMINATION OF EDWARD J. DAVILA TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

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

The bill clerk read the nominations of James E. Graves, Jr., of Mississippi, to be United States Circuit Judge for the Fifth Circuit and Edward J. Davila, of California, to be United States District Judge for the Northern District of California.

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

The Senator from Vermont.

Mr. LEAHY. Mr. President, I will not use all my time. I do want to note that by starting the week considering two of President Obama's judicial nominations, the Senate is building on the progress we began to make last week. With judicial vacancies in this country remaining over 100, nearly half of them judicial emergencies, the Senate's action on the two outstanding nominees we will consider is much needed. I thank the majority leader for scheduling the time. I thank the Republican leader for his cooperation.

James Graves of Mississippi is a justice of the Mississippi Supreme Court and has been a judge in Mississippi for 20 years. President Obama has nominated Justice Graves to fill a judicial emergency vacancy on the Fifth Circuit. When he is confirmed, he will be the first African American from Mississippi to serve on the United States Court of Appeals for the Fifth Circuit.

Edward Davila has been a California State trial judge for 10 years. For 20 years before his service on the bench, he was a deputy public defender and worked in private practice. President Obama nominated Judge Davila to fill a judicial emergency vacancy in the Northern District of California.

Both of these nominations were reported unanimously by the Judiciary Committee this year. Both also had been reported by the Judiciary Committee unanimously last year. We have reported them out twice unanimously. It is time now to vote on them. They were among the 19 judicial nominees we voted out unanimously and were ready to be confirmed by the Senate last year before we adjourned. When there was objection to proceeding last year, the vacancies persisted, the President had to renominate them and

the Judiciary committee had to reconsider their nominations. We passed them out unanimously from the committee. I expect the Senate will confirm both tonight and will do so unanimously.

Both have the support of their home State Senators. I will begin with Justice Graves. Both Senator COCHRAN and Senator WICKER have worked with the President and me in connection with the nomination of Justice Graves. Both have been enthusiastic in their support of Justice Graves. The Governor of Mississippi, Governor Barbour, came up to me a few days ago at an event and urged me to move forward with the nomination of Justice Graves. I told him I have been ready to move forward on this nomination since last year. This is an example of a nominee with bipartisan support. Senator FEINSTEIN and Senator BOXER have worked with the President and with me in connection with the nomination of Judge Davila.

I hope the votes we had last week and the votes we are having tonight signal the return to regular order that I have been seeking for months. Nominees who have been voted out unanimously by every Republican and every Democrat on the Senate Judiciary Committee ought to be brought up for a vote on the Senate floor without unnecessary delays. My experience over the last 37 years is that when you have nominations like these, they almost always also go through unanimously in the full Senate. These are two of the eight judicial nominees unanimously reported by the Judiciary Committee who are ready for final consideration and final action by the Senate. I hope the other six judicial nominations to fill vacancies in Georgia, California, North Carolina, and the District of Columbia will all be considered before the President's Day recess.

As I indicated before, when these two nominees are confirmed, there will still be 100 Federal judicial vacancies around the country. That is too many, and they have persisted for too long. If you are a litigant and trying to get a case heard, you do not care whether your judge was nominated by a Republican or a Democratic President, you just want to make sure there is a judge there so your case can be heard. All over the country, however, people cannot get their cases heard because of the judicial vacancies.

That is why Chief Justice Roberts, Attorney General Holder, White House Counsel Bob Bauer, and many others, including the President of the United States, have spoken out and urged the Senate to act. That is why the front page story in the Washington Post last Tuesday bore the headline: "Vacancies on Federal Bench Hit Crises Point." As that report stated, vacancies are "increasing workloads dramatically and delaying trials in some of the Nation's Federal courts."

Mr. President, I ask unanimous consent to have printed in the RECORD at

the conclusion of my statement a copy of the Washington Post report on the judicial vacancies crises.

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

(See exhibit 1.)

Mr. LEAHY. Mr. President, nearly one in eight Federal judgeships across our Nation—east to west, north to south—are vacant. That puts at risk, as I mentioned earlier, the ability of all Americans to get a fair hearing in court. The real price for these unnecessary delays falls upon judges who are already overburdened with cases, unable to put the time into them they should, and the American people who depend on our courts, and are being denied hearings and justice in a timely fashion.

Regrettably, the progress we made during the first two years the Bush administration has not been duplicated and the progress we made over the eight years from 2001 to 2009 to reduce judicial vacancies from 110 to a low of 34 was reversed. The vacancy rate we reduced from 10 percent at the end of President Clinton's term to less than four percent in 2008 has now risen back to over 10 percent. In contrast to the sharp reduction in vacancies during President Bush's first 2 years in office, when the Democratically-controlled Senate confirmed 100 of his judicial nominations, only 60 of President Obama's judicial nominations were allowed to be considered and confirmed during his first two years in office. We have not kept up with the rate of attrition, let alone brought the vacancies down. Judges die and judges retire and there are additional vacancies created all the time. By now, those vacancies should have been cut in half. Instead, they continue to hover above 100.

I believe the Senate can do better. In fact, I believe the Senate has to do better. The Nation cannot afford further delays in the Senate taking action on the nominations pending before it. Judicial vacancies on courts throughout the country hinder the Federal judiciary's ability to fulfill its constitutional role. They create a backlog of cases that prevents people from having their day in court. That is unacceptable.

We can consider and confirm this President's nominations to the Federal bench in a timely manner. President Obama has worked with Democratic and Republican home state Senators to identify superbly qualified consensus nominations. None of the nominations on the Executive Calendar are controversial. Half of them have Republican home state Senators who support them, like the nomination of Justice Graves we consider today. All have a strong commitment to the rule of law and a demonstrated faithfulness to the Constitution.

I want to thank Senator GRASSLEY, the Judiciary Committee's ranking member, and all the members of the Judiciary Committee for working with me at the start of this Congress to es-

tablish a fair and timely schedule for holding confirmation hearings and considering nominations in committee.

Again, I would note that during President Bush's first term, in his first four tumultuous years in office, we proceeded to confirm 205 of his judicial nominations. We confirmed 100 of those during the 17 months when I was chairman during President Bush's first two years in office. Democrats were in charge and I was the chairman. So we have shown that we are willing to cooperate. In contrast, now in President Obama's third year in office, the Senate has only been allowed to consider 65 of his Federal circuit and district court nominees. We remain well short of the benchmark we set during the Bush administration. We have to do better. When we approach it, we can reduce vacancies of historically high levels at which they have remained throughout these first three years of the Obama administration to the historically low level we reached toward the end of the Bush administration.

The nominations we consider today both demonstrate President Obama's commitment to working with home state Senators to select well qualified nominees. Justice Graves, nominated to fill an emergency vacancy on the Fifth Circuit, is currently the only African American on the Mississippi Supreme Court. When confirmed, he will be the first African American from Mississippi to serve on the Fifth Circuit and only the second African American in the circuit's history. His confirmation will be a significant milestone after years of broken promises.

President Obama's commitment to increase diversity on the Federal bench helps ensure that the words "equal justice under law," inscribed in Vermont marble over the entrance to the Supreme Court, is a reality and that justice is rendered fairly and impartially. I thank Senator COCHRAN and Senator WICKER for their strong support of the nomination of Justice Graves. His nomination received a rating of unanimously well qualified from the ABA's Standing Committee on the Federal Judiciary, its highest possible rating. He will make an excellent addition to the Fifth Circuit.

Judge Davila has been nominated to fill an emergency vacancy on the Northern District of California. Currently a judge on the Superior Court of California, Judge Davila previously spent 20 years as a trial lawyer, first as a deputy public defender in the Santa Clara County Public Defender's Office and then as a lawyer in private practice. He also has taught trial advocacy course sessions at Stanford Law School, Santa Clara University School of Law, and the University of San Francisco School of Law. If confirmed, Judge Davila will become the first Latino to take the Federal bench in the Bay Area in more than 15 years. He has the strong support of his two home state Senators, Senator FEINSTEIN and

Senator BOXER. I am glad his nomination will finally be considered by the Senate.

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

Again, I commend both the majority leader and the Republican leader for moving forward.

Mr. President, I yield the floor, and I reserve the remainder of my time and my voice.

#### EXHIBIT 1

[From the Washington Post, Feb. 8, 2011]  
FEDERAL JUDICIAL VACANCIES REACHING  
CRISIS POINT

(By Jerry Markon and Shailagh Murray)

Federal judges have been retiring at a rate of one per week this year, driving up vacancies that have nearly doubled since President Obama took office. The departures are increasing workloads dramatically and delaying trials in some of the nation's federal courts.

The crisis is most acute along the southwestern border, where immigration and drug cases have overwhelmed court officials. Arizona recently declared a judicial emergency, extending the deadline to put defendants on trial. The three judges in Tucson, the site of last month's shooting rampage, are handling about 1,200 criminal cases apiece.

"It's a dire situation," said Roslyn O. Silver, the state's chief judge.

In central Illinois, three of the four judgeships remain vacant after two of President Obama's nominees did not get a vote on the Senate floor.

Chief Judge Michael McCuskey said he is commuting 90 miles between Urbana and Springfield and relying on two 81-year-old "senior" judges to fill the gap. "I had a heart attack six years ago, and my cardiologist told me recently, 'You need to reduce your stress,'" he said. "I told him only the U.S. Senate can reduce my stress."

Since Obama took office, federal judicial vacancies have risen steadily as dozens of judges have left without being replaced by the president's nominees. Experts blame Republican delaying tactics, slow White House nominations and a dysfunctional Senate confirmation system. Six judges have retired in the past six weeks alone.

Senate Republicans and the White House are vowing to work together to set aside the divisions that have slowed confirmations, and the Senate on Monday approved Obama nominees for judgeships in Arkansas, Oregon and Texas. Eight more nominees are expected to receive votes in the coming weeks.

If the backlog eases, Obama will have the chance to appoint dozens of judges who might gradually reverse what many consider a conservative drift in the lower federal courts under the George W. Bush administration.

Even with Obama's difficulties in the past two years, his appointees have given Democrats control of two of the nation's 13 federal circuits, including the influential U.S. Court of Appeals for the 4th Circuit in Richmond, long a conservative bastion.

And about three-fourths of his appointees have been women or minorities, a historically high rate aimed at diversifying a judiciary that is made up of nearly 60 percent white men.

"It's fair to say that the Obama administration has had an impact on the federal courts and that at the end of this Congress, I believe that impact will be reinforced," said Sheldon Goldman, an expert on judicial selection at the University of Massachusetts at Amherst.

Obama's opportunity is brief, however, because the presidential election season will ramp up by next year. And even with the current promises of bipartisanship, Senate rules allow individual senators to hold up nominations.

There are now 101 vacancies among the nation's 857 district and circuit judgeships, with 46 classified as judicial emergencies in which courts are struggling to keep up with the workload. At least 15 more vacancies are expected this year, according to the administrative office of the U.S. Courts. When Obama took office in 2009, 54 judgeships were open.

Most of the departing jurists have taken what is known as senior status—A semi-retirement in which they receive full pay but can take a reduced workload and are not considered active members of the court. But court officials say the increased work, heavier caseloads and lack of pay increases are prompting more judges to leave the bench entirely.

The effect is most visible in civil cases, with delays of up to three years in resolving discrimination claims, corporate disputes and other lawsuits.

"Ultimately, I think people will lose faith in the rule of law," said Alex Kozinski, chief judge of the U.S. Court of Appeals for the 9th Circuit in California. "We as a nation believe that if you have a dispute, you go to court and within a reasonable period of time, you get a decision."

Kozinski, who oversees the federal court in the Commonwealth of the Northern Mariana Islands, a U.S. territory, said the government has spent at least \$250,000 to fly visiting judges to the island of Saipan, where the sole judge retired last year.

In Arizona, the number of criminal cases has increased 65 percent since 2008, while three of the 13 federal judgeships are vacant. Former chief judge John M. Roll was working on the judicial emergency declaration when he was killed during last month's shootings in Tucson.

Beyond the practical need for judges, the political stakes are high. The vast majority of federal cases are dispensed through the district and circuit courts of appeal, with the Supreme Court hearing fewer than 100 cases each year.

And control of the influential appellate courts tends to shift with the party in power: By the time Bush left office, his appointees had given Republican nominees a majority of about 56 percent on those bodies.

Party affiliation is not a perfect predictor of a judge's behavior, but studies have shown that Democratic and Republican nominees vote differently on some ideologically charged issues, such as abortion, gay rights and capital punishment.

When Obama took office, experts predicted he would flip the Republican appellate court majority in his first term. But in 2009 and 2010, the administration nominated 103 district and circuit judges, compared with 129 during Bush's first two years and 140 in President Bill Clinton's first two years, said Russell Wheeler, a Brookings Institution scholar who studies federal courts.

White House counsel Bob Bauer attributed the slow start to the administration's large legislative agenda, two time-consuming Supreme Court vacancies and an increasingly complicated background review process for nominees.

"We have made progress," Bauer added, pointing out that the pace of nominees

picked up significantly last year. But those nominees faced a tough road in the Senate, as Republicans repeatedly exercised their right to "hold over" nominees before sending them to the floor.

The 60 nominees confirmed in Obama's first two years in office made up the lowest number in 35 years, according to the Senate Judiciary Committee.

Still, Obama has been putting his stamp on the courts. When he took office, Democratic appointees had small majorities on two appeals courts—the New York-based 2nd Circuit and the 9th Circuit. Obama's nominees have also given Democrats control of the 4th Circuit and the 3rd Circuit, which covers Pennsylvania, New Jersey and Delaware.

The 4th Circuit is an influential voice on national security and one of the appellate courts expected to hear challenges to the health-care overhaul law. It has a 9-5 Democratic majority, because of four Obama appointees.

"That's almost unimaginable," said Curt Levey, executive director of the conservative Committee for Justice. "When I first went to law school, that was the one circuit you knew was conservative."

If the Senate approves the 48 pending White House judicial nominations, the circuits would be about evenly divided between Democratic and Republican nominees, according to Wheeler's analysis. "This Congress has the power to shift the balance rather substantially," he said.

Saying the courts face "a severe problem," Bauer vowed that the White House will move nominees "at a very steady clip. . . . We will use all the resources at our disposal to bring attention to the issue and work on a bipartisan basis."

Senate Majority Leader Harry M. Reid (D-Nev.) and Minority Leader Mitch McConnell (R-Ky.) struck a "gentleman's agreement" in January to quash many of the procedural tactics that have slowed nominations.

"We'll be discussing with Senator Reid how to begin moving them in an orderly fashion," said Don Stewart, a spokesman for McConnell.

Liberal groups, which have blasted what they call Republican obstructionism and pushed the White House to focus more on judges, said this year will be key.

"This is really a critical time for the legacy this president will be able to create on the federal judiciary," said Marge Baker, an expert on judicial selection at People for the American Way. "We have an opportunity now, and we have to take advantage of it."

**THE PRESIDING OFFICER.** The Senator from Tennessee.

#### THE BUDGET

**Mr. CORKER.** Mr. President, I thank the Senator from Vermont, and I will be very brief.

I know today the President has put forth the administration's proposal on the budget, and a lot of people on both sides of the aisle have spent a tremendous amount of time over the course of this last year—

**Mr. LEAHY.** Would the Senator yield for a moment? I assume the Senator is speaking on the time reserved for the Republican side.

**Mr. CORKER.** That is correct, Mr. President, and I thank the Senator from Vermont for being so fastidious.

Back to what I was talking about. I know a lot of people on both sides of the aisle have spent a great deal of time looking at ways for us to lessen, if not close, the tremendous amount of



the deficit we have in this country. I think everybody understands what a threat this is to our economic security—candidly, to, I believe, our national security—and I think many of us have paid close attention to what has happened to other countries in this type of situation. There is a strong sense on both sides of the aisle, and becoming even stronger, that this is an issue we as a country have to deal with.

What is unique about the issue of this fiscal deficit our country has is that it is something totally within our hands. In other words, we can deal with this. This is not like some of the situations we deal with in Afghanistan or other places, where it takes others, if you will, working with us to ensure our efforts there are successful. This is something we as a Congress can solve. Again, the economy requires private sector investment and people doing work outside of this body to create the kind of prosperity we would like to see. But this is totally within our control.

So, Mr. President, I really do try to look at the bright side of things. On the other hand, I was disappointed to see the President's budget today and the lack of urgency that was displayed there and the lack of concern. I think what that means for those of us in this body and in the House who are going to have to—as we should—deal with this issue, it is much more difficult when dealing with a national crisis not to have the administration pulling along with you. It is my hope, even though I think the President did miss an opportunity to lead on this issue, that over the course of the next several months he will come to the table and deal with this issue in a responsible way with both the House and Senate.

I know the House is wrestling with these issues right now. My guess is that by the time they get ready for recess this weekend, they will send over something that deals with some cuts in discretionary spending. I think we all know we have to deal with the entire budget if we are actually going to make the type of headway all of us know needs to be made. But I do hope what we will do this spring, early on, is go ahead and vote to pass on some very large reductions in spending. I hope we will pass something like the Cap Act that CLAIRE MCCASKILL and I have cosponsored, which takes us from where we are in spending relative to our country's economic output down to the 40-year average.

I would think most people in this body would consider that to be a reasonable approach over a 10-year period that would be a straitjacket on Congress to ensure that we actually make those cuts. So those are two steps that need to occur, and it is my hope the administration, after putting forth what has been put forth, will join us in this effort.

Mr. President, I think all of us know that in order to deal with the big issues of this country, it is going to take the

executive branch, the House, and the Senate. We have divided government, but this is a perfect opportunity for us, as a country, to deal with this huge issue that threatens certainly the future of the young people sitting before me, but threatens our country's economic security and our national security.

So, Mr. President, I thank you for the time. I hope all of us will deal with this budget in a serious, sober, and responsible manner. I think we have several months over which we have a tremendous opportunity to come together and do the right thing as it relates to our country's economic and fiscal situation.

With that, I yield the floor.

THE PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, what is the order right now?

THE PRESIDING OFFICER. The Senate is currently debating two nominations.

Mrs. BOXER. Is it appropriate that I speak on one of those nominations but also make some comments about the budget?

THE PRESIDING OFFICER. The Senator is recognized.

Mrs. BOXER. Mr. President, I am very happy today to know that we are about to cast a vote on Edward Davila, nominee for the U.S. District Court for the Northern District of California. This is a wonderful nominee, and he deserves this up-or-down vote. I am convinced he is going to get an overwhelming vote, and I am going to speak to that in a moment. But the Senator from Tennessee was critical of President Obama's budget, and I wanted to just make a response to that.

The Senator from Tennessee is not the only Republican to criticize President Obama's budget. They are all reading out of the same playbook. I just have to say that while no one agrees with everything in that budget—I certainly don't—the basis of the budget is critical, and this is the basis of the budget: The President is addressing the deficit in a very responsible way—freezing domestic discretionary spending—very tough, very tough—cutting billions and billions and billions of dollars of red ink while not jeopardizing the economic recovery that we are in the midst of.

To me, it is very interesting because I had the privilege of being in this body the last time we balanced the budget. As far as I know, I don't recall any Republicans voting for Bill Clinton's budget. Maybe there were one or two, I don't recall. But that budget was in balance and we went into surplus. Frankly, we learned how to do it then.

What did we learn? We learned that when we are facing a crisis like this—a budget deficit that is growing too fast and an economic recovery that we don't want to disrupt—we have to be responsible. We don't take a meat ax to this economy and cut things just for the sake of telling the American people

we met a certain number. Every billion dollars of cuts means real people with real jobs.

Then the Republicans are criticizing our President for investing in the infrastructure of this country. Mr. President, you and I know we can't have a great nation if we can't move goods, if we can't move people, if people are stuck in traffic, if we have sewer systems that are overflowing, water systems that are antiquated, and we have millions of people who can't get access to broadband and the Internet. We all know the value of that.

So I would say to my Republican friends: Please don't be against something simply because our President is for it. He is reaching out his hand. Don't give him the back of your hand. I am very optimistic we can work together. I am certainly pleased the President has reached out his hand, and Republicans and Democrats have reached out their hands, too, in this Congress.

I am pleased to say on the highway bill I am working very closely with Mr. MICA, who is the chairman of the Transportation and Infrastructure Committee in the House. I am working with JIM INHOFE, my friend and ranking member of the committee in the Senate. So let's, in our rhetoric, not each go to our corners. Let's welcome this President's budget. Let's take a look at it, let's ask economists what the impact is of cutting so much that we derail our economic recovery.

We can do this. We did it under Bill Clinton. We balanced the budget and created 23 million jobs. Under George W. Bush, that was gone in 5 minutes—tax cuts to the people who didn't need it—and with it a horrible economic recession, which this President—President Obama—stepped to the plate and dealt with, without much help from the other side. A couple helped us, yes. And I am preparing a little presentation on what we did and what was the impact. We had capitalism on the brink of failure, and this President had the courage to deal with it.

There were calls from the Republican side of the aisle to nationalize the banks. I remember that. President Obama said: No way. We are not going to do that.

Now, has it been rough? Has it been tough? Horribly so. My State is suffering from this mortgage crisis. We have to do more. We all know that. But economists are saying we are moving forward. We have turned the corner. Therefore, I don't understand this chorus of negativity coming from the Republicans toward our President when he was able to take the worst recession since the Great Depression and bring us back to a stable situation.

Let's work together. Let's not heat up this rhetoric. We can do this. We did it before. We know how to wrap our arms around this deficit, and we know how to grow jobs. So let's take a page out of that book. It means we take bold steps, but we don't go so far so fast

that we derail economic recovery. We can do this.

The attack by the other side on the Environmental Protection Agency is unbelievable. I saw a cartoon in the Gannett papers in my hometown. It had a drawing of an elephant, representing the Republican Party. In the elephant's trunk was a can that was obviously poison. It had skull and bones on it, spraying the flowers, the trees, and the air. Under the Republican logo it said: Environmental Destruction Agency. The Republican Party calls it the Environmental Destruction Agency, and they have cut one-third—that is their proposal—of the EPA's budget.

Now when I go out to talk to people, not one of them ever says to me: The air is too clean, Senator. Make it dirtier. My kid only missed 2 days from this school year, and I want dirty air. Nobody has ever said to me: I want unhealthy water. Nobody has ever told me they want to live close to a Superfund site. So I say to my friends: Watch what you are doing. You are taking a meat ax to the Environmental Protection Agency that protects the health and the safety and the well-being of our children and our families. If you can't breathe, you can't work. You know that? You lose time from work. So let's be careful. Let's not be radical. Let's not be extreme. That is not what the people send us here to do.

They certainly didn't send us here to take away a woman's right to choose. They sent us here to work on this economic recovery. Yet we have proposals over there on the other side that are unbelievable and that would raise taxes on people who have health care policies that include reproductive health care for women. Can you imagine? They want to raise taxes on small businesses that have health policies that cover reproductive health care for women. I don't think that is what this election was about. I thought it was about getting jobs in this economy.

So between that and the overreaching on the budget, we have a lot of work to do. I say it with due respect, I really do. But the American people need to weigh in. They are going to need to say how much is too much and what their values are.

Richard Nixon signed the Clean Air Act and the Clean Water Act. A Republican President signed these acts. Yet now the Republicans are trying to destroy these important bipartisan accomplishments. You know why? They say it kills jobs. Guess what. We heard the same thing from the people who tried to stop the Clean Air Act—the polluters. They said, it is going to cost jobs. But we had the greatest economic growth after that period. And guess what. Jobs are created when we clean up the air. Jobs are created when we have technologies we can export and when we find ways to make drinking water safe.

Frankly, I am energized by this debate because I believe there are dif-

ferences in the parties. I think that is OK, it is fine. I will be involved in the debate. I am sure colleagues on the other side who disagree will put forward their views. They are trying to take away the power of the Environmental Protection Agency to enforce standards on carbon pollution—dangerous carbon pollution—that the Bush administration told us through their work puts our people in danger, puts our families in danger, puts our country in danger, puts our economy in danger. They are actually trying to stop the EPA from enforcing the Clean Air Act. I do not know one constituent who ever told me they thought the air was too clean or the water was too safe to drink.

#### NOMINATION OF EDWARD DAVILA

Mr. President, today it is my honor to support the nomination of Judge Edward Davila as the Senate prepares to vote on his confirmation to become a district court judge. I congratulate him and his family on this important day. I have had the privilege of recommending Judge Davila to President Obama to serve on the Northern District Court of California. He is respected by his colleagues and those who appear before him, and he will make an excellent addition to the bench.

This is a critical vacancy to fill. The Northern District has been designated a judicial emergency by the Administrative Office of the U.S. Courts. We do not have enough judges. This is another area in which we must work better together. I am hopeful on this one that we can.

I am pleased that we are voting on Judge Davila today. When he is confirmed, Judge Davila will be the only Latino serving on the Northern District Court. That is important. Our State is so diverse, it is extraordinary, and we need everybody believing they are represented.

The judge is outstanding. He brings an impressive background of service in both public service and private practice.

Judge Davila was born in Palo Alto, one of three children raised by a single mother. It is from his mother Dora that he learned the important qualities that have served him well. He defines those as hard work and determination. I extend my personal congratulations to Dora. As a mother, I know the immense pride she must feel for her son at his extraordinary accomplishments.

Judge Davila is a graduate of the California State University at San Diego and the University of California's Hastings College of Law in San Francisco. He practiced law for nearly three decades, spending his first 7 years as Santa Clara County public defender before moving into the private sector as the co-owner of a small firm specializing in criminal defense. During his time as defense counsel, Judge Davila earned the respect of prosecutors and law enforcement officials with whom he interacted, and he received awards

from the State Bar of California. He served as president of the Santa Clara Bar Association in 1998.

Since 2001, he has served on the Santa Clara County Superior Court, where he has drawn praise from fellow judges and lawyers for his hard work, his integrity, and his fairness. In a recent survey by the Santa Clara County Bar Association, his performance was rated "excellent" or "good" by a huge percentage of participants with respect to his work ethic, his knowledge of the law, his knowledge of procedure, integrity, dispute resolution, and his judicial temperament, which we know is so important. He has also received awards and recognition for his judicial performance from the Santa Clara Bar Association and the California State Assembly.

I close by congratulating Judge Davila and his entire family on this momentous day. Here is another example of the American dream. I urge my colleagues in the Senate to join me in voting to confirm this highly qualified nominee to the Federal bench.

Mrs. FEINSTEIN. Mr. President, I rise in support of the nomination of California Superior Court Judge Edward Davila to be a U.S. district judge in the Northern District of California.

If confirmed, Judge Davila would bring a wealth of relevant experience to the district court. Since 2001, he has served as a superior court judge in Santa Clara County. He has presided over more than 10,000 cases—both civil and criminal—and has seen more than 50 cases from trial to final judgment.

He is a seasoned lawyer who also has more than 20 years of litigation experience under his belt. For 13 years, Judge Davila tried criminal cases as a partner at his own law firm in San Jose. For 7 years before that, he worked as a deputy public defender for Santa Clara County. In total, during his two decades as a litigator, he tried more than 45 cases to verdict or judgment.

Beyond his professional experience, Judge Davila has also been a devoted member of the Santa Clara community. He is a former president of the Santa Clara County Bar Association as well as the Santa Clara County La Raza Lawyers Association. He has taught trial advocacy at Stanford Law School, the University of San Francisco School of Law, and the University of Santa Clara School of Law. And he has made it a longstanding practice to teach local high school students about the criminal justice system through mock trials in his courtroom.

Judge Davila's confirmation would also bring much needed diversity to a court with broad reach in California. There are currently 18 active and senior district judges in the Northern District of California, but not a single one is of Latino or Hispanic descent. Judge Davila's confirmation would correct this imbalance. I am pleased to support his nomination, and I strongly urge my colleagues to confirm him.

Finally, I want to say a word about the caseload in this district. Last

week, the Judicial Conference of the United States sent a letter to the President and the leadership of the Senate calling attention to a handful of courts with severe caseload problems.

The Northern District is one of these courts. Last year, the district's judges carried a caseload of nearly 600 weighted filings per judgeship—far above the recommended level. With two vacancies unfilled, that caseload rose to more than 700 weighted filings per active judge.

These vacancies did not exist for lack of a nominee. The President nominated Judge Davila in May of last year. He was reported out of the Judiciary Committee without objection, but he is only now receiving a vote. Another very qualified nominee for this court, Magistrate Judge Edward Chen, was nominated in August of 2009. He has been reported out of the Judiciary Committee twice but still has not received a vote on the floor.

Today's vote on Judge Davila's nomination is a step in the right direction. I urge my colleagues to support him, and I hope that we can continue to work together to ensure that our Federal courts have the judges they need to administer justice fairly and in a timely manner for the American people.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Mississippi.

Mr. WICKER. Mr. President, I rise in strong support of the nomination of Mississippi Supreme Court Justice James Graves to the U.S. Court of Appeals for the Fifth Circuit. I thank all of those on both sides of the aisle who have worked to get this vote scheduled and to bring us to this moment, where I am confident Justice Graves will be confirmed.

When that happens today and when he takes the oath, Justice Graves will bring a rich and distinguished background of public service to the Fifth Circuit. He is a Mississippi native. He graduated as valedictorian of Sumner High School in the small delta town of Sumner and went on to receive his bachelor's degree from Millsaps College before going to law school at Syracuse University.

Justice Graves currently presides as a justice on the Mississippi Supreme Court, where he has faithfully served since his appointment in 2001 and his subsequent election in 2004. Before being appointed to the Mississippi Supreme Court, Justice Graves served as a circuit court judge in Hinds County, MS, for 10 years.

Justice Graves is a dedicated family man and community volunteer. He has

been honored on numerous occasions with awards recognizing his public service. Those who know him know he is particularly committed to teaching and motivating young people, particularly the young people of my State of Mississippi. I am confident that even in this position of increased responsibility and visibility, he will continue taking time to work with our Nation's young people.

I am proud today to speak on behalf of Justice Graves. I urge my colleagues to vote in support of his nomination to the Fifth Circuit.

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

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

Mr. COCHRAN. Mr. President, I am pleased to support the nomination of Justice James E. Graves, Jr., to serve as a judge on the U.S. Court of Appeals for the Fifth Circuit. At this time, Justice Graves is serving as a presiding justice on the Mississippi Supreme Court. He was appointed to our State's highest court in 2001, and he was elected to the court in 2004. Prior to that, he served as a trial court judge for 10 years.

Justice Graves has earned impressive academic credentials, including an undergraduate degree from Millsaps College, a law degree from Syracuse University College of Law, and a master's degree in public administration from Syracuse University.

Justice Graves has served as a director of the Child Support Division of the Mississippi Department of Human Services. It is with pride and pleasure that I am able to recommend to the Senate the confirmation of Justice James E. Graves, Jr.

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

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

Mr. GRASSLEY. Mr. President, today the Senate will confirm two more of President Obama's judicial nominees. With this action, we are filling two seats which have been declared judicial emergencies. I am pleased we are moving forward with these important positions.

I agree with the chairman's recent editorial and remarks he has made that we have an opportunity to turn the page and work together in a spirit of bipartisanship and civility. I do not view it as a productive effort to continue with the finger pointing and the negative back and forth regarding the previous pace or outcome of judicial

nominations. Unfortunately, that rhetoric has frequently overshadowed the debate on the qualifications of particular nominees.

I and my Republican colleagues have been very cooperative in taking action on the President's nominees. During this Congress, the President has nominated 50 individuals to the Federal judiciary. This Congress has been in session for approximately 1 month. In this brief time, we have taken positive action, in one form or another, on nearly half of those nominees. With today's votes, we will have confirmed 5 nominees. If this is not cooperation, I do not know what is.

Furthermore, we have seen a high level of bipartisanship with regard to President Obama's confirmed nominees. For President Obama's confirmed district judge nominees, 94 percent of those confirmations were by unanimous votes. Only 59 percent of President Bush's confirmed district court nominees were afforded that same level of bipartisanship. So I think it is fair to say that we are cooperating in a bipartisan manner, and in a deliberate pace.

I am working with the chairman to ensure nominees are afforded a fair but thorough process, in a timely manner. I have appreciated the chairman's courtesy as we have worked together to set schedules and agendas. As we do so, I assure my colleagues that I will not falter on ensuring each nominee is properly and thoroughly evaluated.

We are acting to reduce the judiciary vacancy rate. There are currently 99 vacancies in the Federal courts. However, it is remarkable to me that more than half of those vacancies, 52 seats, have yet to receive a nomination. Furthermore, 25 of the 46 seats deemed to be judicial emergencies do not have nominees. It is unfair to blame Republicans for any delays with these vacancies. It is impossible to fill seats when a nominee has not been named. It is the responsibility of the President to send to the Senate consensus nominees for these positions.

Let me say a few words about the nominees who are scheduled to have votes today. I thank our leadership for the reasonable arrangement that was reached to consider these nominations.

First, Justice James E. Graves has been nominated to be a circuit judge for the Fifth Circuit. He received his B.A. from Millsaps College, his J.D. and an M.P.A. from Syracuse University.

Justice Graves comes to the Federal bench with extensive experience in the legal field. He was a staff attorney for the Central Mississippi Legal Services for 3 years before moving into private practice. Justice Graves also spent time, first as a counsel, then as a chief legal counsel, in the office of the Mississippi attorney general. Justice Graves left the Office of the Attorney General to become director of the Mississippi Department of Human Services' Child Support Enforcement Division.

Justice Graves also has considerable judicial experience. He was appointed to Mississippi Circuit Court judge in 1991 and was re-elected twice. Since 2001, Justice Graves has served on the Mississippi Supreme Court and has authored 151 majority opinions for the court and 92 concurring or dissenting opinions. The American Bar Association Standing Committee on the Federal Judiciary unanimously rated him "Qualified."

I also rise in support of Judge Edward Davila to be U.S. district judge for the Northern District of California. With today's vote, we will have confirmed 7 of President Obama's nominees to the district courts of California. Judge Davila received his B.A. from California State University, San Diego and his J.D. from University of California's Hastings College of the Law. A majority of the American Bar Association Standing Committee on the Federal Judiciary rated him "Qualified."

Judge Davila began his career at the Santa Clara County Public Defender before entering private practice. He represented criminal defendants in State and Federal courts. In August 2001, Governor Gray Davis appointed Judge Davila to the Superior Court of California, County of Santa Clara, a trial court of general jurisdiction. Judge Davila was re-elected without opposition twice.

We are making good progress in considering judicial nominations. I am pleased the chairman and I have been able to move forward. We are filling judicial vacancies, with a particular focus on judicial emergencies. We are working in a manner that treats each nominee in a fair manner and permits each Senator to thoroughly review the qualifications of each nominee.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, we are prepared to yield back any time on this side. I understand from my colleague that they will yield back on their time.

Parliamentary inquiry: Is the first nomination the Graves nomination?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. It is my understanding there is not a request for a rollcall vote on that one.

The PRESIDING OFFICER. If all time is yielded back, the question is, Will the Senate advise and consent to the nomination of James E. Graves, Jr., of Mississippi, to be a U.S. circuit judge for the Fifth Circuit?

The nomination was confirmed.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Edward J. Davila, of California, to be a U.S. district judge for the Northern District of California?

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY), the Senator from Maryland (Ms. MIKULSKI), the Senator from Arkansas (Mr. PRYOR), and the Senator from New Mexico (Mr. UDALL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Missouri (Mr. BLUNT), the Senator from South Carolina (Mr. DEMINT), and the Senator from South Carolina (Mr. GRAHAM).

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

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 15 Ex.]

YEAS—93

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

NOT VOTING—7

Blunt	Kerry	Udall (NM)
DeMint	Mikulski	
Graham	Pryor	

The nomination was confirmed.

The PRESIDING OFFICER (Mr. MANCHIN). Under the previous order, the motion to reconsider is considered made and laid upon the table.

VOTE EXPLANATION

Mr. KERRY. Mr. President, I was necessarily absent for the vote on the

nomination of Edward Davila to be U.S. district judge for the Northern District of California. If I were able to attend today's session, I would have supported the nominee.

The PRESIDING OFFICER. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The majority leader.

FAA AIR TRANSPORTATION MODERNIZATION AND SAFETY IMPROVEMENT ACT—Continued

Mr. REID. For the information of all Senators, there will be no more votes tonight. I have had a number of conversations with the Republican leader today. We are going to have one or two votes before our caucus lunches tomorrow. We will have a number of votes set up after the caucus luncheons. We want to finish this bill as quickly as we can, which will be this week. I know a number of people are waiting around for votes. I know Senator PAUL is waiting around for a vote on his amendment tomorrow afternoon, and I know Senator NELSON of Nebraska and Senator WICKER have amendments we are trying to get a vote on. We are trying to move to those as soon as we can.

Anyway, we are going to have some votes tomorrow. No more votes tonight.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the distinguished senior Senator from Oklahoma and I be recognized for a total of 6 minutes evenly divided.

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

Mr. LEAHY. I yield to the Senator from Oklahoma.

AMENDMENT NO. 6 WITHDRAWN

Mr. INHOFE. Mr. President, Senator LEAHY and I have two amendments. He has Leahy amendment No. 50 and my amendment is No. 6. I say to my friend from Iowa, I will just be a few minutes, as he was kind enough to allow us to do this first.

This has to do with the liability of those individuals who are making their own sacrifice to help people in distress. It is something that those of us who are pilots have done—helping individuals in being relieved of some of the individual liability that might be incurred. The Leahy amendment goes a little further than mine, but I am satisfied with his. So what I wish to do is request unanimous consent to withdraw my amendment No. 6 that gives liability protection to volunteer pilots and organizations, as well as request to be added as a cosponsor to the Leahy amendment No. 50. We have been in negotiations for a number of weeks. In fact, we were even last year. I think we

have reached an agreement we both find acceptable.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Vermont.

Mr. LEAHY. Mr. President, the distinguished Senator from Oklahoma and I worked together to advance both of these amendments in a bipartisan way. We worked together during the last year, and we are working together again this year.

Our amendment closes a gap in our Public Safety Officers Benefits Act for emergency service providers by extending Federal benefits to emergency service providers who die or are disabled in the line of duty and who work for private, nonprofit emergency services organizations.

A tragedy in Vermont 2 years ago highlighted this issue. First responder Dale Long from Bennington, VT, was Bennington Rescue Squad's 2008 EMT of the Year and a 2009 recipient of the American Ambulance Association's Star of Life Award. Shortly after that ceremony, he was killed in the line of duty. Given the private, nonprofit status of his ambulance service, he is ineligible for Federal death benefits.

The Judiciary Committee—all Republicans, all Democrats—unanimously approved this legislation last Congress. The Leahy-Inhofe amendment is fully paid through an included offset.

The distinguished Senator from Oklahoma and I have talked about this. He comes from a part of the country where people have to fly to rescue. We drive to rescue. We are much smaller. They fly. Either way, we ought to be doing something to protect the people who are out there trying to rescue or aid people in distress.

I am proud to join with Senator INHOFE, and I hope at some appropriate time the amendment, as now amended, will be accepted.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I will respond by saying that on numerous occasions in my 55 years of flying airplanes, I have done a lot of Good Samaritan things. It never really occurred to me, but one time I went all the way down to Dominica, near Caracas, Venezuela—I was telling the Senator from Iowa about it—leading 10 planes. Eight of us made it down and back. That is something we did not have to do, but no one else would do it.

I believe we can encourage a lot more people to do these Good Samaritan duties if we give them a little bit of relief from liability.

I ask unanimous consent that after the Senator from Iowa makes his remarks, I be recognized for up to 10 minutes as in morning business.

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

Mr. LEAHY. I yield back any time remaining.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I wish to discuss for a few moments a few amendments that are pending that I think would undermine the basic rights and protections of American workers. In these difficult economic times, working families are struggling enough. Wages are stagnant. In fact, I saw a report the other day that, in real terms, if you take inflation into account, wages right now for working men and women are about where they were in 1974—almost 40 years. Job security is harder to find. More and more companies facing financial pressures are deciding to cut corners on fundamentals such as worker safety.

Now more than ever, workers need the basic protections our laws provide. The last thing we need to do is take a step backward and make working people even more vulnerable than they are today, especially in terms of their safety and health. That is exactly what the Wicker amendment and the Paul amendment would do for two groups of very dedicated people—flight crews and transportation security officers who work every day to keep us safe when we travel.

First, the Paul amendment would undermine valuable safety and health protections for flight crews. I do not think it would come as a surprise to any of us that working on an airplane could be a dangerous job. According to the Bureau of Labor Statistics, flight attendants, as well as other employees in the air transportation industry, suffer occupational injuries and illnesses at rates far higher than workers in nearly every other sector of private industry. This industry raises unique safety challenges, and we need to make special efforts to keep these workers safe on the job.

The Federal Aviation Administration regulates all workplace safety issues on airplanes. However, at Congress's urging, FAA has entered into a memorandum of understanding with the Occupational Safety and Health Administration that is supposed to facilitate consultation and coordination between the two agencies about safety issues. This is entirely appropriate since the Occupational Safety and Health Administration has the expertise in this area. But that coordination has not been effective in recent years. While a 2000 OSHA/FAA report identified areas where flight crew safety could be improved, after that report, coordination essentially stopped, and the FAA has failed to take additional action to review and implement the recommended workplace safety standards.

The bill we are considering on the floor would restore and improve the level of coordination between the FAA and OSHA so that they can complete the valuable work outlined in that memorandum of understanding. It would basically require the two agencies to put their heads together and consider whether any OSHA standards should properly be applied to people working on aircrafts.

I wish to be very clear on this point. The bill does not supplant FAA's authority. OSHA would not be conducting investigations or issuing fines for FAA-covered employees. That is the sole purview of the FAA. All the bill says is that the two agencies should continue to talk and to coordinate. This seems to be eminently sensible. It simply defies explanation to preclude this kind of coordination, and it could put workers' lives and workers' safety at risk.

For example, flight crews are currently exposed to a variety of dangerous chemicals, including jet fuel vapors, compressed oxygen, commercial cleaning agents, deicing chemicals. Yet there is no current rule requiring that the employees be informed of hazardous materials in their workplace.

OSHA has a safety standard about hazard communication requiring that workers be informed of such hazardous materials. This simple, easy-to-comply-with standard saves workers' lives. The 2000 report I referred to earlier found that FAA could implement the OSHA standard on hazard communication without any implications for flight safety. But what has happened? Absolutely nothing. Despite finding that the OSHA standard could improve safety for airline employees and that it would not impact aviation safety, the cooperative effort stalled in its tracks. This bill would resuscitate that cooperation. This is just one of a number of important reforms that would improve workplace safety without compromising flight safety. Hard-working flight attendants and other flight crew workers deserve our best efforts to make these reforms a reality.

Again, I wish to make one point very clear. The legislation does not change or undermine FAA's role at all. It simply fosters cooperation between two government agencies—one that has a lot of technical expertise, the other one which has the jurisdiction.

Again, I think this would be something where one would say: Sure, they should cooperate and communicate. The amendment before us would undermine a common sense practice—collaboration between agencies—and would make people less safe on the job. I urge my colleagues to protect the safety of our workers by opposing this amendment.

I am equally concerned about the impact the amendment by Senators WICKER and COLLINS would have on the hard-working people who keep our airports and planes safe. I have spoken about this amendment before. I would like to bring it up again.

In legislation creating the Transportation Security Administration, TSA, Congress gave TSA the right to determine whether transportation security officers, TSOs, have the right to collectively bargain. Those are the people we see every time we go through the airport. They check our IDs. They run the machines and check our bags. These are the transportation safety officers.

The Transportation Security Administration found that collective bargaining could improve security by addressing the agency's chronic low morale and employee engagement. However, certain subjects remain off limits for bargaining, including pay, deployment, training, and any TSA emergency response measures. Right now, the TSOs, under what the TSA wanted to do, would be allowed to collectively bargain but for those certain items. As I said, they could not collectively bargain on pay or deployment or training or emergency response measures.

As I mentioned when I previously addressed this issue on the Senate floor, a recent "best places to work" survey ranked the TSA 220 out of 224 Federal employers. The agency's turnover and injury rates are among the highest for any Federal agency. Low morale and high turnover at a front-line security agency are a recipe for disaster.

TSA determined that collective bargaining will address those problems and improve the agency's ability to fulfill its mission. The TSA's decision is well reasoned and sound. It states that a "one-size-fits-all model of labor relations that undermines initiative and flexibility would not serve TSA or its workforce well." That is exactly what this amendment by Senators WICKER and COLLINS would do. It would lock into place one model of labor relations—the most adversarial model—that is most harmful to employee morale. As I just said, we know employee morale at the TSO level is very low, and there is a very high turnover rate.

While my colleagues who support this amendment cite concerns about disruptions to security procedures, the agency believes—and I agree—that those concerns are misguided.

First and foremost, I question the assumption underlying this concern: that men and women who take a job protecting our Nation would cast that duty aside if they were granted basic labor concessions such as collective bargaining. I think that is an insult to every man and woman in uniform who works under collective bargaining agreements across this country. To suggest unionized security personnel are somehow less effective, less dedicated, less willing to put their lives on the line in an emergency is just plain scandalous. Most Federal security employees, including Border Patrol personnel, Immigration and Customs officials, our Capitol police officers who protect us, Federal Protective Services officers—they all have collective bargaining rights.

I always point out that famous picture of September 11, 2001, when that awful tragedy happened in New York and those buildings came down and we saw the thousands of people running away from this disaster and the buildings falling down, while running into the buildings were our police, our firefighters, and our emergency personnel. Those workers were members of a union and covered by a collective bar-

gaining agreement. Did they shirk their duty? Did they shirk their responsibility? Not a bit. We are proud of them. Why should TSOs be any different?

Again, the exclusion of deployment and training and emergency response measures from bargaining will prevent any disruptions to security procedures.

I firmly believe collective bargaining is the best way to bring dignity, consistency, and fairness to a workplace. It will make our TSO workforce safer and more stable. Restoring these essential rights is long overdue. I urge my colleagues to oppose the Wicker-Collins amendment.

Finally, while I think it is critically important that the bill we are considering must not be a vehicle for rolling back worker protections, I regret that it will not be a vehicle to correct an outrageous attack on workers' rights that was enacted on this legislation in 1996.

In a rider to the 1996 FAA reauthorization bill, Congress made it harder for employees of an express carrier to organize a union in order to unfairly advantage one company—FedEx Express. The bill carved out employees of an express carrier delivery company—which meant only one company: FedEx—from coverage under the National Labor Relations Act and placed them under the Railway Labor Act. As a result, it is much more difficult for FedEx employees to organize and bargain collectively. What is the difference? Under the National Labor Relations Act, workers can act locally in seeking to organize and bargain collectively. Under the Railway Labor Act, workers must organize nationally—an enormous challenge in today's labor environment, especially for workers who do not necessarily work in mobile industries. Under the current law, if package sorters in Des Moines, for example, want to organize a union, they would have to go to New York and Georgia and Texas and California to get every warehouse worker in the country to join them, which is obviously extremely difficult.

This quirk in the law is not only illogical, it is the worst kind of political favoritism. Why do I say that? Obviously because one of the biggest competitors of FedEx is United Parcel Service. United Parcel Service is under the National Labor Relations Act. Not every single one of their employees is unionized, but they are allowed to organize and bargain collectively locally. In certain States that are covered by union shop, then they would all be covered. In a State such as Iowa, which is a right-to-work State, some of the employees of United Parcel Service would be members of a union and some would not. But they would all be covered by a collective bargaining agreement.

United Parcel Service workers, doing the same exact job as FedEx workers, can organize and bargain collectively locally. FedEx workers cannot because they are under the Railway Labor Act,

not the National Labor Relations Act. That was a rider to this bill in 1996 to favor one company. Again, identical jobs for FedEx and another company, different rights under the law—that is unfair. Congress should ensure that companies compete on a level playing field. We should not be picking favorites, especially not by silencing the voices of employees of one company.

In past Congresses, I have introduced legislation to eliminate this special treatment and ensure that employees who have nothing to do with air transport have all the rights they are entitled to under the National Labor Relations Act. There are tens of thousands of truckdrivers and warehouse employees who have nothing to do with airline travel, and the rules of the game are rigged against them.

I had hoped this bill would provide an opportunity to right these past wrongs, but I know it is important to complete our work on the FAA reauthorization in short order. This bill will create hundreds of thousands of jobs. It will make crucial investments in our Nation's infrastructure. As a pilot myself—and my friend from Oklahoma has been flying even longer than I have, I think, but we have both been flying for a long time—I have been waiting for the NextGen to come on board because it will enhance flight safety and make it a lot easier for our general aviation pilots to fly in this environment and it is important to get the bill done. So that is why I support the bill.

Again, I had hoped we would address this inequity that exists as regards the Federal Express, but we did not, so we will have to carry on the battle on another bill on another day. It is just an issue of fundamental fairness for workers, so I expect that we will revisit this again in the future.

I thank my friend from Oklahoma for being so patient, and I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Before my friend from Iowa leaves the floor, when he talked about NextGen, I can remember—and he can remember—years ago, when we first flew, there was nothing but low frequency out there, and we used to shoot those low-frequency approaches. Then they came along with VORs, and I thought this has to be the end of it. Then they came along with RNAV. They could pick up a VR and move it over here. What more could they ever do than that? Then LORAN came along and then GPS. So I quit saying they can't get better because now there is hardly a runway in the world you can't shoot an instrument approach on using GPS. I flew an airplane around the world, all across Siberia—bad weather all the way—and I shot my approaches with GPS. You could train a chimpanzee to do it with a GPS.

I agree with my friend from Iowa. We are anxious for NextGen and these opportunities we have that are coming up to enhance the safety and abilities of general aviation along with commercial aviation.

Mr. HARKIN. If my friend would yield just for a second, I would just tell him the first plane I owned had an old—I called it a coffee grinder in it, you would get the ANN—annuls—and that would take you into the airport. So I can remember those days quite well. Thank God we have GPS now.

Mr. INHOFE. I thank my friend.

Mr. President, a few minutes ago I talked about two amendments I had in the FAA bill. One was what I would call the Good Samaritan amendment. We have talked about this for years. Senator LEAHY and I have come to an agreement. I would like to have it go further and offer liability protection beyond just the pilots who might be offering their services, as my friend from Iowa and I have done many times at our own expense because no one else would do it.

I would say to the occupier of the chair, it wasn't that many years ago there was a horrible hurricane that wiped out an island called Dominica, north of Caracas, Venezuela. I remember putting together 10 airplanes, general aviation airplanes, and we took doctors and nurses and generators and goods down there and food and water because nobody else would do it. This type of thing is going on all the time, and I think they should be afforded some protection from the liability laws. But I do realistically know with this compromise, we can get it passed and this would offer individuals protection.

The other amendment I have is quite different. It has to do with something called subpart S of FAR in the regulations, part 121. The Department of Defense—in the movement of many of the troops and individuals—relies on supplemental carriers. We are talking about nonscheduled carriers or charter airlines, and these are people or airlines that are nonscheduled. They come under a separate part, subpart B, and they are given some exemption from the crew rest rigid parts that affect the scheduled airlines. It is easy for a scheduled airline to have these very rigorous crew rest times because they are, as it says, scheduled. But when you get into nonscheduled, you are getting into areas where it is much more difficult.

So I wish to say two things about it. First of all, the supplemental air carriers have had a safety record that is even better than scheduled. There has never been one time in 15 years that the NTSB has cited something wrong, something that has happened with the part B or nonscheduled carriers as a result of fatigue. It hasn't happened. I often say we get too anxious to pass laws around here. I have always had the philosophy if it "ain't" broken, don't fix it. This is not broken, and it has worked very well. So I think their record speaks for itself.

The thing a lot of people are not aware of is if you are a nonscheduled airline, you are able to have longer rest periods, even though you may go over

the 15 hours of actual flight time. So it works out, in the long range, they can do things they couldn't do otherwise.

Here is the thing not many people realize about nonscheduled airlines. The Department of Defense depends on them for 95 percent of all military passengers and 40 percent of military cargo. That is going into Iraq, Afghanistan, all throughout the danger points, and Southwest Asia, and it is expected that these new regulations will negatively impact the mission capability and increase the cost to both the carriers and to DOD.

Supplemental flights in support of the Department of Defense are carried out under control of the Air Mobility Command, which is at Fort Scott Air Force Base in Illinois. A central feature of the supplemental carrier's ability to complete these critical missions every day is the flexibility built into subpart S of the FAA regulations.

I am not offering something that is going to change how they treat subpart S. I am only going to say they currently have a rule they are considering, and this rule would do away with the distinction between subpart Q, R, and subpart S, which is nonscheduled airlines. So if we are depending upon these nonscheduled airlines to fly our troops, our cargo into these war-torn areas, then there is no other way of doing it.

You can say: Well, the Air Force can use their C-17s. Right now the Air Force's C-17s are in an OPTEMPO, where they can't take on any more missions. So you have critical things that are happening—such as flying blood into areas of combat. Let me give a couple examples. There is a regular run that goes from NATO—that is Belgium—from Belgium to Bagram, then back to Amsterdam. They are taking things such as tents, cargo, gasoline, food, and other supplies. That would be 19.6 hours. That means they can't do it. To do it, they would have to have crew rest time, and that would have to take place in Bagram. There are rules against it. You can't leave a commercial airline in Bagram. It cannot be done. So you have to figure out some way to get that cargo in and out of Bagram.

There is another regular run from Germany to Kandahar and then to Hong Kong. Well, that is 17.5 hours, so you can't do that because you can't leave your aircraft in a war zone. There is another run from Shannon to Kyrgyzstan and return, and that is something that is 16 hours and 15 minutes. That can't be done.

I think the one that is most critical is twice a week one carrier currently operates and takes lifesaving blood runs from McGuire Air Force Base in New Jersey to Ramstein in Germany and then to Qatar. From Qatar, they have to go all the way into Afghanistan and back, and that round trip extends beyond the 15 hours that would be allowed with a scheduled airline. So under subpart S, they can do it. We are

talking about twice a week, regular runs, taking blood into areas in Afghanistan where it is critical we get it in.

So I am just saying the FAA, in promulgating the rules they are looking at right now, should take into consideration that there is a separate type of a mission that has to be performed for our young men and women in harm's way, and we can't do it unless we treat the subpart S of the rule FAR 121 from the scheduled airlines. So I am hoping we will have a chance.

My concern is this: There are a lot of people who, for some labor reasons, don't want to have anyone to have the ability to go beyond the 15 hours, even though they get more rest time. I am the only one talking about the fact we have the lives of our young men and women in harm's way at stake depending on this subpart S treatment. So this thing is very critical. I believe we should do something to make sure, if they are going to look at the rules, they at least look at the rules in a different light than just looking at them altogether, but look at subpart S and hear the testimony and see if that doesn't work, the special consideration.

#### THE BUDGET

Mr. President, I don't see anyone else in the Chamber waiting to talk, so I wish to make one additional comment. I was in shock when I got off the plane and read what the President came out with in his budget. I think it is unbelievable—\$8.7 trillion in new spending, \$1.6 trillion in new taxes, \$13 trillion in new debt, the current year deficit increased by \$1.6 trillion—not \$1.4 or \$1.5, as they talked before—and it is incredible this could be happening right now.

I wonder if he didn't get the message of last November 2; that is, people know we cannot keep extending the spending, the fact we had an increase in the first 2 years—and this came straight from the White House, from the administration—in our spending greater than all spending in the history of this country from George Washington to George W. Bush can't happen. People are talking about the deficits that took place during George W. Bush, with an average deficit of \$247 billion, and that was right after trying to rebuild a military and after 9/11, when we found ourselves, for all practical purposes, in two wars. So instead of a deficit of \$247 billion, the deficit in this administration has been \$3 trillion in 2 years. That is inconceivable.

I thought he would come out with something, after listening to the State of the Union Message, that would start moderating and start trying to save some money, but it hasn't happened. There is spending money on everything except the military, which is the big loser. I don't know why it is that liberals never want to spend money on the military—an \$80 billion cut over a 5-year period in the Department of Defense. This is right after we went through the 1990s, where we had a

drawdown of our Defense by about 40 percent, and of course we find ourselves now, after 9/11, in two wars.

So I think we need to make sure the American people realize the State of the Union Message sounded real good when he said we are going to start putting a freeze on. You know what that freeze is? The freeze is to take the non-defense discretionary spending and freeze it for 5 years. But wait a minute, that is after he increased it over 20 percent. So he increased it so we can't afford it and then he freezes it there so we can't bring it back down.

So anyway, I hope people are looking carefully and seeing what is happening. They will. If you look at what they are doing just to the oil and gas industry—and I know a lot of people in the liberal communities who want to put them out of business, and they are going to successfully do it if they pass this particular budget—I am talking about percentage depletion, the IDC—the section 199 manufacturer's deduction. By the way, the only industry under this budget that is affected negatively by that is oil and gas. All other manufacturers in industry are all right. So I hope people have a chance to look at this carefully.

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

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

AMENDMENT NO. 75, AS MODIFIED

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the pending amendment also be set aside to call up the Baucus amendment, No. 75, as modified.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for Mr. BAUCUS, proposes an amendment numbered 75, as modified.

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

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

The amendment is as follows:

(Purpose: To provide a substitute)

Strike title VIII and insert the following:

**TITLE VIII—AIRPORT AND AIRWAY TRUST FUND PROVISIONS AND RELATED TAXES**

**SEC. 800. AMENDMENT OF 1986 CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. 801. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.**

(a) FUEL TAXES.—Subparagraph (B) of section 4081(d)(2) is amended by striking “March 31, 2010” and inserting “September 30, 2013”.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(j)(1)(A) is amended by striking “March 31, 2010” and inserting “September 30, 2013”.

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) is amended by striking “March 31, 2010” and inserting “September 30, 2013”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2011.

**SEC. 802. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY.**

(a) IN GENERAL.—Paragraph (1) of section 9502(d) is amended—

(1) by striking “April 1, 2010” in the matter preceding subparagraph (A) and inserting “October 1, 2013”, and

(2) by striking the semicolon at the end of subparagraph (A) and inserting “or the FAA Air Transportation Modernization and Safety Improvement Act;”.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(e) is amended by striking “April 1, 2010” and inserting “October 1, 2013”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2011.

**SEC. 803. MODIFICATION OF EXCISE TAX ON KEROSENE USED IN AVIATION.**

(a) RATE OF TAX ON AVIATION-GRADE KEROSENE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) in the case of aviation-grade kerosene, 35.9 cents per gallon.”.

(2) FUEL REMOVED DIRECTLY INTO FUEL TANK OF AIRPLANE USED IN NONCOMMERCIAL AVIATION.—Subparagraph (C) of section 4081(a)(2) is amended to read as follows:

“(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation by a person registered for such use under section 4101, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.”.

(3) EXEMPTION FOR AVIATION-GRADE KEROSENE REMOVED INTO AN AIRCRAFT.—Subsection (e) of section 4082 is amended—

(A) by striking “kerosene” and inserting “aviation-grade kerosene”,

(B) by striking “section 4081(a)(2)(A)(iii)” and inserting “section 4081(a)(2)(A)(iv)”, and

(C) by striking “KEROSENE” in the heading and inserting “AVIATION-GRADE KEROSENE”.

(4) CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 4081(a)(2)(A) is amended by inserting “other than aviation-grade kerosene” after “kerosene”.

(B) The following provisions are each amended by striking “kerosene” and inserting “aviation-grade kerosene”:

(i) Section 4081(a)(3)(A)(ii).

(ii) Section 4081(a)(3)(A)(iv).

(iii) Section 4081(a)(3)(D).

(C) Subparagraph (D) of section 4081(a)(3) is amended—

(i) by striking “paragraph (2)(C)(i)” in clause (i) and inserting “paragraph (2)(C)”, and

(ii) by striking “paragraph (2)(C)(ii)” in clause (ii) and inserting “paragraph (2)(A)(iv)”.

(D) Paragraph (4) of section 4081(a) is amended—

(i) by striking “KEROSENE” in the heading and inserting “AVIATION-GRADE KEROSENE”, and

(ii) by striking “paragraph (2)(C)(i)” and inserting “paragraph (2)(C)”.

(E) Paragraph (2) of section 4081(d) is amended by striking “(a)(2)(C)(ii)” and inserting “(a)(2)(A)(iv)”.

(b) RETAIL TAX ON AVIATION FUEL.—

(1) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—Paragraph (2) of section 4041(c) is amended by inserting “at the rate specified in subsection (a)(2)(A)(iv) thereof” after “section 4081”.

(2) RATE OF TAX.—Paragraph (3) of section 4041(c) is amended to read as follows:

“(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax in effect under section 4081(a)(2)(A)(iv) (4.3 cents per gallon with respect to any sale or use for commercial aviation).”.

(c) REFUNDS RELATING TO AVIATION-GRADE KEROSENE.—

(1) AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION.—Clause (ii) of section 6427(1)(4)(A) is amended by striking “specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be,” and inserting “so imposed”.

(2) KEROSENE USED IN AVIATION.—Paragraph (4) of section 6427(1) is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

“(B) PAYMENTS TO ULTIMATE, REGISTERED VENDOR.—With respect to any kerosene used in aviation (other than kerosene to which paragraph (6) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay (without interest) the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

“(i) is registered under section 4101, and

“(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).”.

(3) AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—Subsection (1) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) REFUNDS FOR AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—If tax has been imposed under section 4081 at the rate specified in section 4081(a)(2)(A)(iv) and the fuel is used other than in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the amount of tax imposed on such fuel reduced by the amount of tax that would be imposed under section 4041 if no tax under section 4081 had been imposed.”.

(4) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 4082(d)(2) is amended by striking “6427(1)(5)(B)” and inserting “6427(1)(6)(B)”.

(B) Paragraph (4) of section 6427(i) is amended—

(i) by striking “(4)(C) or (5)” and inserting “(4)(B) or (6)”, and

(ii) by striking “, (1)(4)(C)(ii), and (1)(5)” and inserting “and (1)(6)”.

(C) Subsection (1) of section 6427 is amended by striking “DIESEL FUEL AND KEROSENE” in the heading and inserting “DIESEL FUEL, KEROSENE, AND AVIATION FUEL”.

(D) Paragraph (1) of section 6427(1) is amended by striking “paragraph (4)(C)(i)” and inserting “paragraph (4)(B)”.

(E) Paragraph (4) of section 6427(1) is amended—

(i) by striking “KEROSENE USED IN AVIATION” in the heading and inserting “AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION”, and

(ii) in subparagraph (A)—

(I) by striking “kerosene” and inserting “aviation-grade kerosene”,



(II) by striking “KEROSENE USED IN COMMERCIAL AVIATION” in the heading and inserting “IN GENERAL”.

(D) TRANSFERS TO THE AIRPORT AND AIRWAY TRUST FUND.—

(1) IN GENERAL.—Subparagraph (C) of section 9502(b)(1) is amended to read as follows: “(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and”.

(2) TRANSFERS ON ACCOUNT OF CERTAIN REVENUES.—

(A) IN GENERAL.—Subsection (d) of section 9502 is amended—

(i) by striking “(other than subsection (1)(4) thereof)” in paragraph (2), and

(ii) by striking “(other than payments made by reason of paragraph (4) of section 6427(1))” in paragraph (3).

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (4) of section 9503(b) is amended by striking “or” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by inserting after subparagraph (D) the following new subparagraphs:

“(E) section 4081 to the extent attributable to the rate specified in clause (ii) or (iv) of section 4081(a)(2)(A), or

“(F) section 4041(c).”.

(ii) Subsection (c) of section 9503 is amended by striking paragraph (5).

(iii) Subsection (a) of section 9502 is amended—

(I) by striking “appropriated, credited, or paid into” and inserting “appropriated or credited to”, and

(II) by striking “, section 9503(c)(5).”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuels removed, entered, or sold after March 31, 2011.

(f) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of aviation-grade kerosene fuel which is held on April 1, 2011, by any person, there is hereby imposed a floor stocks tax on aviation-grade kerosene equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date on such kerosene under section 4081 of the Internal Revenue Code of 1986, as in effect on such date.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation-grade kerosene on April 1, 2011, shall be liable for such tax.

(B) TIME AND METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to the Airport and Airway Trust Fund, the tax imposed by this subsection shall be treated as imposed by section 4081(a)(2)(A)(iv) of the Internal Revenue Code of 1986.

(4) DEFINITIONS.—For purposes of this subsection—

(A) AVIATION-GRADE KEROSENE.—The term “aviation-grade kerosene” means aviation-grade kerosene as such term is used within the meaning of section 4081 of the Internal Revenue Code of 1986.

(B) HELD BY A PERSON.—Aviation-grade kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) SECRETARY.—The term “Secretary” means the Secretary of the Treasury or the Secretary’s delegate.

(5) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to any aviation-grade kerosene held by any per-

son exclusively for any use to the extent a credit or refund of the tax is allowable under the Internal Revenue Code of 1986 for such use.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on any aviation-grade kerosene held on April 1, 2011, by any person if the aggregate amount of such aviation-grade kerosene held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

(B) EXEMPT AVIATION-GRADE KEROSENE.—For purposes of subparagraph (A), there shall not be taken into account any aviation-grade kerosene held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5).

(C) CONTROLLED GROUPS.—For purposes of this subsection—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term “controlled group” has the meaning given to such term by subsection (a) of section 1563 of the Internal Revenue Code of 1986; except that for such purposes the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control if 1 or more of such persons is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of the Internal Revenue Code of 1986 on the aviation-grade kerosene involved shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section.

**SEC. 804. AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.**

(a) IN GENERAL.—Section 9502 is amended by adding at the end the following new subsection:

“(f) ESTABLISHMENT OF AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.—

“(1) CREATION OF ACCOUNT.—There is established in the Airport and Airway Trust Fund a separate account to be known as the ‘Air Traffic Control System Modernization Account’ consisting of such amounts as may be transferred or credited to the Air Traffic Control System Modernization Account as provided in this subsection or section 9602(b).

“(2) TRANSFERS TO AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.—On October 1, 2011, and annually thereafter the Secretary shall transfer \$400,000,000 to the Air Traffic Control System Modernization Account from amounts appropriated to the Airport and Airway Trust Fund under subsection (b) which are attributable to taxes on aviation-grade kerosene.

“(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Air Traffic Control System Modernization Account shall be available subject to appropriation for expenditures relating to the modernization of the air traffic control system (including facility and equipment account expenditures).”.

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 9502(d) is amended by striking “Amounts” and inserting “Except as provided in subsection (f), amounts”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 805. TREATMENT OF FRACTIONAL AIRCRAFT OWNERSHIP PROGRAMS.**

(a) FUEL SURTAX.—

(1) IN GENERAL.—Subchapter B of chapter 31 is amended by adding at the end the following new section:

**“SEC. 4043. SURTAX ON FUEL USED IN AIRCRAFT PART OF A FRACTIONAL OWNERSHIP PROGRAM.**

“(a) IN GENERAL.—There is hereby imposed a tax on any liquid used during any calendar quarter by any person as a fuel in an aircraft which is—

“(1) registered in the United States, and

“(2) part of a fractional ownership aircraft program.

“(b) AMOUNT OF TAX.—The rate of tax imposed by subsection (a) is 14.1 cents per gallon.

“(c) FRACTIONAL OWNERSHIP AIRCRAFT PROGRAM.—For purposes of this section—

“(1) IN GENERAL.—The term ‘fractional ownership aircraft program’ means a program under which—

“(A) a single fractional ownership program manager provides fractional ownership program management services on behalf of the fractional owners,

“(B) 2 or more airworthy aircraft are part of the program,

“(C) there are 1 or more fractional owners per program aircraft, with at least 1 program aircraft having more than 1 owner,

“(D) each fractional owner possesses at least a minimum fractional ownership interest in 1 or more program aircraft,

“(E) there exists a dry-lease aircraft exchange arrangement among all of the fractional owners, and

“(F) there are multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.

“(2) MINIMUM FRACTIONAL OWNERSHIP INTEREST.—

“(A) IN GENERAL.—The term ‘minimum fractional ownership interest’ means, with respect to each type of aircraft—

“(i) a fractional ownership interest equal to or greater than 1/16 of at least 1 subsonic, fixed wing or powered lift program aircraft, or

“(ii) a fractional ownership interest equal to or greater than 1/32 of a least 1 rotorcraft program aircraft.

“(B) FRACTIONAL OWNERSHIP INTEREST.—The term ‘fractional ownership interest’ means—

“(i) the ownership of an interest in a program aircraft,

“(ii) the holding of a multi-year leasehold interest in a program aircraft, or

“(iii) the holding of a multi-year leasehold interest which is convertible into an ownership interest in a program aircraft.

“(3) DRY-LEASE AIRCRAFT EXCHANGE.—The term ‘dry-lease aircraft exchange’ means an agreement, documented by the written program agreements, under which the program aircraft are available, on an as needed basis without crew, to each fractional owner.

“(d) TERMINATION.—This section shall not apply to liquids used as a fuel in an aircraft after September 30, 2013.”.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 4082 is amended by inserting “(other than an aircraft described in section 4043(a))” after “an aircraft”.

(3) TRANSFER OF REVENUES TO AIRPORT AND AIRWAY TRUST FUND.—Subsection (1) of section 9502(b) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after

subparagraph (A) the following new subparagraph:

“(B) section 4043 (relating to surtax on fuel used in aircraft part of a fractional ownership program).”

(4) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 31 is amended by adding at the end the following new item:

“Sec. 4043. Surtax on fuel used in aircraft part of a fractional ownership program.”

(b) FRACTIONAL OWNERSHIP PROGRAMS TREATED AS NON-COMMERCIAL AVIATION.—Subsection (b) of section 4083 is amended by adding at the end the following new sentence: “For uses of aircraft before October 1, 2013, such term shall not include the use of any aircraft which is part of a fractional ownership aircraft program (as defined by section 4043(c)).”

(c) EXEMPTION FROM TAX ON TRANSPORTATION OF PERSONS.—Section 4261, as amended by this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) EXEMPTION FOR AIRCRAFT IN FRACTIONAL OWNERSHIP AIRCRAFT PROGRAMS.—No tax shall be imposed by this section or section 4271 on any air transportation provided before October 1, 2013, by an aircraft which is part of a fractional ownership aircraft program (as defined by section 4043(c)).”

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to fuel used after March 31, 2011.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to uses of aircraft after March 31, 2011.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable transportation provided after March 31, 2011.

**SEC. 806. TERMINATION OF EXEMPTION FOR SMALL JET AIRCRAFT ON NON-ESTABLISHED LINES.**

(a) IN GENERAL.—the first sentence of section 4281 is amended by inserting “or when such aircraft is a turbine engine powered aircraft” after “an established line”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable transportation provided after March 31, 2011.

**SEC. 807. TRANSPARENCY IN PASSENGER TAX DISCLOSURES.**

(a) IN GENERAL.—Section 7275 (relating to penalty for offenses relating to certain airline tickets and advertising) is amended—

(1) by redesignating subsection (c) as subsection (d),

(2) by striking “subsection (a) or (b)” in subsection (d), as so redesignated, and inserting “subsection (a), (b), or (c)”, and

(3) by inserting after subsection (b) the following new subsection:

“(c) NON-TAX CHARGES.—

“(1) IN GENERAL.—In the case of transportation by air for which disclosure on the ticket or advertising for such transportation of the amounts paid for passenger taxes is required by subsection (a)(2) or (b)(1)(B), if such amounts are separately disclosed, it shall be unlawful for the disclosure of such amounts to include any amounts not attributable to such taxes.

“(2) INCLUSION IN TRANSPORTATION COST.—Nothing in this subsection shall prohibit the inclusion of amounts not attributable to the taxes imposed by subsection (a), (b), or (c) of section 4261 in the disclosure of the amount paid for transportation as required by subsection (a)(1) or (b)(1)(A), or in a separate disclosure of amounts not attributable to such taxes.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable transportation provided after March 31, 2011.

**SEC. 808. TAX-EXEMPT BOND FINANCING FOR FIXED-WING EMERGENCY MEDICAL AIRCRAFT.**

(a) IN GENERAL.—Subsection (e) of section 147 is amended by adding at the end the following new sentence: “The preceding sentence shall not apply to any fixed-wing aircraft equipped for, and exclusively dedicated to providing, acute care emergency medical services (within the meaning of 4261(g)(2)).”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

**SEC. 809. PROTECTION OF AIRPORT AND AIRWAY TRUST FUND SOLVENCY.**

(a) IN GENERAL.—Paragraph (1) of section 9502(d) is amended by adding at the end the following new sentence: “Unless otherwise provided by this section, for purposes of this paragraph for fiscal year 2012 or 2013, the amount available for making expenditures for such fiscal year shall not exceed 90 percent of the receipts of the Airport and Airway Trust Fund plus interest credited to such Trust Fund for such fiscal year as estimated by the Secretary of the Treasury.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fiscal years beginning after September 30, 2011.

Mr. ROCKEFELLER. 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. 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.

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

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

#### GALLAUDET UNIVERSITY

Mr. BROWN of Ohio. Mr. President, I rise to talk about one of America's great institutions, Gallaudet University. On July 4, 1861, President Lincoln celebrated our Nation's independence on the eve of the Civil War by declaring to Congress the principal aim of the U.S. Government should be “to elevate the condition of men; to lift artificial weights from all shoulders; to clear the paths of laudable pursuit for all; to afford an unfettered start and a fair chance in the race of life.”

Just a few months before that President Lincoln signed into Federal law the authorization to confer collegiate degrees to the deaf and to the hard of hearing at a campus in Washington, DC. For the first time in the Nation's history and still alone to this day Gallaudet University is the only liberal arts university in the world dedicated to the pursuit of higher education for deaf and hard of hearing people. Simply put, Gallaudet is a gem, a gem for this city, a gem for our country, a gem for the world for higher education, truly a national university located a short distance from the Capitol and founded by President Abraham Lincoln.

I am one of two appointees—one from the House, one from the Senate—by statute to the board of trustees at Gal-

laudet University. During my tenure on the board I have met with proud alumni and supporters of Gallaudet in Ohio and in Washington.

Last Friday I was again on campus and met with members of the board, the president's cabinet, and a few students. Some people I admire a great deal, with whom I have talked about the culture of our nation's deaf communities, are Jay and Meredith Crane. Jay is a member of the Gallaudet board of trustees.

Jay and his wife Meredith are outstanding advocates for Ohio's deaf community and culture. Jay and Meredith have a son and a daughter who are deaf. They demonstrate to all of us how important a Gallaudet education can be in one's life.

Jay's son, at an event in Columbus last year, explained to us how Gallaudet is an oasis for students, students who have lived all over the country, generally integrated into a community but having a sense of isolation among people who are not deaf. Yet Jay's son, when coming to the university, talked about what an oasis Gallaudet University is for him and for his classmates.

The parents, the educators, the administrators at Gallaudet serve as role models and continue to make a difference in the lives of students. That is why the relationship between Gallaudet and our Federal Government is so important. It is why our support and encouragement of deaf and hard-of-hearing students allow them to explore new opportunities and experiences to enrich our workplaces and our communities.

The overwhelming majority of undergraduate students at Gallaudet are deaf. About half of the students at the graduate school at Gallaudet are deaf and half of them are hearing students. Many of those graduates, graduates and undergraduates in the master's program at Gallaudet, go into serving the deaf around the country. Many of them, as Jay and Meredith's son, go into other professions not directly concerned with the deaf. Jay and Meredith's son, for example, is in law school in California. Most of these students come from middle-class or working-class families.

In 2008-2009, more than 80 percent of Gallaudet students received financial aid in order to get the education they deserve. These students are talented. I will soon have a Gallaudet intern by the name of Brianna Johnson, a student at Gallaudet, who is an education and human rights justice major. She will be graduating in May 2010. She is on the dean's scholar list. She is originally from Atlanta, GA.

The Gallaudet University women's basketball team, ranked 18th in the Nation, was undefeated until, unfortunately, this past weekend when they lost to Penn State-Harrisburg. They play in the North Eastern Athletic Conference, division III. One of their guards is a graduate from the Columbus School for the Deaf in Columbus,

OH. Their head coach is Mark Ehlen. Their assistant coach came out of one of the great women's basketball programs in Ohio, Stephanie Stevens, a 2010 graduate of the University of Cincinnati. She went to Pickerington High School, which has been in the state finals and final four many times.

As we prepare our Nation to "win the future" and outcompete and outeducate the rest of the world, we must ensure that mission includes all Americans. The creation of Gallaudet, 140-plus years ago, helped establish a nationwide community for generations of deaf children.

Ohio's first school for the deaf was established in 1829 in a small house right near where the State House now is on Broad and Highway in Columbus. That school, the Columbus School for the Deaf for Ohio, will soon have a new campus on 200 acres on Morse Road in Columbus with convenient student housing and modern education technology and space for future expansion. Such progress demonstrates how far education for deaf and hard-of-hearing students has come, and how much farther it can go.

Last year I gave a speech on this floor honoring Gallaudet as the Senate passed a resolution commemorating the 145th anniversary of Gallaudet's charter that was authored by President Lincoln. And 141 years ago, the three members of Gallaudet's first graduating class received degrees signed by President Lincoln.

Last year, during Gallaudet's 140th commencement, 10 Ohio students graduated from Gallaudet with a degree signed by President Obama. I am concerned, though, that funding for Gallaudet may be compromised in the budget that is working its way through the House of Representatives. Gallaudet's budget has been frozen at \$118 million for, I believe, 3 straight years. They have gotten no increase in Federal funding. They raise private money. They obviously charge tuition, although a huge percentage of their students, as I said, are on scholarship. The Federal money they have has not increased over the last, I believe, 3 years.

My concern is as the budget makes its way through here, we do not just help those students who are going to Gallaudet but we do understand that Gallaudet is one of our Nation's gems, a national university unlike any other, not just in the United States of America but any other university anywhere in the world. The proud alumni of Gallaudet have enriched our communities and have taught all of us the meaning of the values President Lincoln laid before us, that we educate ourselves as part of a community, full of opportunity, free of, as Lincoln said, artificial weight that works toward the good of our society.

Gallaudet is a jewel for our country. It is an honor to be on their board. It is an honor, frankly, to me, as a mission for the United States of America, that we continue to assist this great

national university that is a credit to all of us.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I ask unanimous consent that the Senate resume consideration of S. 223 on Tuesday, February 15, at 11 a.m.; further that at 11:40 a.m., the Senate proceed to the consideration of the Nelson of Nebraska amendment No. 58; that a Nelson second-degree amendment, which is at the desk, be agreed to, there be up to 20 minutes of debate, equally divided, prior to a vote in relation to the amendment, as amended; that no further amendments be in order to the Nelson of Nebraska amendment prior to the vote; and that the motion to reconsider be laid upon the table and there be no intervening action or debate.

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

Mr. REID. I further ask unanimous consent that at 2:15 p.m. there be 10 minutes of debate equally divided and controlled in the usual form prior to a vote on or in relation to Wicker amendment No. 14, as modified; that all amendments covered in this agreement be subject to a 60-vote threshold; that if an amendment does not achieve 60 affirmative votes, the amendment be withdrawn; that there be no second-degree amendments in order prior to the votes; and that the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

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

#### MORNING BUSINESS

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

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

#### TRIBUTE TO ELLEN MALDONADO

Mr. INOUE. Mr. President, it is a somewhat poorly kept secret that many of the successes of government are attributable to those who work outside of the limelight. While Senators, Cabinet Secretaries, and even the generals in our military are the public face of the policies of the United States, behind every leader is a cadre of dedicated and knowledgeable civil servants.

Today I wish to call out one name in particular. Ellen Maldonado, a professional staff member on the Senate Ap-

propriations Committee, will soon be retiring after 30 years of government service. Ellen joined the Defense Subcommittee in 2006, brought onboard by my friend and former colleague, Senator Ted Stevens. The subcommittee, and in fact the Senate as a whole, was fortunate to find someone with such a wealth of talent and experience in the complex field of budgeting for our Armed Forces.

Ellen has worked at every level of the budgeting workforce for our military establishment. She began her career as a program analyst at the Naval Ship Research and Development Center in Carderock, MD, and rapidly progressed through the ranks in critical budgeting positions both inside and outside the beltway. Some of her most rewarding positions outside of Washington have included service at the Defense Language Institute in Monterey, CA, Air Force Special Operations Command at Hurlburt Field, and even the U.S. Embassy in Lima, Peru.

Inside the Pentagon, Ellen worked on an impressive array of budgeting issues. From revising the Army's reprogramming process to programming for military health care, from reviewing defense research and development programs to developing emergency spending requests for the wars in Iraq and Afghanistan, she has earned the respect of all of those around her. She has won a reputation of being an expert on the most arcane points of the Financial Management Regulations, as well as understanding the details of highly complex weapons systems. Ellen has been recognized for her outstanding achievements by being awarded both the Secretary of Defense Medal for Meritorious Service and the Exceptional Civilian Service Award.

Ellen's career at the Pentagon culminated in her 2005 appointment as the Director for Investment for the Comptroller of the Department of Defense. In this position, she was responsible for overseeing the budget for every stage of developing, testing, and procuring equipment for all of the military services. This position brought her into regular contact with the highest levels of the Department of Defense, as well as Congress and the Office of Management and Budget.

It is extremely fortunate for the Committee on Appropriations that we managed to lure her away from this important position in 2006. While serving on the Defense Subcommittee, Ellen has excelled in reviewing the budget proposals on critical Army, Navy, Air Force, Marine Corps, and intelligence programs. She has tackled some of the greatest national security challenges facing our country today, including an in-depth investigation into our government's cyber security efforts and exhaustive reviews of the Nation's most expensive military program in history, the Joint Strike Fighter. Her impressive track record made her a natural pick to join President Obama's transition team at the Department of Defense in 2008 and 2009.

While I could continue to list her professional successes, one cannot comment on her career without saying a few words on her outstanding character. Ellen combines a sunny disposition with a deep-rooted sense of fairness. She is a true master of her field, and always eager to share her knowledge and experience with her colleagues. While consistently a good steward of the taxpayer's money, her patriotism has insured that the welfare of the men and women serving in uniform has always been foremost in her mind. And finally, everyone who knows Ellen also knows of her remarkable and touching relationship with her husband, Rob. They are truly a magical couple, and I understand that they have plans to travel the world later this year.

Ellen Maldonado has had an outstanding career in three decades of service in the Department of Defense and the Senate. On behalf of the whole Committee on Appropriations, I wish to thank Ellen for her tireless and outstanding work on behalf of the members of the Armed Forces, her colleagues, and the people of the United States. I wish Ellen and Rob all the very best in their future plans.

#### TRIBUTE TO LIEUTENANT ANNA DIXON

Mr. McCONNELL. Mr. President, I rise today to recognize the impressive accomplishments of a remarkable woman and native of the Commonwealth, Lieutenant Anna Dixon of the U.S. Coast Guard. Lieutenant Dixon has always possessed an adventurous spirit and harbored a desire to expand her horizons and explore the possibilities of the world outside of her hometown of Barbourville, KY. So it came as no surprise to those who know her that upon graduating from Barbourville High School and attending the University of Kentucky to study architecture for a year, Lieutenant Dixon decided to take advantage of an exchange program and follow her dream of becoming a marine biologist at Coastal Carolina College in Myrtle Beach, SC.

Upon graduating with her degree in marine science and working at an environmental testing lab, Lieutenant Dixon decided to take another adventurous and courageous leap and enlist in the U.S. Coast Guard. Lieutenant Dixon not only completed her basic training at Camp May, NJ, in August of 2004, but also graduated at the top of her class and was assigned to the Coast Guard Station in Long Beach, CA, where she remained for 2 years.

In the years that followed, this bright and determined woman worked tirelessly to qualify for numerous positions within the U.S. Coast Guard, including Officer Candidate School where she graduated third in her class, as a patroller on the Coast Guard Cutter Spencer, and as Chief of Contingency Preparedness at the Coast Guard Sta-

tion in Key West, FL. Most recently, Lieutenant Dixon was assigned the duties of public information officer for the Florida Keys response to the Deepwater Horizon oil spill, and was hand-selected to be the lead advance officer and deputy press secretary for now-retired National Incident Commander Admiral Thad Allen of the U.S. Coast Guard.

During her time in the post from July to October of 2010, Lieutenant Dixon worked steadfastly to coordinate daily national press conferences for Admiral Allen and other high-ranking national leader, to make sure information on one of the Nation's most devastating offshore disasters was delivered in a timely and accurate manner. Because of her strong sense of leadership and her eye for detail, Lieutenant Dixon was selected by a board of Coast Guard officers to attend a fully funded graduate program to further her experience in communications and public relations, as well as to complete a follow-on tour as a public affairs officer for a multistate Coast Guard district.

It is unquestionable that Lieutenant Dixon's career successes, including her recent change in rank, have come with much sacrifice, but have been well-deserved. I ask my colleagues to join me in recognizing the accomplishments of LT Anna Dixon, and in sending congratulations to her proud parents Katy Jones and Bill Matt Dixon, and step-parents Michael Jones and Kay Dixon. I wish Lieutenant Dixon continued success for the future.

The Mountain Advocate recently published a story about Lieutenant Dixon and her successful career. I ask unanimous consent that the full article be printed in the RECORD.

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

[From Mountain Advocate, Jan. 6, 2011]

(By Eddie Arnold)

#### JUST CALL HER 'LIEUTENANT'

When Anna Dixon graduated from Barbourville High School in 1998, she had dreams of being a marine biologist. However, with the nearest ocean hundreds of miles away, pursuing such a career seemed even unlikely.

Little did she know that working in and around oceans is something that she would eventually do—not as a marine biologist but as a member of the United States Coast Guard.

Even more ironic is that she never even considered the military as a young girl. "I never even thought about it," she said.

After one year at the University of Kentucky as a student of architecture, she chose to take advantage of an exchange program and moved to South Carolina, where she graduated from the Coastal Carolina College in Myrtle Beach with a B.S. degree in marine science.

"There are very few jobs for marine biologists that don't have an advanced degree," she said. It was then that her best friend's husband, who was in the Army, suggested that she consider the Coast Guard. "I didn't even know what that was, I thought they were water cops."

However, the suggestion planted a seed in Dixon's mind. "At first it was a joke. But the

more I joked about it, the more I thought maybe it's not that bad of an idea," she said.

After graduation and while living in Savannah, Dixon worked at an environmental testing lab. "It was like real chemistry, but I could tell that was what I would be doing forever if I didn't make a change and go out on a limb. So I went and talked with a recruiter," she said, adding that she made the decision to enlist. "It sounded like a really good idea."

Dixon graduated from basic training at Cape May, New Jersey at the top of her class in August 2004. After going on to Boatswain's Mate "A" School training, she was assigned to the Coast Guard Station Los Angeles/Long Beach where she remained from December 2004 to March 2006.

"I worked really hard and got qualified as quickly as I could and got recommended to go to Officer Candidate School, where she graduated third in her class.

From there, she went to a ship—the Coast Guard Cutter Spencer out of Boston, Massachusetts.

"I never wanted to do ship life," she said. "But I thought if I didn't do it then, I would never get the chance to do it."

During her two years aboard ship, they patrolled from the northeast coast off Canada all the way down to the Caribbean, including doing migrant patrols.

Even though Dixon said she learned a lot on that assignment, she longed to get her feet back on dry land. When she applied for a new assignment, she noticed that Key West was available. "I thought to myself there's no way I'm going to get that. There will be thirty other people in line for that. When I learned that I had got it, I was off the coast of Canada. It was like eight degrees," she said. "At three o'clock in the morning I got an email saying I was going to Key West."

Being a female presented its own set of challenges for Dixon. "During my whole time in the Coast Guard it has been a challenge no matter where I go. But within a month, they find out that I am for real. But I've never had any real problems," she said.

Since being assigned at Key West through the present, Dixon's job as Chief of Contingency Preparedness has posed challenges also.

In April of this year she was assigned the duties of public information officer for the Florida Keys response to the Deepwater Horizon oil spill.

"Since I've been doing that it has been a full-time thing," she said. "But I am still the chief of planning."

Dixon was hand-selected to be the Lead Advance Officer and Deputy Press Secretary for National Incident Commander Admiral Thad Allen (USCG-Ret.), a job she held from July through October of this year.

During her time in the post, she coordinated daily national-level press conferences for Allen and other high-ranking national leaders including Dr. Lane Lubchenco, Director of the National Oceanic and Atmospheric Administration.

Although she has enjoyed her duty assignments so far, Dixon said she is looking forward to the next level in her career.

"I have been selected by a board of Coast Guard officers to attend a fully-funded graduate program to study communications and public relations, with a follow-on tour as a Public Affairs Officer for an entire multistate Coast Guard district," she said.

Dixon, who was recently promoted to the rank of lieutenant, said she has enjoyed her six plus years in the Coast Guard. "I didn't know what to expect when I went in but I definitely didn't expect to live in eight states and have all these different experiences. It has been unbelievable," she said, adding that her family and friends are really proud of me.

"My friends laugh because they say 'Anna is in charge of things?' They don't see me as Lt. Dixon, they just see me as Anna. But they are all super proud of me."

Over the holidays, she came home to spend some time with her family, including her parents Katy and Michael Jones of Corbin, Bill and Kay Dixon of Barbourville, and brothers John W. Dixon and Matthew Dixon.

#### 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.)

#### BUDGET OF THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2012—PM 5

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred jointly, pursuant to the order of January 30, 1975 as modified by the order of April 11, 1986; to the Committees on Appropriations; and the Budget:

##### *To the Congress of the United States:*

America is emerging from the worst recession in generations. In 2010, an economy that had been shrinking began to grow again. After nearly 2 years of job losses, America's businesses added more than one million jobs. Our capital and credit markets are functioning and strong. Manufacturing is coming back. And after teetering on the brink of liquidation just 2 years ago, America's auto industry is posting healthy gains and returning money to the taxpayers who helped it through a period of turmoil. The determination and resilience of the American people and the tough choices we made over the past 2 years helped to pull our economy back from the brink of a second Great Depression.

Two years after those dark days, the stock market is booming. Corporations are posting record profits. Momentum is building. Yet, in America, we have always had a broader measure of economic health. We believe in a country where everyone who is willing to work for it has the opportunity to get ahead; where the small businessperson with a dream or entrepreneur with a great new idea has their best chance to make them a reality; where any child can go as far as their talent and tenacity will take them. That is the genius of America. That spirit is what has built the greatest prosperity the world has ever known.

So even as recovery begins to take hold, we have more work to do to live up to our promise by repairing the damage this brutal recession has inflicted on our people, generating millions of new jobs, and seizing the economic opportunities of this competitive, new century.

These must be the priorities as we put together our Budget for the coming year. The fiscal realities we face require hard choices. A decade of deficits, compounded by the effects of the recession and the steps we had to take to break it, as well as the chronic failure to confront difficult decisions, has put us on an unsustainable course. That's why my Budget lays out a path for how we can pay down these debts and free the American economy from their burden.

But in an increasingly competitive world in which jobs and businesses are mobile, we also have a responsibility to invest in those things that are absolutely critical to preparing our people and our Nation for the economic competition of our time.

We do this by investing in and reforming education and job training so that all Americans have the skills necessary to compete in the global economy. We do this by encouraging American innovation and investing in research and development—especially in the job-creating industries of tomorrow such as clean energy. We do this by rebuilding America's infrastructure so that U.S. companies can ship their products and ideas from every corner in America to anywhere in the world. And finally, we do this by coming together as Americans, not Democrats or Republicans, to make the tough choices that get America's fiscal house in order, investing in what works, cutting what doesn't, and changing the way business is done in Washington.

Growing the economy and spurring job creation by America's businesses, large and small, is my top priority. That's why, over the course of the last year, I pushed for additional measures to jump-start our economic recovery: tax credits for businesses that hire unemployed workers; assistance to States to prevent the layoffs of teachers; and tax cuts and expanded access to credit for small businesses. At the end of the year, I signed into law a measure that provided tax cuts for 159 million workers saving the typical worker \$1,000 per year. And the same law extended important tax credits to help families make ends meet and afford to send their kids to college. This bipartisan tax cut plan also gave businesses two powerful incentives to invest and create jobs: 100 percent expensing on the purchase of equipment and an extension of the research and experimentation tax credit.

Moreover, my Administration has moved aggressively to open markets abroad and boost exports of American made goods and services, signing a new trade agreement with South Korea, the twelfth-largest economy in the world.

And last month, I laid out a balanced approach to regulation that is pragmatic, driven by data, and that will protect the health and well-being of the American people and help lay the groundwork for economic growth and job creation.

These steps will help the economy this year. But it is also essential that we take stock and look to the future—to what kind of America we want to see emerge from this crisis and take shape for the generations of Americans to come. This Budget lays out our roadmap not just for how we should invest in our economy next year, but how we should start preparing our Nation to grow, create good jobs, and compete in the world economy in the years ahead.

At its heart is a recognition that we live in a world fundamentally different than the one of previous generations. Revolutions in communication and technology have made businesses mobile and commerce global. Today, a company can set up shop, hire workers, and sell their products wherever there is an Internet connection. It is a transformation that has touched off a fierce competition among nations for the jobs and industries of the future.

The winners of this competition will be the countries that have the most skilled and educated workers; a serious commitment to research and technology; and access to quality infrastructure like roads and airports, high-speed rail, and high-speed Internet. These are the seeds of economic growth in the 21st century. Where they are planted, the most jobs and businesses will take root.

In the last century, America's economic leadership in the world went unchallenged. Now, it is up to us to make sure that we maintain that leadership in this century. At this moment, the most important contest we face as a Nation is not between Democrats and Republicans or liberals and conservatives. It's between America and our economic competitors around the world.

There is no doubt in my mind that we can win this competition. The United States is home to the world's best universities and research facilities, the most brilliant scientists, the brightest minds, and some of the hardest-working, most entrepreneurial people on Earth. But our leadership is not guaranteed unless we redouble our efforts in the race for the future.

In a generation, we've fallen from first place to ninth place in the proportion of our young people with college degrees. We lag behind other nations in the quality of our math and science education. The roads and bridges that connect the corners of our country and made our economy grow by leaps and bounds after World War II are aging and in need of repair. Our rail and air traffic systems are in need of modernization, and our mobile networks and high-speed Internet access have not kept pace with some of our rivals,

putting America's businesses and our people at a competitive disadvantage.

In 1957, when the Soviet Union beat us into space by launching a satellite called Sputnik, it was a wake-up call that caused the United States to boost our investment in innovation and education—particularly in math and science. As a result, we not only surpassed the Soviets, we developed new American technologies, industries, and jobs. Fifty years later, our generation's Sputnik moment has arrived. Our challenge is not building a new satellite, but to rebuild our economy. If the recession has taught us anything, it is that we cannot go back to an economy driven by too much spending, too much borrowing, and the paper profits of financial speculation. We must rebuild on a new, stronger foundation for economic growth. We need to do what America has always been known for: building, innovating, and educating. We don't want to be a nation that simply buys and consumes products from other countries. We want to create and sell products all over the world that are stamped with three simple words: "Made in America."

My Budget makes investments that can help America win this competition and transform our economy, and it does so fully aware of the very difficult fiscal situation we face. When I took the oath of office 2 years ago, my Administration was left an annual deficit of \$1.3 trillion, or 9.2 percent of GDP, and a projected 10-year deficit of more than \$8 trillion. These deficits were the result of a previous 8 years of not paying for programs—notably, two large tax cuts and a new Medicare prescription drug benefit—as well as the financial crisis and recession that exacerbated our fiscal situation as revenue decreased and automatic Government outlays increased to counter the recession and cushion its impact.

We took many steps to re-establish fiscal responsibility, from instituting a statutory pay-as-you-go rule for spending to going line by line through the budget looking for outdated, ineffective, or duplicative programs to cut or reform. And, most importantly, we enacted the Affordable Care Act. Along with giving Americans more affordable choices and freedom from insurance company abuses, reform of our health care system will, according to the latest analysis by the non-partisan Congressional Budget Office, reduce our budget deficits by more than \$200 billion in its first decade and more than \$1 trillion over the second.

Now that the threat of a depression has passed, and economic growth is beginning to take hold, taking further steps toward reducing our long-term deficit has to be a priority, and it is in this Budget. The reason is simple: in the long run, we will not be able to compete with countries like China if we keep borrowing more and more from countries like China. That's why in this Budget, I put forward a number of steps to put us on a fiscally sustainable path.

First, I am proposing a 5-year freeze on all discretionary spending outside of security. This is not an across-the-board cut, but rather an overall freeze with investments in areas critical for long-term economic growth and job creation. A commonsense approach where we cut what doesn't work and invest in those things that make America stronger and our people more prosperous. Over a decade, this freeze will save more than \$400 billion, cut non-security funding to the lowest share of the economy since at least 1962, and put the discretionary budget on a sustainable trajectory.

Making these spending cuts will require tough choices and sacrifices. One of them is the 2-year freeze on Federal civilian worker salaries. This is in no way a reflection on the dedicated service of Federal workers, but rather a necessary belt-tightening measure during these difficult times when so many private sector workers are facing similar cuts. This Budget also includes many terminations and reductions to programs across the entire Federal Government. These cuts include many programs whose mission I care deeply about, but meeting our fiscal targets while investing in our future demands no less. All told, we have put forward more than 200 terminations and reductions for over \$30 billion in savings.

Even in areas outside the freeze, we are looking for ways to save money and cut unnecessary costs. At the Department of Defense, for instance, we are reducing its funding by \$78 billion over the next 5 years on a course for zero real growth in funding. To do this, Secretary Gates is pursuing a package of terminations, consolidations, and efficiencies that include, for example, the elimination of the Marine Corps Expeditionary Fighting Vehicle; the consolidation of four Air Force air operations centers into two; and reducing the number of Generals and Admirals by more than 100. And throughout the entire Government, we are continuing our efforts to make Government programs and services work better and cost less: using competition and high standards to get the most from the grants we award, getting rid of excess Federal real estate, and saving billions of dollars by cutting overhead and administrative costs.

Second, I continue to oppose the permanent extension of the 2001 and 2003 tax cuts for families making more than \$250,000 a year and a more generous estate tax benefiting only the very largest estates. While I had to accept these measures for 2 more years as a part of a compromise that prevented a large tax increase on middle-class families and secured crucial job-creating support for our economy, these policies were unfair and unaffordable when enacted and remain so today. I will push for their expiration in 2012. Moreover, for too long we have tolerated a tax system that's a complex, inefficient, and loophole-riddled mess. For instance, year after year we go deeper

into deficit and debt to pay to prevent the Alternative Minimum Tax (AMT) from hurting many middle-class families. As a start, my Budget proposes a 3-year fix to the AMT that is paid for by an across-the-board 30 percent reduction in itemized deductions for high-income taxpayers. My Administration will work with the Congress on a long-term offset for these costs.

Third, to address looming, long-term challenges to our fiscal health, the Budget addresses future liabilities in the unemployment insurance system; the Pension Benefit Guaranty Corporation, which protects the pensions of workers whose companies have failed; and the Federal Housing Administration, which plays a critical role in affordable housing. It also is committed to implementing the Affordable Care Act swiftly and efficiently since rising health care costs are the single biggest driver of our long-term fiscal problems. Finally, as a down payment toward a permanent fix, the Budget proposes additional reforms to our health care system that would be sufficient to pay for 2 years of fixing the Medicare's sustainable growth rate, thus preventing a large cut in Medicare reimbursements for doctors that would jeopardize care for older Americans.

In addition, I believe that we need to act now to secure and strengthen Social Security for future generations. Social Security is a solemn commitment to America's seniors that we must preserve. That is why I have laid out my principles for reform and look forward to working with the Congress on ensuring Social Security's compact for future generations.

As we move to rein in our deficits, we must do so in a way that does not cut back on those investments that have the biggest impact on our economic growth because the best antidote to a growing deficit is a growing economy. So even as we pursue cuts and savings in the months ahead, we must fund those investments that will help America win the race for the jobs and industries of the future—investments in education, innovation, and infrastructure.

In an era where most new jobs will require some kind of higher education, we have to keep investing in the skills of our workers and the education of our children. And that's why we are on our way to meeting the goal I set when I took office: by 2020, America will once again have the highest proportion of college graduates in the world.

To get there, we are making college more affordable for millions of students, through the extension of the American Opportunity Tax Cut and maintaining our historic expansion of the Pell Grant program while putting it on firm financial footing. We are taking large steps toward my goal of preparing 100,000 science, technology, engineering, and mathematics teachers over the next decade. And we are continuing our reform of elementary and secondary education—not from the top-down, but from the bottom-up. Instead

of indiscriminately pouring money into a system that doesn't always work, we are challenging schools and States to compete in a "Race to the Top" to see who can come up with reforms that raise standards, recruit and retain good teachers, and raise student achievement, especially in math and science. We are expanding the "Race to the Top" to school districts, and since in today's economy learning must last a lifetime, we are extending this competitive framework to early childhood education, universities and colleges, and job training.

Once our students graduate with the skills they need for the jobs of the future, we also need to make sure those jobs end up in America. In today's high-tech, global economy, that means the United States must be the best place to do business and the best place to innovate. That will take reforming our tax code, and I am calling for immediate action to rid the corporate tax code of special interest loopholes and to lower the corporate rate to restore competitiveness and encourage job creation—while not adding a dime to the deficit.

And since many companies do not invest in basic research that does not have an immediate pay off, we—as a Nation—must devote our resources to these fundamental areas of scientific inquiry. In this Budget, we are increasing our investment in research and development that contributes to fields as varied as biomedicine, cyber-security, nano-technology, and advanced manufacturing. We are eliminating subsidies to fossil fuels and instead making a significant investment in clean energy technology—boosting our investment in this high-growth field by a third—because the country that leads in clean energy will lead in the global economy. Through a range of programs and tax incentives, this Budget supports my goals of the United States becoming the first country to have one million electric vehicles on the road by 2015 and for us to reach a point by 2035 where 80 percent of our electricity will come from clean energy sources. We also are working toward a 20 percent decrease in energy usage in commercial and institutional buildings by 2020, complementing our ongoing efforts to improving the efficiency of the residential sector. If this is truly our Sputnik moment, we need a commitment to innovation that we have not seen since President Kennedy challenged us to go to the moon.

To flourish in the global economy, we need a world-class infrastructure—the roads, rails, runways, and information superhighways that are fundamental to commerce. Over the last 2 years, our investments in infrastructure projects already have led to hundreds of thousands of good private sector jobs and begun upgrading our infrastructure across the country. But we still have a long way to go.

In this Budget, I am proposing a historic investment in repairing, rebuild-

ing, and modernizing our transportation infrastructure. The Budget features an immediate, up-front investment of \$50 billion to both generate jobs now and lay a foundation for future economic growth. Looking toward the future, the Budget provides funds to develop and dramatically expand access to high-speed rail as well as the creation of a National Infrastructure Bank to support projects critical to our national competitiveness. While this transportation bill is a major investment of funds, it is also a major reform of how transportation funds have been invested in the past. We are committing to paying for our surface transportation plan and making it subject to the Congress' pay-as-you-go law; to consolidating duplicative, earmarked programs; and to making tens of billions of dollars of funds subject to a competitive "Race to the Top" process.

And looking to what we will need to thrive in the 21st century, I am proposing an ambitious effort to speed the development of a cutting-edge, high-speed wireless data network that will reach across our country to 98 percent of Americans and provide for the needs of both our citizens and our first responders. We are the Nation that built the transcontinental railroad and the first airplanes to take flight. We constructed a massive interstate highway system and introduced the Internet to the world. America has always been built to compete, and if we want to attract the best jobs and businesses to our shores, we have to be that Nation again.

Finally, to make it easier for our businesses and workers to sell their products all over the globe, we are working toward our goal of doubling U.S. exports by 2014. This will take specific efforts to open up markets and promote American goods and services. It also will take maintaining American leadership abroad and ensuring our security at home. This Budget invests in all elements of our national power—including our military—to achieve our goals of winding down the war in Iraq; defeating al Qaeda in Afghanistan and around the world; reducing the threat of nuclear weapons; and preparing our Nation for emerging threats. We also invest resources to provide for our men and women in uniform and to honor the service of our veterans. And we do this all with an eye to cutting waste, finding efficiencies, and focusing resources on what is essential to our security.

Throughout our history, the investments this Budget makes—in education, innovation, and infrastructure—have commanded support from both Democrats and Republicans. It was Abraham Lincoln who launched the transcontinental railroad and opened the National Academy of Sciences; Dwight Eisenhower who helped build our highways; and Republican Members of Congress who worked with Franklin Roosevelt to pass the GI Bill. In our own time, leaders from

both sides of the aisle have come together to invest in our infrastructure, create incentives for research and development, and support education reform such as those my Administration has been pursuing. Moreover, when faced with tough, fiscal challenges, our country's leaders have come together to find a way forward to save Social Security in the 1980s and balance the budget in the 1990s.

There are no inherent ideological differences that should prevent Democrats and Republicans from making our economy more competitive with the rest of the world. We are all Americans, and we are all in this race together. So those of us who work in Washington have a choice to make in this coming year: we can focus on what is necessary for each party to win the news cycle or the next election, or we can focus on what is necessary for America to win the future.

I believe we must do what this moment demands, and do what we must to spur job creation and make the United States competitive in the world economy. For as difficult as the times may be, the good news is that we know what the future could look like for the United States. We can see it in the classrooms that are experimenting with groundbreaking reforms and giving children new math and science skills at an early age. We can see it in the wind farms and advanced battery factories that are opening across America. We can see it in the laboratories and research facilities all over this country that are churning out discoveries and turning them into new startups and new jobs.

And when you meet these children and their teachers, these scientists and technicians, and these entrepreneurs and their employees, you come away knowing that despite all we have been through these past 2 years, we will succeed. The idea of America is alive and well. As long as there are people willing to dream, willing to work hard, and willing to look past the disagreements of the moment to focus on the future we share, I have no doubt that this will be remembered as another American century.

BARACK OBAMA.  
THE WHITE HOUSE, February 14, 2011.

#### MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 359. An act to reduce Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions.

#### ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on February 11, 2011, during the adjournment of the Senate, she had presented to the President of the United States the following enrolled bill:

S. 188. An act to designate the United States courthouse under construction at 98

West First Street, Yuman, Arizona, as the "John M. Roll United States Courthouse."

#### 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-492. A communication from the Acting Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Emerald Ash Borer; Addition of Quarantined Areas in Kentucky, Michigan, Minnesota, New York, Pennsylvania, West Virginia, and Wisconsin" (Docket No. APHIS-2009-0098) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC-493. A communication from the Director of the Regulatory Review Group, Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Asparagus Revenue Market Loss Assistance Payment Program" (RIN0560-A102) received in the Office of the President of the Senate on February 11, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC-494. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to the department's intent to disestablish United States Joint Forces Command; to the Committee on Armed Services.

EC-495. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, a report relative to the Secretary's personnel management demonstration project authorities for Department of Defense Science and Technology Reinvention Laboratories; to the Committee on Armed Services.

EC-496. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of General George W. Casey, Jr., United States Army, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

EC-497. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of General William E. Ward, United States Army, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

EC-498. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a report relative to a proposed change to the Fiscal Year 2009 National Guard and Reserve Equipment Appropriation (NGREA) procurement; to the Committee on Armed Services.

EC-499. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Reporting of Government Property Lost, Stolen, or Destroyed" ((RIN0750-AG64)(DFARS Case 2008-D049)) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Armed Services.

EC-500. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Marking of Government-Furnished Property" ((RIN0750-AG44)

(DFARS Case 2008-D050)) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Armed Services.

EC-501. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency that was declared in Executive Order 13441 with respect to Lebanon; to the Committee on Banking, Housing, and Urban Affairs.

EC-502. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to persons undermining democratic processes or institutions in Zimbabwe declared in Executive Order 13288; to the Committee on Banking, Housing, and Urban Affairs.

EC-503. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" ((44 CFR Part 64)(Docket No. FEMA-2011-0002)) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC-504. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" (44 CFR Part 65) received in the Office of the President of the Senate on February 8, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC-505. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to authorizing an unconditional guarantee on a supply chain finance facility; to the Committee on Banking, Housing, and Urban Affairs.

EC-506. A communication from the Assistant Director for Policy, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Iranian Human Rights Abuses Sanctions Regulations" (31 CFR Part 562) received during adjournment of the Senate in the Office of the President of the Senate on February 9, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC-507. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Simplified Network Application Processing System, On-line Registration and Account Maintenance" (RIN0694-AE98) received in the Office of the President of the Senate on February 8, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC-508. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "NASA Implementation of Federal Acquisition Regulation (FAR) Award Fee Language Revision" (RIN2700-AD69) received in the Office of the President of the Senate on February 10, 2011; to the Committee on Commerce, Science, and Transportation.

EC-509. A communication from the Deputy General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines" ((RIN1902-AE11)(Docket No. RM07-9-003)) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Energy and Natural Resources.

EC-510. A communication from the Director of Congressional Affairs, Nuclear Regu-

latory Commission, transmitting, pursuant to law, the report of a rule entitled "List of Approved Spent Fuel Storage Casks: NUHOMS HD System Revision 1" (RIN3150-AI89) received in the Office of the President of the Senate on February 7, 2011; to the Committee on Environment and Public Works.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Finance, without amendment:

S. 340. An original bill to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes (Rept. No. 112-1).

#### 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. UDALL of Colorado (for himself and Mr. BENNET):

S. 327. A bill to name the Department of Veterans Affairs telehealth clinic in Craig, Colorado, as the "Major William Edward Adams Department of Veterans Affairs Clinic"; to the Committee on Veterans' Affairs.

By Mr. BROWN of Ohio (for himself and Ms. SNOWE):

S. 328. A bill to amend title VII of the Tariff Act of 1930 to clarify that countervailing duties may be imposed to address subsidies relating to fundamentally undervalued currency of any foreign country; to the Committee on Finance.

By Mr. SCHUMER:

S. 329. A bill to prohibit sex offenders from using property management or maintenance functions to access the residence of an individual; to the Committee on the Judiciary.

By Mr. SCHUMER:

S. 330. A bill to prohibit the sale of any product to a consumer that is subject to a recall, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BARRASSO (for himself and Mr. CORNYN):

S. 331. A bill to ensure that military voters have the right to bring a civil action under the Uniformed and Overseas Citizens Absentee Voting Act to safeguard their right to vote; to the Committee on Rules and Administration.

By Mr. HATCH (for himself and Mr. ROBERTS):

S. 332. A bill to promote the enforcement of immigration laws and for other purposes; to the Committee on the Judiciary.

By Mr. RISCH (for himself and Mr. CRAPO):

S. 333. A bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project involving the Little Wood River Ranch; to the Committee on Energy and Natural Resources.

By Mr. RISCH (for himself and Mr. CRAPO):

S. 334. A bill to reinstate and extend the deadline for commencement of construction of a hydroelectric project involving the American Falls Reservoir; to the Committee on Energy and Natural Resources.

By Mr. CHAMBLISS:

S. 335. A bill for the relief of Salah Naji Sujaa; to the Committee on the Judiciary.



By Mr. DEMINT:

S. 336. A bill to permanently extend the 2001 and 2003 tax relief provisions, and to permanently repeal the estate tax, and to provide permanent AMT relief, and for other purposes; to the Committee on Finance.

By Mr. CRAPO:

S. 337. A bill for the relief of Sali Bregaj and Mjaftime Bregaj; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mr. NELSON of Florida):

S. 338. A bill to prohibit royalty incentives for deepwater drilling, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself and Mr. TESTER):

S. 339. A bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions; to the Committee on Finance.

By Mr. BAUCUS:

S. 340. An original bill to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. BROWN of Massachusetts (for himself and Ms. AYOTTE):

S. 341. A bill to require the rescission or termination of Federal contracts and subcontracts with enemies of the United States; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BINGAMAN (for himself and Ms. MURKOWSKI) (by request):

S. 342. A bill to provide supplemental extra compensation to the Republic of the Marshall Islands for impacts of the nuclear testing programs of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN (for himself and Ms. MURKOWSKI):

S. 343. A bill to amend Title I of PL 99-658 regarding the Compact of Free Association between the Government of the United States of America and the Government of Palau, to approve the results of the 15-year review of the Compact, including the Agreement Between the Government of the United States of America and the Government of the Republic of Palau Following the Compact of Free Association Section 432 Review, and to appropriate funds for the purposes of the amended PL 99-658 for fiscal years ending on or before September 30, 2024, to carry out the agreements resulting from that review; to the Committee on Energy and Natural Resources.

By Mr. REID (for himself, Ms. STABENOW, and Mr. TESTER):

S. 344. A bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation, and for other purposes; to the Committee on Armed Services.

By Mr. LEVIN:

S. 345. A bill for the relief of Ibrahim Parlak; to the Committee on the Judiciary.

By Mr. SCHUMER:

S. 346. A bill to provide authority and sanction for the granting and issuance of programs for residential and commuter toll, user fee and fare discounts by States, municipalities, other localities, and all related agencies and departments, 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 Mrs. GILLIBRAND (for herself, Mr. LUGAR, Mr. COCHRAN, Mr. MENENDEZ, Ms. MIKULSKI, Ms. SNOWE, Mr. KERRY, Mrs. FEINSTEIN, Mr. NELSON of Florida, Ms. LANDRIEU, Mr. MERKLEY, Mr. JOHNSON of South Dakota, Mr. DURBIN, Mr. LAUTENBERG, Mr. UDALL of Colorado, Mr. WICKER, Mr. FRANKEN, Ms. STABENOW, Mr. PRYOR, Mr. WHITEHOUSE, Mrs. BOXER, Mr. CARDIN, Mr. SCHUMER, Mrs. MURRAY, Mr. CASEY, Mr. BEGICH, Mr. BROWN of Ohio, Mr. BENNETT, Mr. KIRK, Mr. BLUMENTHAL, Mrs. MCCASKILL, Mrs. HAGAN, Mrs. HUTCHISON, and Mr. COONS):

S. Res. 49. A resolution celebrating Black History Month; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 17

At the request of Mr. HATCH, the names of the Senator from Idaho (Mr. RISCH), the Senator from Wyoming (Mr. BARRASSO) and the Senator from Indiana (Mr. COATS) were added as cosponsors of S. 17, a bill to repeal the job-killing tax on medical devices to ensure continued access to life-saving medical devices for patients and maintain the standing of United States as the world leader in medical device innovation.

S. 28

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 28, a bill to amend the Communications Act of 1934 to provide public safety providers an additional 10 megahertz of spectrum to support a national, interoperable wireless broadband network and authorize the Federal Communications Commission to hold incentive auctions to provide funding to support such a network, and for other purposes.

S. 156

At the request of Mr. KOHL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 156, a bill to amend the Energy Policy and Conservation Act to provide a uniform efficiency descriptor for covered water heaters.

S. 195

At the request of Mr. ROCKEFELLER, the names of the Senator from Oregon (Mr. MERKLEY), the Senator from Minnesota (Ms. KLOBUCHAR) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 195, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 210

At the request of Mr. COBURN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 210, a bill to amend title 44, United States Code, to eliminate the mandatory printing of bills and

resolutions for the use of offices of Members of Congress.

S. 211

At the request of Mr. ISAKSON, the names of the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 211, a bill to provide for a biennial budget process and a biennial appropriations process and to enhance oversight and performance of the Federal Government.

S. 244

At the request of Mr. BARRASSO, the name of the Senator from Nebraska (Mr. JOHANNIS) was added as a cosponsor of S. 244, a bill to enable States to opt out of certain provisions of the Patient Protection and Affordable Care Act.

S. 251

At the request of Mr. VITTER, the name of the Senator from New Hampshire (Ms. AYOTTE) 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. 260

At the request of Mr. NELSON of Florida, the names of the Senator from Iowa (Mr. HARKIN), the Senator from New York (Mrs. GILLIBRAND), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Vermont (Mr. LEAHY), the Senator from Oregon (Mr. WYDEN), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from North Carolina (Mrs. HAGAN), the Senator from New Jersey (Mr. MENENDEZ), the Senator from South Dakota (Mr. JOHNSON), the Senator from Montana (Mr. BAUCUS) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 260, a bill to amend title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation.

S. 277

At the request of Mr. BURR, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 277, a bill to amend title 38, United States Code, to furnish hospital care, medical services, and nursing home care to veterans who were stationed at Camp Lejeune, North Carolina, while the water was contaminated at Camp Lejeune, and for other purposes.

S. 281

At the request of Mrs. HUTCHISON, the names of the Senator from North Carolina (Mr. BURR), the Senator from Mississippi (Mr. COCHRAN), the Senator from North Dakota (Mr. HOEVEN) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 281, a bill to delay the implementation of the health reform law in the United States until there is a final resolution in pending lawsuits.

S. 282

At the request of Mr. COBURN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 282, a bill to rescind unused earmarks.

S.J. RES. 3

At the request of Mr. HATCH, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S.J. Res. 3, a joint resolution proposing an amendment to the Constitution of the United States relative to balancing the budget.

S.J. RES. 5

At the request of Mr. LEE, the names of the Senator from Oklahoma (Mr. COBURN), the Senator from Nevada (Mr. ENSIGN), the Senator from Wyoming (Mr. ENZI) and the Senator from Nebraska (Mr. JOHANNIS) were added as cosponsors of S.J. Res. 5, a joint resolution proposing an amendment to the Constitution of the United States requiring that the Federal budget be balanced.

S. CON. RES. 4

At the request of Mr. SCHUMER, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from New York (Mrs. GILLIBRAND) 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.

AMENDMENT NO. 7

At the request of Mr. INHOFE, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of amendment No. 7 proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

AMENDMENT NO. 27

At the request of Mr. WYDEN, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Montana (Mr. TESTER) were added as cosponsors of amendment No. 27 proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

AMENDMENT NO. 50

At the request of Mr. LEAHY, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of amendment No. 50 proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic

control system, reauthorize the Federal Aviation Administration, and for other purposes.

AMENDMENT NO. 64

At the request of Mr. COBURN, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from Utah (Mr. LEE), the Senator from North Carolina (Mr. BURR) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of amendment No. 64 intended to be proposed to S. 223, a bill to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. UDALL of Colorado (for himself and Mr. BENNETT):

S. 327. A bill to name the Department of Veterans Affairs telehealth clinic in Craig, Colorado, as the "Major William Edward Adams Department of Veterans Affairs Clinic"; to the Committee on Veterans' Affairs.

Mr. UDALL of Colorado. Mr. President, I rise to urge my colleagues to support legislation I am introducing today to name the Veterans Telehealth Clinic in Craig, Colorado, after Medal of Honor recipient Major William E. Adams. I am pleased that Senator BENNETT will join with me in introducing this bill.

Our bill isn't the first effort to honor Major Adams. My good friend Congressman John Salazar introduced this legislation last year in the House of Representatives with the support of the entire Colorado delegation. I would like to see this bill through to passage in this Congress in part to honor John and his efforts to commemorate the heroism of Major Adams and to get the VA clinic established in northwest Colorado.

I'd also like to honor Larry Neu, a local business owner and Veterans of Foreign Wars Post 4265 quartermaster, who has been the architect of efforts to commemorate Major Adams. With Larry's leadership and the help of other Craig residents, the Colorado state legislature passed a resolution renaming part of Colorado Highway 13 the "Maj. William Adams Medal of Honor Highway." I know he worked closely with Congressman Salazar in the last Congress to develop the legislation I am introducing today.

Above all, this bill is intended to honor Major William Adams himself and his "conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty."

A resident of Craig, Major Adams served and lost his life in the Vietnam War. He was awarded the Medal of Honor posthumously, after distinguishing himself while serving as an Army helicopter pilot. In May 1971, he

volunteered to fly a lightly armed helicopter in an attempt to evacuate three seriously wounded soldiers from a small base that was under attack. He made the decision with full knowledge that numerous antiaircraft weapons were positioned around the base and that the clear weather would make him visible to enemy gunners. As he approached the base, the enemy gunners opened fire, but he continued his approach, directing the attacks of supporting gunships while maintaining control of the helicopter he was flying. He picked up the wounded soldiers, but his aircraft was then struck and damaged by enemy anti-aircraft fire and crashed.

I was pleased to learn that many of his family members attended the ceremony in November dedicating part of Colorado Highway 13 to Major Adams. I want to pay tribute today to his wife Sandra and his daughter Jean, both Colorado residents, and his son, Col. John Adams, an intelligence officer in the Marine Corps, recently back from Afghanistan. I hope this bill serves to reinforce what they already know—that Major Adams is a real hero to this county, to Colorado and to Craig. He is part of a special class of American heroes who will forever be remembered for their service and sacrifice. His story will continue inspiring generations to come, while reminding us all about the contributions and sacrifices of America's greatest.

I have introduced this legislation not only to recognize the sacrifice of Major Adams, but also to recognize the service of our Vietnam veterans and especially all veterans in Northwest Colorado. The Telehealth Clinic in Craig is on track to have nearly 1700 visits from area veterans this year, and I will always fight to make sure our veterans get the health care they earned and deserve.

As Larry Neu said about Major Adams, "The man made the ultimate sacrifice for his country—he should not be forgotten." Passage of this bill will help us remember Major Adams and so many other brave veterans who have sacrificed their lives for our country. I urge my colleagues to support this legislation and to continue to support our dedicated men and women in uniform.

By Mr. HATCH (for himself and Mr. ROBERTS):

S. 332. A bill to promote the enforcement of immigration laws and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to reintroduce the Strengthening Our Commitment to Legal Immigration and America's Security Act. There is little doubt that our immigration system is broken and needs reform. Yet, we can make progress by starting with the laws that already exist. The proposed legislation would enhance our core immigration and enforcement laws for both legal and illegal immigrants.

When I first introduced my bill last September, I mentioned that it represents countless hours of conversation and feedback from my constituents. This bill is a common-sense approach on how best to enforce and tighten-up our immigration laws.

Of course, securing the actual physical border should remain our top priority. However, we cannot ignore the residual problems caused by a porous border. The weakness of a porous border has been experienced by communities across the country—draining all facets of local resources, including public safety, welfare programs, and medical assistance.

By no means is the proposed legislation intended to be a comprehensive immigration reform bill. Rather, it is focused on enforcement and accountability of existing immigration laws and programs. There is much that remains to be done before we can tackle comprehensive immigration reform. But this bill is the next step toward strengthening our immigration laws.

The Strengthening Our Commitment to Legal Immigration and America's Security Act will curb identity theft and techniques that have been exploited by the illegal alien community; stop the abuse by this administration from granting mass parole or deferral to illegal aliens; help prevent Mexican drug cartels from growing marijuana in our national parks and on our public lands; and prevent so-called sanctuary cities by requiring law enforcement agencies that are selected and enrolled in the 287(g) and Secure Communities programs to fully comply with the established requirements.

There is a need for accurate accounting to track the flow of federal and state welfare dollars given to illegal aliens and ensure that U.S. citizens are the first to receive Federal health benefits. Additionally, my bill would rectify a gaping hole in our visa system by requiring the Department of Homeland Security to create a mandatory visa exit procedure that would track the departure of our foreign visitors to the United States; provide that gang members will be ineligible to receive a visa for travel to our country; and direct the State Department to examine the Diversity Visa program, which in the past has been wrought with fraud and abuse.

I do not think anyone could disagree with the substance of the Strengthening Our Commitment to Legal Immigration and America's Security Act. It touches on some of the more overlooked, but critical areas of our broken immigration system. Moreover, I believe these steps can be enacted in a bipartisan fashion without creating a host of new programs and revenue streams. I encourage my colleagues to work with me to move this bill forward.

By Mrs. FEINSTEIN (for herself and Mr. NELSON of Florida):

S. 338. A bill to prohibit royalty incentives for deepwater drilling, and for

other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Deepwater Drilling Royalty Relief Prohibition Act.

The purpose of this bill is to ensure that taxpayer dollars are not used to incentivize the dangerous and often dirty business of offshore drilling in deep waters.

Over the past two decades, Congress has established a number of royalty-relief programs to encourage domestic exploration and production in deep waters. This may have made sense in times when oil prices were too low to provide energy companies with an incentive to drill in difficult places. It may have made sense before we were ready to deploy large scale renewable energy production.

But it no longer makes sense today.

The Deepwater Horizon catastrophe showed that safety and response technologies are not sufficient in deep waters. The President's National Oil Spill Commission pointed out that while offshore oil and gas will remain part of the nation's energy portfolio for years to come, we need to "begin a transition to a cleaner, more energy-efficient future." I agree.

I believe that taxpayer-funded incentives should go to clean, renewable energy, not deepwater oil drilling. It's time that we roll-back incentives for the riskiest, least environmentally friendly non-renewable energy production.

The disastrous impacts of the Deepwater Horizon explosion illustrate the enormous environmental and safety risks of offshore drilling—particularly in deep waters. 11 people died and 17 others were injured when the Deepwater Horizon caught fire. Oil and gas rushed into the Gulf of Mexico for 87 days before the well was finally plugged. The scope of the disaster was tremendous.

Oil slicks spread across the Gulf of Mexico, pelicans and other wildlife struggled to free themselves from crude oil, tar balls spoiled the pristine white sand beaches of Florida, wetlands were coated with toxic sludge, more than 1/3 of Federal waters in the Gulf were closed to fishing, and oyster beds could take years to recover, the plumes of underwater oil may have created zones of toxicity or low oxygen for aquatic life, and the response techniques, such as the use of dispersants, may have their own toxic consequences to both wildlife and the spill response workers.

The impacts of an oil spill are so dramatic and devastating, it seems clear to me that this is not an area in which we should be subsidizing development.

Things have not improved much since the oil spill in 1969 off the California Coast near Santa Barbara. Like the Deepwater Horizon disaster, the Santa Barbara spill was caused by a natural gas blowout when pressure in the drill hole fluctuated. It was suc-

cessfully plugged with mud and cement after 11 and a half days, but oil and gas continued to seep for months. The Santa Barbara spill was devastating, but it was a tiny fraction of the size of the Deepwater Horizon spill.

Technology 40 years ago was not good enough to prevent a disaster. We discovered last summer that today's technology is no better at preventing well-head blowouts.

The Deepwater Horizon drill rig was less than 10 years old when it exploded. A similar accident that caused the 2009 spill in the Montara oil and gas field in the Timor Sea—one of the worst in Australia's history—was even newer, designed and built in 2007. That spill continued unchecked for 74 days.

The failures that led to these catastrophes were human and technological. While measures are being put in place to remedy these deficiencies, the risks remain high and the potential damage immense. In deep waters, the risks are higher and the scope of the damage even greater.

Drilling in deep waters is not the type of activity that tax-payer dollars should subsidize.

Drilling in deep water presents even more challenges than drilling in shallow water or on shore. This was demonstrated during the Deepwater Horizon disaster.

Methane hydrate crystals form when methane gas mixes with pressurized cold ocean waters—and the likelihood of these crystals forming increases dramatically at a depth of about 400 meters.

These crystals interfere with response and containment technologies. They formed in the cofferdam dome that was lowered onto the gushing oil in the Gulf, which failed to stop the oil in the early days of the spill. And when a remotely operated underwater vehicle bumped the valves in the "top hat" device, the containment cap had to be removed and slowly replaced to prevent formation of these crystals again.

In order to drill at deeper depths, many technical difficulties must be overcome.

The ocean currents on the surface and in the water column exert torque pressure on the pipes and cables, which are longer and heavier.

The water temperature decreases closer to the sea floor, but the earth's core temperature increases the deeper the well—sometimes reaching temperatures in excess of 350 degrees Fahrenheit.

The ocean pressure increases dramatically at depth, but the pressure in a well can exceed 10,000 pounds per square inch.

Drills must be able to pass through tar and salts, and the well bores must remain intact.

The volume of drilling mud and fluids is greater, the weight of the cables heavier, and many technical procedures can only be accomplished with the use of remotely operated vehicles thousands of feet below the surface.

American taxpayers should not forego revenue in order to incentivize offshore drilling. It is not good environmental policy, and it's not good energy policy either.

We need to move to cleaner renewable fuels.

I believe that global warming is the biggest environmental crisis we face—and the biggest culprit of global warming is manmade emissions produced by the combustion of fossil fuels like oil and coal.

Taxpayer funded incentives should not finance production of fossil fuels—particularly in places where the production itself poses potential devastation. Instead, incentives should be used to develop and deploy clean energy technologies like wind and solar.

I have worked with my colleagues on a number of legislative initiatives designed to reduce greenhouse gas emissions, increase energy efficiency and incentivize the use of renewable energy.

One of our biggest victories was the enactment of the aggressive fuel economy law, called the Ten in Ten Fuel Economy Act, which was passed by Congress and signed into law by then-President Bush in the 110th Congress. This law, which I authored with Senator SNOWE, will improve fuel economy standards for passenger vehicles at the maximum feasible rate.

The good news is that the Administration has taken the framework of this law and implemented aggressive standards that require raising fleetwide fuel economy to 35.5 mpg in 2016—a 40 percent increase above today's standard.

The other positive development is that the domestic renewable energy industry has grown dramatically over the last few years. In 2009, the United States added more new capacity to produce renewable electricity than it did to produce electricity from natural gas, oil, and coal combined. A great deal of this growth can be attributed to government renewable energy incentives. That is where public investment in energy development should go.

It is clear that the clean energy sector is the next frontier in jobs creation.

We need to ensure that developers can access financing to launch wind, solar and geothermal projects, so that they can put people to work. Programs like Treasury Grant Program have been very successful in encouraging private investment in this sector. So far, the program has helped to bring more than 1,880 renewable energy projects online.

The program, however, is set to expire at the end of this year if we don't act. I'm working on legislation that will extend and expand this successful program.

All told, these types of measures are helping to foster the incentives that will push the United States to adopt a cleaner energy future, and to move away from fossil fuels.

Let me make one final point very clear: I don't believe oil companies

need taxpayer dollars to help them out. They are already reaping record profits.

In 2009, the top 10 U.S. oil companies' combined revenues were almost \$850 billion. And while all results are not yet in on 2010, it is clear that oil companies did even better last year.

Exxon Mobil reported \$30 billion in profit, up 57 percent from 2009.

Shell reported \$19 billion in profit, up 90 percent from 2009.

Conoco Phillips raked in \$11.4 billion in profit during 2010, a whopping 159 percent increase over its 2009 profits.

Yet we continue to use taxpayer dollars to add to their bottom line. This is unacceptable.

Oil reserves are a public resource. When a private company profits from those public resources, American taxpayers should also benefit.

I urge my colleagues to support this legislation and ensure that royalties owed to the taxpayers are not waived to incentivize risky off-shore drilling. In these critical economic times, every cent of the people's money should be spent wisely.

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. 338

*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 "Deepwater Drilling Royalty Relief Prohibition Act".

**SEC. 2. PROHIBITION ON ROYALTY INCENTIVES FOR DEEPWATER DRILLING.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Interior shall not issue any oil or gas lease sale under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) with royalty-based incentives in any tract located in water depths of 400 meters or more on the outer Continental Shelf.

(b) ROYALTY RELIEF FOR DEEP WATER PRODUCTION.—Section 345 of the Energy Policy Act of 2005 (42 U.S.C. 15905) is repealed.

(c) ROYALTY RELIEF.—Section 8(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)) is amended by adding at the end the following:

"(D) PROHIBITION.—Notwithstanding subparagraphs (A) through (C) or any other provision of law, the Secretary shall not reduce or eliminate any royalty or net profit share for any lease or unit located in water depths of 400 meters or more on the outer Continental Shelf."

(d) APPLICATION.—This section and the amendments made by this section—

(1) apply beginning with the first lease sale held on or after the date of enactment of this Act for which a final notice of sale has not been published as of that date; and

(2) do not apply to a lease in effect on the date of enactment of this Act.

By Mr. BAUCUS (for himself and Mr. TESTER):

S. 339. A bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to introduce the Rural Heritage Conservation Extension Act.

In the last few months, our nation has engaged in a discourse about responsibility. No one can deny that our job is to promote the protection of American interests and investment in our future. I am introducing this bill today, because we have a responsibility to protect one of our country's most precious resources: our land.

When I visit with ranchers and farmers across my home state of Montana, it's clear to me they want to preserve open space on their land for their kids and grandkids. Together with Montana farmers and ranchers and the Montana Land Reliance, which is dedicated to protecting agricultural production, we've come up with a commonsense proposal. This is a plan we developed together based on teamwork and our common goal to leave our land in better shape than we found it for future generations.

As we all know, we are losing precious agricultural and ranch lands at a record pace. But our soil is worth more than just the nutritious foods and natural resources it produces. When we lose our land, we lose the natural habitat of our wildlife and open spaces for our communities. It is our job to protect the land for future generations and to support the farmers, ranchers and other landowners who rely on it to make a living.

Many Montana farmers and ranchers are land rich, but cash poor. These landowners make a modest living off the land and, in this economy, need the right tools to move toward conservation.

That is why Congress provides targeted income tax relief to small farmers and ranchers who wish make a charitable contribution of qualified conservation easements. This allows eligible farmers and ranchers to increase the deduction they can take for charitable contributions of qualified conservation easements. The provision allows farmers and ranchers to do this by increasing the current adjusted gross income limitations from 50 percent to 100 percent and extending the carry-over period from five to 15 years. In the case of all landowners, the AGI limitation was raised from 30 percent to 50 percent. This provision will expire at the end of this year. It is time to make this provision permanent—and that is what our Rural Heritage Conservation Extension Act will do.

Conservation easements sometimes take years to work out. These tax breaks are meant to streamline the process and help those folks who struggle with cash flow but believe in the value of conserving our agricultural lands for future generations.

Conservation easements continue to be an effective land management tool in Montana, and across the country. We currently have over two million acres covered by conservation easements. To some, that may seem like a

large amount, but, in Montana, those easements are only 2.1 percent of the total State land area. Montana has begun to recognize the importance of using conservation easements to preserve our lands. I believe that now is the time for our state, and the entire country to do even more.

It is time to say, "We believe in the environment. We believe that landowners should be able to afford to choose conservation over development." Let us remove the uncertainty and build on the success of what we have already begun to do. Let's pass the Rural Heritage Conservation Extension Act.

By Mr. BAUCUS:

S. 340. An original bill to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, and for other purposes; from the Committee on Finance; placed on the calendar.

Mr. HATCH. Mr. President, today Chairman BAUCUS filed an original bill and an amendment to the Federal Aviation Administration, FAA, bill currently being considered by the Senate. Both of these items are identical. They reflect the revenue title to the FAA bill that was reported by the Finance Committee last Tuesday. I am hopeful that this heralds the passage of long-term FAA reauthorization and represents a break with our ongoing pattern of funding the FAA with short-term extensions of current law.

In most respects the Finance Committee product reflects the FAA bill that was passed unanimously last year with 93 votes. However, there is a very important difference. Thanks to an amendment filed by Senator COBURN, who is a new member of the Finance Committee, only 90 percent of forecasted revenues to the Airport and Airway Trust Fund for a given year will be spent. Over the past several years the uncommitted cash balance remaining in the trust fund has steadily decreased because actual revenues have fallen short of forecast revenues. Since recipients of trust fund revenues expect to be paid in real dollars and not forecasted dollars, it makes sense to make sure the trust fund contains actual dollars. By allowing only 90 percent of forecast trust fund revenues to be spent, we are putting in place a 10 percent cushion to guard against the frequent occurrence that actual trust fund revenues will fall short of projected revenues.

The Finance Committee product also increases the amount general aviation and fractional aircraft will pay for each gallon of jet fuel they use. These increases will impact neither commercial airlines nor passengers of commercial airlines. The cost of fuel for commercial aviation is not changed at all by the Finance Committee product. What makes the increases of the costs borne by the general aviation and fractional communities unique is that both

groups are active supporters of these increases. As these letters explain, the increases in the cost of jet fuel are supported because the proceeds will help our airport and airway system transition to the Next Generation Air Transportation System, or NextGen. NextGen is the satellite-based air traffic control system that is slated to replace our current radar-based system. The transition to NextGen is expected to reduce inefficiencies within and enhance the benefits of our airport and airway system.

In closing, I want to thank Chairman BAUCUS and the other Members of the Finance Committee for their work on the revenue title to the FAA bill, and I hope for the rapid completion of FAA reauthorization.

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

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

GENERAL AVIATION  
MANUFACTURERS ASSOCIATION,  
Washington, DC, January 31, 2011.

Hon. MAX BAUCUS,  
Chairman, Senate Finance Committee, Dirksen  
Senate Office Building, Washington, DC.

Hon. ORRIN HATCH,  
Ranking Member, Senate Finance Committee,  
Dirksen Senate Office Building, Wash-  
ington, DC.

DEAR CHAIRMAN BAUCUS AND SENATOR HATCH: On behalf of the seventy members of the General Aviation Manufacturers Association (GAMA), I am writing in strong support of the tax title to the "FAA Air Transportation Modernization and Safety Improvement Act" which will be considered by the Senate this week.

As you know, this legislation is identical to the FAA reauthorization bill that passed in the Senate last year. The tax title of the bill, which was drafted by the Finance Committee, includes an increase in the excise tax on jet-fuel used in general aviation operations. The funding raised by this fuel tax increase will be placed in an account within the Airport and Airway Trust Fund to help fund air traffic control modernization programs.

In previous Congresses, our members have supported the fuel tax increase included in the bill because we strongly support modernization and are willing to pay more to help complete it. We believe that the Finance Committee has examined this issue thoroughly and that its actions will help move the bill quickly through Congress and put us on the right path towards modernization.

In conclusion, we support the tax title to the FAA reauthorization bill and thank the committee for being receptive to our views during this process. We look forward to working with you as the bill proceeds through Congress.

Sincerely,

PETER J. BUNCE,  
President & CEO.

NATIONAL AIR  
TRANSPORTATION ASSOCIATION,  
Alexandria, VA, February 3, 2011.

Hon. MAX BAUCUS,  
Chairman, Senate Committee on Finance, U.S.  
Senate, Dirksen Senate Office Building,  
Washington, DC.

Hon. ORRIN HATCH,  
Ranking Member, Senate Committee on Fi-  
nance, U.S. Senate, Dirksen Senate Office  
Building, Washington, DC.

DEAR CHAIRMAN BAUCUS AND RANKING MEM-  
BER HATCH: The National Air Transportation  
Association (NATA), the voice of aviation  
business, is the public policy group rep-  
resenting the interests of aviation businesses  
before the Congress, federal agencies and  
state governments. NATA's 2,000 member  
companies own, operate and service aircraft.  
These companies provide for the needs of the  
traveling public by offering services and  
products to aircraft operators and others  
such as fuel sales, aircraft maintenance,  
parts sales, storage, rental, airline servicing,  
flight training, Part 135 on-demand air char-  
ter, fractional aircraft program management  
and scheduled commuter operations in  
smaller aircraft. NATA members are a vital  
link in the aviation industry providing ser-  
vices to the general public, airlines, general  
aviation and the military.

On behalf of NATA, I write in support of  
the tax title to S. 223, the FAA Air Transpor-  
tation Modernization and Safety Improve-  
ment Act, which would increase the tax on  
general aviation jet fuel. A reasonable tax  
increase allows general aviation operators to  
provide more revenue to the Airport and Air-  
ways Trust Fund (trust fund). General avia-  
tion fuels have not had a substantial tax in-  
crease in over 15 years and, despite the re-  
cent downturn in the economy, we believe  
the current system of aviation excise taxes  
has proven to be a stable and efficient source  
of revenue for the trust fund as opposed to  
another funding mechanism that has been  
proposed in the past few years.

As you know, passage of Federal Aviation  
Administration reauthorization legislation  
will provide much needed funding for the  
trust funds while ensuring that our national  
airspace system remains safe and efficient  
and creating and maintaining valuable jobs  
in the United States. Investments to our  
aviation infrastructure will allow the mod-  
ernization of the Next Generation Air Trans-  
portation System to expand as efficiently as  
possible.

We support a tax increase on general avia-  
tion fuels to finance the trust fund in a man-  
ner that has proven successful since its cre-  
ation. Thank you for your attention to this  
important matter.

Sincerely,

JAMES K. COYNE,  
President.

AIRCRAFT OWNERS  
AND PILOTS ASSOCIATION,  
Washington, DC, February 4, 2011.

Hon. MAX BAUCUS,  
Chairman, Senate Finance Committee, U.S. Sen-  
ate, Washington, DC.

Hon. ORRIN HATCH,  
Ranking Member, Senate Finance Committee,  
U.S. Senate, Washington, DC.

DEAR CHAIRMAN BAUCUS AND RANKING MEM-  
BER HATCH: In anticipation of Senate action  
on S. 223, legislation to reauthorize the Fed-  
eral Aviation Administration (FAA), I am  
writing to reiterate our support for the pre-  
viously agreed to tax increases in general  
aviation fuel taxes.

The stability and certainty that an FAA  
reauthorization bill provides is vital for fed-  
eral investments in safety, modernizing the  
air traffic control system, FAA operations,  
airport improvements and aviation research  
efforts.

AOPA has consistently supported using the time-tested system of passenger transportation and aviation fuel taxes in combination with general fund tax revenues to support the FAA and the aviation system. We have consistently supported a 25 percent increase in aviation gasoline and a 65 percent tax increase on non-commercial jet fuel in lieu of user fees to generate additional revenue to the Aviation Trust Fund for air traffic control modernization.

Even though economic times are extremely difficult, AOPA members continue to support the agreed-to increases in general aviation fuel taxes and we support the inclusion of this funding mechanism in the Senate FAA Reauthorization Bill.

Thank you for your consideration of our views. We look forward to working with you to complete the FAA Reauthorization Bill.

Sincerely,

CRAIG L. FULLER,  
President and CEO.

NATIONAL BUSINESS  
AVIATION ASSOCIATIONS,  
February 4, 2011.

Hon. MAX BAUCUS,

Chairman, Committee on Finance, Hart Senate  
Office Building, Washington, DC.

DEAR CHAIRMAN BAUCUS: The National Business Aviation Association (NBAA) strongly supports passage of legislation to reauthorize the Federal Aviation Administration, and urges the U.S. Senate to expeditiously approve this critical legislation.

Aviation, including business aviation, is a vital link in our transportation system and powerful engine for job creation and economic growth. Ensuring that the United States has the largest, safest, and most efficient air transportation system is clearly in our country's interest and should be a national imperative.

NBAA represents approximately 8,000 companies that rely on general aviation aircraft to help them survive and compete in the marketplace. Eighty-five percent of our members are small and mid-size businesses, many of whom operate to and from small towns and rural communities with little or no commercial airline service.

This legislation will greatly facilitate and accelerate the transformation of our air traffic control system to the Next Generation Air Traffic Control System—NextGen. As you know, NextGen will increase the capacity and enhance the safety of our air traffic control system. It will also reduce aviation's environmental impact.

The legislation will provide much needed long-term direction and stability to the Federal Aviation Administration. The bill will enable the agency to do the critical long-range planning, and make the long-range investments in airport infrastructure and technology that are needed to modernize and expand the system. The time to enact a strong multi-year reauthorization bill is now.

The reauthorization bill helps fund the transformation to NextGen in part through an increase in the general aviation fuel tax. While no industry wants to pay additional taxes, particularly during these very challenging times, NBAA supports the fuel tax increase contained in this bill because we believe that the rapid transformation to NextGen is critically important to the vitality of the U.S. aviation system.

We urge the Senate to expedite consideration of the FAA reauthorization bill. It is important that we finalize this legislation that will undoubtedly enhance safety, reduce emissions, expand the system and ensure that the U.S. will continue to lead the world in aviation technology.

Sincerely,

ED BOLEN.

NETJETS

Columbus, OH, February 7, 2011.

Hon. MAX BAUCUS,  
Chairman, Senate Committee on Finance, U.S.  
Senate, Dirksen Senate Office Building,  
Washington, DC.

Hon. CHARLES GRASSLEY,  
Ranking Member, Senate Committee on Finance,  
U.S. Senate, Dirksen Senate Office  
Building, Washington, DC.

DEAR CHAIRMAN BAUCUS AND RANKING MEMBER GRASSLEY: As a leading fractional ownership program management company here in the United States, I write today in support of language included within S. 223, the Federal Aviation Administration (FAA) Air Transportation Modernization and Safety Improvement Act, that provides for a minor change in the tax code to ensure that operations of aircraft in fractional ownership programs are taxed as general aviation.

The FAA has determined that fractionally-owned aircraft operations are in fact private. However, the Internal Revenue Service continues to tax the operations of such aircraft as if they are commercial. The IRS made this tax determination when the concept of fractional ownership was very new, and before the FAA had completed its analysis and issued regulations that classify fractionally-owned aircraft as non-commercial general aviation.

To remedy this situation, we request your support for language contained within S. 223 to also be included within the House FAA reauthorization bill. Specifically, Section 805 of S. 223, entitled, "Treatment of Fractional Ownership Operations," would ensure that all fractionally-owned aircraft operations are taxed as non-commercial general aviation.

We strongly support Section 805 of S. 223 and request your assistance to secure this language within the House FAA Reauthorization bill. Thank you for your attention to this important issue.

Sincerely,

JORDAN B. HANSELL  
President.

By Mr. BINGAMAN (for himself  
and Ms. MURKOWSKI) (by request):

S. 342. A bill to provide supplemental ex gratia compensation to the Republic of the Marshall Islands for impacts of the nuclear testing programs of the United States, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, today, I join the Ranking Member of the Committee on Energy and Natural Resources, Senator MURKOWSKI, in reintroducing The Republic of the Marshall Islands Supplemental Nuclear Compensation Act at the request of the President of the Marshall Islands, the Honorable Jurelang Zedkaia.

This legislation tracks S. 1756, a bill that was introduced in the 110th Congress at the request of then-President of the Republic of the Marshall Islands, Kessai Note, and that was ordered reported from the Committee on Energy and Natural Resources, on September 11, 2008. The bill was reintroduced in the 111th Congress as S. 2941 at the request of President Zedkaia, and it was again reported from the Committee, on August 5, 2010. Unfortunately, there was insufficient time before adjournment for floor consideration and to identify an offset for the bill's CBO-es-

timated cost of \$58 million. It is my hope that the 112th Congress will move promptly to consider this bill, find any necessary offset, and enact this legislation as a part of our Nation's continuing engagement with the Marshall Islands to address the damage and injuries that resulted from the nuclear weapons testing program.

The need for consideration of this bill is clear—to monitor and, as appropriate, update our Nation's continuing response to the consequences of the nuclear weapons testing program conducted in the Marshall Islands in the 1940s and 50s.

For a period of 12 years, the United States detonated nuclear bombs in the Northern Marshall Islands that caused substantial damage and injury. In 1986, with the negotiation of the compact of Free Association between the United States and the Republic of the Marshall Islands and its approval by Public Law 99-239, the United States "accept[ed] the responsibility for compensation owing to citizens of the Marshall Islands . . . for loss or damage to property and person of the citizens of the Marshall Islands . . . resulting from the testing program . . ." The compact and other U.S. laws established programs designed and intended to provide compensation and to respond to the consequences of the nuclear tests.

First, Section 177 of the compact provided a \$150 million grant to the Marshall Islands for the settlement of all claims arising from the nuclear testing program through the establishment of the Nuclear Claims Tribunal, including \$2 million annually for the so-called "Four Atoll Health Care Program" to provide supplemental health care services to those communities most affected by the tests and funding for a nationwide radiological survey. The subsidiary agreement implementing Section 177 further provided that the Marshall Islands could seek additional funds from Congress through a so-called "changed circumstances" petition, if "injuries render the provisions of this Agreement manifestly inadequate." Finally, Section 105(c) of the law approving the compact authorized additional appropriations for "health and education as a result of exceptional circumstances," and authorized ex gratia contributions for the affected populations of the northern atolls of Bikini, Enewetak, Rongelap, and Utrik.

Second, in response to the nuclear tests, Congress funded the Department of Energy's Marshall Islands Program to continually monitor residual radiation in the environment, research strategies for mitigating radiation effects, and to support mitigation and resettlement efforts. This DOE program also monitors and provides health care to members of the Rongelap and Utrik communities who were seriously exposed to radiation fallout from the "Castle Bravo" test which took place in 1954 and contaminated the inhabited islands downwind.

Third, in 2001, Congress enacted the Energy Employees Occupational Illness Compensation Program, EEOICPA, to provide compensation for DOE and DOE-contractor employees who were associated with the Nation's nuclear weapons program. The legislative history for the program indicates that workers hired from the local population at the Marshall Islands Test Site were intended to be covered. However, islanders who applied for compensation from EEOICPA had their claims denied because they were not U.S. citizens.

The purpose of this legislation is to make appropriate amendments to programs and activities to meet our continuing responsibility to address the consequences of the nuclear testing program. Accordingly, this bill would expand the scope of these existing programs: the Four Atoll Health Care Program; the DOE Marshall Islands Program; and the U.S. Department of Labor's Energy Employees Occupational Illness Compensation Program. The bill would also provide for an assessment and report by the National Academy of Sciences on the health impacts of the nuclear testing program in the Marshall Islands.

However, there is recent information regarding the health impacts of the testing program which may meet the objectives of this section. Last year, the August issue of Health Physics published a series of peer-reviewed papers on the radiation doses and cancer risks in the Marshall Islands from U.S. nuclear weapons tests. These papers grew out of a request from the Committee on Energy and Natural Resources to the National Cancer Institute for their expert opinion of the health effects of the testing program. I anticipate a presentation of the conclusion of these papers when a hearing is held on this bill.

For more information on this legislation, I recommend review of previous Committee hearings, S. Hrg. 109-178 and S. Hrg. 110-243, and last year's Committee report on S. 2941, S. Rpt 111-268. I look forward to continue working with President Zedkaia, the RMI Ambassador to the United States, Banny Debrum, officials at the U.S. Departments of State, Energy, and the Interior, and my colleagues on the Committee in considering this legislation as a part of our continuing response to this tragic legacy of the nuclear testing program in the Pacific.

Mr. President, I ask unanimous consent that the bill and a letter of support be printed in the RECORD.

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

S. 342

*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 "Republic of the Marshall Islands Supplemental Nuclear Compensation Act of 2011".

#### SEC. 2. CONTINUED MONITORING ON RUNIT ISLAND.

Section 103(f)(1) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921b(f)(1)) is amended—

(1) by striking "Notwithstanding" and inserting the following:

"(A) IN GENERAL.—Notwithstanding"; and

(2) by adding at the end the following:

"(B) CONTINUED MONITORING ON RUNIT ISLAND.—

"(i) CACTUS CRATER CONTAINMENT AND GROUNDWATER MONITORING.—Effective beginning January 1, 2008, the Secretary of Energy shall, as a part of the Marshall Islands program conducted under subparagraph (A), periodically (but not less frequently than every 4 years) conduct—

"(I) a visual study of the concrete exterior of the Cactus Crater containment structure on Runit Island; and

"(II) a radiochemical analysis of the groundwater surrounding and in the Cactus Crater containment structure on Runit Island.

"(ii) REPORT.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate, and the Committee on Natural Resources of the House of Representatives, a report that contains—

"(I) a description of—

"(aa) the results of each visual survey conducted under clause (i)(I); and

"(bb) the results of the radiochemical analysis conducted under clause (i)(II); and

"(II) a determination on whether the surveys and analyses indicate any significant change in the health risks to the people of Enewetak from the contaminants within the Cactus Crater containment structure.

"(iii) FUNDING FOR GROUNDWATER MONITORING.—The Secretary of the Interior shall make available to the Department of Energy, Marshall Islands Program, from funds available for the Technical Assistance Program of the Office of Insular Affairs, the amounts necessary to conduct the radiochemical analysis of groundwater under clause (i)(II)."

#### SEC. 3. CLARIFICATION OF ELIGIBILITY UNDER ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000.

(a) DEFINITIONS FOR PROGRAM ADMINISTRATION.—Section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 73841) is amended by adding at the end the following:

"(18) The terms 'covered employee', 'atomic weapons employee', and 'Department of Energy contractor employee' (as defined in paragraphs (1), (3), and (11), respectively) include a citizen or national of the Republic of the Marshall Islands or the Federated States of Micronesia who is otherwise covered by that paragraph."

(b) DEFINITION OF COVERED DOE CONTRACTOR EMPLOYEE.—Section 3671(1) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385s(1)) is amended by inserting before the period at the end the following: ", including a citizen or national of the Republic of the Marshall Islands or the Federated States of Micronesia who is otherwise covered by this paragraph".

(c) OFFSET OF BENEFITS WITH RESPECT TO THE COMPACT OF FREE ASSOCIATION.—Subtitle C of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7385 et seq.) is amended by inserting after section 3653 (42 U.S.C. 7385j-2) the following:

#### "SEC. 3654. OFFSET OF BENEFITS WITH RESPECT TO THE COMPACT OF FREE ASSOCIATION.

"An individual who has been awarded compensation under this title, and who has also

received compensation benefits under the Compact of Free Association between the United States and the Republic of the Marshall Islands (48 U.S.C. 1681 et seq.) (referred to in this section as the 'Compact of Free Association'), by reason of the same illness, shall receive the compensation awarded under this title reduced by the amount of any compensation benefits received under the Compact of Free Association, other than medical benefits and benefits for vocational rehabilitation that the individual received by reason of the illness, after deducting the reasonable costs (as determined by the Secretary) of obtaining those benefits under the Compact of Free Association."

#### SEC. 4. SUPPLEMENTAL HEALTH CARE GRANT.

Section 103(h) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921b(h)) is amended by adding at the end the following:

"(4) SUPPLEMENTAL HEALTH CARE GRANT.—

"(A) IN GENERAL.—In addition to amounts provided under section 211 of the U.S.-RMI Compact (48 U.S.C. 1921 note), the Secretary of the Interior shall provide to the Republic of the Marshall Islands an annual supplemental health care grant in the amount made available under subparagraph (D)—

"(i)(I) to provide enhanced primary health care, with an emphasis on providing regular screenings for radiogenic illnesses by upgrading existing services or by providing quarterly medical field team visits, as appropriate, in each of Enewetak, Bikini, Rongelap, Utrik, Ailuk, Mejit, Likiep, Wotho, Wotje, and Ujelang Atolls, which were affected by the nuclear testing program of the United States; and

"(II) to enhance the capabilities of the Marshall Islands to provide secondary treatment for radiogenic illness; and

"(ii) to construct and operate a whole-body counting facility on Utrik Atoll.

"(B) CONDITIONS ON HEALTH CARE GRANTS.—To ensure the effective use of grants funds under clause (i) of subparagraph (A), the Secretary of the Interior, after consultation with the Republic of the Marshall Islands, may establish additional conditions on the provision of grants under that clause.

"(C) MEMORANDUM OF AGREEMENT.—To meet the objectives of clause (ii) of subparagraph (A), the Secretary of the Interior, the Secretary of Energy, and the Government of the Republic of the Marshall Islands shall enter into a memorandum of agreement setting forth the terms, conditions, and respective responsibilities of the parties to the memorandum of agreement in carrying out that clause.

"(D) FUNDING.—As authorized by section 105(c), there is appropriated to the Secretary of the Interior, out of funds in the Treasury not otherwise appropriated, to carry out this paragraph \$4,500,000 for each of fiscal years 2009 through 2023, as adjusted for inflation in accordance with section 218 of the U.S.-RMI Compact, to remain available until expended."

#### SEC. 5. ASSESSMENT OF HEALTH CARE NEEDS OF THE MARSHALL ISLANDS.

(a) IN GENERAL.—The Secretary of the Interior shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall conduct an assessment of the health impacts of the United States nuclear testing program conducted in the Republic of the Marshall Islands on the residents of the Republic of the Marshall Islands.

(b) REPORT.—On completion of the assessment under subsection (a), the National Academy of Sciences shall submit to Congress, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the Committee on Natural Resources of

the House of Representatives, a report on the results of the assessment.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

REPUBLIC OF THE MARSHALL ISLANDS,  
January 10, 2011.

Hon. JEFF BINGAMAN,  
Chairman, Senate Committee on Energy and  
Natural Resources, Washington, DC.

DEAR CHAIRMAN BINGAMAN: I write to you on behalf of the Marshallese people to renew our mutual efforts to address the continuing consequences of the U.S. Nuclear Testing Program in the Marshall Islands.

First, I would also like to take this opportunity to thank you for your efforts in twice introducing Republic of the Marshall Islands Supplemental Nuclear Compensation legislation in both 2007 and 2010. I would also like to take this opportunity to thank the Committee for approving S. 2941 last year subsequent to a hearing held on May 19, 2010.

Your understanding and efforts over the past several years to move these difficult issues forward and address them in a substantive and meaningful manner is most appreciated by my Government and the Marshallese people. In this respect, I strongly believe that the substituted version of S. 2941 as approved by your Committee constituted real and substantive progress in addressing outstanding nuclear related issues.

Understanding that S. 2941 expired without further action at the close of 2010, I would once again respectfully request that legislation be introduced in the United States Senate to deal with the enduring consequences of the nuclear testing program in the Marshall Islands.

My Government submitted a Petition to the United States Congress in respect to Article IX of the Section 177 Agreement concerning "Changed Circumstances" in September, 2000. While my Government believes that we have firmly established that "changed circumstances" exist within the meaning of Article IX, we wish to focus our efforts on coming to a resolution and implementing measures that produce results in addressing the health, safety and damages caused by the nuclear testing program.

Senate Bill No. 2941, as approved by the Committee, represented a serious and substantive effort to deal with the consequences of the nuclear testing program since the Section 177 Agreement went into effect almost 25 years ago.

Accordingly, I would like to review some specific measures for inclusion in the legislation, which I believe will address outstanding concerns and issues.

The provisions contained in Section 4 of the substituted version of S. 1756 and S. 2941 approved by the Committee in 2010 that provided the sum of \$4.5 million annually plus adjustment for inflation as a continuing appropriation through FY 2023 to address radiogenic illnesses and the nuclear related health care needs of Bikini, Enewetak, Rongelap, Utrik, Ailuk, Mejit, Likiep, Wotho, and Wotje, is acceptable to my Government.

We support the addition of persons who were citizens of the Trust Territory of the Pacific Islands for inclusion for eligibility in the Energy Employees Occupational Illness Compensation Program Act of 2000. There are many Marshallese who worked at Department of Energy sites in the RMI in the same manner as their U.S. citizen co-workers, yet have never received the health care and other benefits of this program.

We also support provision in the legislation for the pro-active and ongoing monitoring of the integrity of the Runit Dome at

Enewetak Atoll. This is an issue that has long been of concern to the people of Enewetak who live, fish and harvest food in the immediate area.

Any legislation addressing the consequences of the nuclear testing program would not be complete without consideration of the awards made by the Marshall Islands Nuclear Claims Tribunal. Absent from S. 1756 or S. 2941 was any reference to the decisions and awards made by the Tribunal. The administrative and adjudicative processes of the Tribunal over the past 20 years are an important mutually agreed-to component of the Section 177 Agreement and its implementation to resolve claims for damage to person and property arising as a result of the nuclear testing program. We cannot simply ignore the Tribunal's work and awards that it has made. The RMI has presented a Report on this subject prepared by former United States Attorney General Richard Thornburgh in January 2003; however, issues and concerns apparently continue. We should move forward and resolve any remaining issues and concerns regarding the Tribunal and its work.

We look forward to working with you and your staff to address the issues I have raised in this letter and to move forward on finally addressing the consequences of the nuclear testing program. We remain hopeful as the 112th U.S. Congress begins, this important legislation can be enacted into law to provide badly needed help and assistance to the Marshallese people who have suffered so much.

Finally, I would like to wish you and your staff a Happy and Healthy New Year and, once again, thank you for all of your help.

Sincerely,

JURELANG ZEDKAIA,  
President.

By Mr. BINGAMAN (for himself  
and Ms. MURKOWSKI):

S. 343. A bill to amend Title I of PL 99-658 regarding the Compact of Free Association between the Government of the United States of America and the Government of Palau, to approve the results of the 15-year review of the Compact, including the Agreement Between the Government of the United States of America and the Government of the Republic of Palau. Following the Compact of Free Association Section 432 Review, and to appropriate funds for the purposes of the amended PL 99-658 for fiscal years ending on or before September 30, 2024, to carry out the agreements resulting from that review; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I am pleased to join with my colleague and the Ranking Member of the Committee on Energy and Natural Resources, LISA MURKOWSKI, in introducing legislation to strengthen the relationship between the United States and the Republic of Palau—one of our closest and most reliable allies. This legislation, if enacted, would implement the recommendations of the 15-year review called for under the Compact of Free Association between our two nations.

Palau is one of the world's smallest nations, located in the western Pacific about 800 miles south of Guam and 500 miles east of the Philippines. It has a total land area of 177 square miles with a population of about 21,000. The close

ties between the U.S. and Palau date from World War II, when Japanese forces were defeated in the Battle of Peleliu. In 1947, the islands became a District in the United Nations Trust Territory of the Pacific Islands. The United States was appointed Administering Authority of the Trust Territory with the responsibility to promote economic and political development. Because of the United States' strategic interest in this region, the Trust Territory was established as the only U.N. "Strategic" Trust under the authority of the U.N. Security Council, as opposed to the U.N. General Assembly.

In the 1970s, talks on future political status were undertaken with the United States. The Northern Mariana Islands voted to become a U.S. territory, and the districts of Palau and the Marshall Islands chose to separate from the remaining Trust Territory districts. In 1982, Palau signed a 50-year Compact of Free Association that was approved by the U.S. in 1986, P.L. 99-658. The Compact went into effect on October 1, 1994, and the U.N. Trusteeship was subsequently terminated, making Palau a sovereign, self-governing state in free association with the United States. The U.S. entered into similar Compacts of Free Association with the Marshall Islands and the remaining districts of the Trust Territory, now known as the Federated States of Micronesia, in 1986, P.L. 99-239.

The U.S.-Palau Compact consists of four parts:

Title One, "Government Relations," provides for government-to-government relations including the privilege for Palau citizens to enter the U.S. to work and reside as non-immigrants, and for U.S. citizens to do the same in Palau.

Title Two, "Economic Relations," provided for a total of \$560 million in U.S. assistance from fiscal year 1995-2009, including operational support of about \$13 million annually, \$149 million for road construction, and \$70 million for capitalization of a Trust Fund to provide funds after the end of direct U.S. financial assistance.

Title Three, "Security and Defense Relations," closed Palauan territory to the military forces of any nation except the U.S., so-called "Strategic Denial," and provides that the U.S. may establish defense sites, although none exist at this time or are planned.

Title Four, "General Provisions," among other things, Section 432 requires that there be a formal bilateral review of the relationship on the 15th, 30th and 40th anniversaries of the compact's entry into force, and that both parties commit themselves to take specific actions based on the conclusions of the review.

The U.S. and Palau completed this formal 15th anniversary review and, on September 10, 2010, signed an agreement setting forth amendments to the compact based on the conclusions and recommendation of the review. The bill being introduced today would approve this agreement and its appendices and incorporate them into the law which originally established the compact.

First, the legislation would extend financial assistance for another 14-year



term, until 2024, for operations, construction, maintenance and trust fund contributions totaling \$229 million, or an average of \$16.4 million annually. This is a substantial reduction from the average of \$37.3 million annually that was provided in the first 15-year term. Second, the legislation significantly enhances accountability of U.S. financial assistance by requiring Palau to undertake financial and management reforms, and the U.S. is authorized to withhold funds if the U.S. determines that Palau “has not made significant progress in implementing meaningful reforms.” Third, the bill would require any Palauan entering the U.S. to have a Palau passport. This would be the same requirement that was imposed on citizens of Micronesia and the Marshall Islands when their compacts were reviewed and amended in 2003.

I believe this Agreement and legislation reaffirm and strengthen the special ties between the U.S. and Palau. Together we will continue our commitment to regional security. The United States will continue to be responsible for the security and defense of Palau, and the U.S. is honored to have the continued service of the men and women of Palau in the U.S. armed services. Strategic denial and the associated base rights provided for under the compact were originally designed to counter the Cold War threat in the Pacific. While the Cold War has ended, the U.S. will continue to face new challenges in the region.

Another indicator of the close relationship between the U.S. and Palau is evidenced by comparing votes in the United Nations. Palau and the U.S. vote together consistently. The most recent issue of the State Department's report, “Voting Practices in the United Nations 2009,” shows that Palau's voting coincidence with the United States in 2009 on 12 important issues was 100 percent. This is the highest voting coincidence of any country and indicates that Palau is a trusted and reliable ally at the U.N.

In 2003, the U.S. determined that a number of Chinese Uighurs who had been arrested in the war on terrorism and were sent to Guantanamo were not terrorists. The Bush Administration sought new homes for them, knowing that they would likely be persecuted if they were returned to China. Plans to send them to a Uighur community in Virginia were dropped because of Congressional opposition. Nearly every nation in the world was asked to assist in their resettlement, but Palau was the first to agree. Six Uighurs were resettled there. Palau has taken more detainees from Guantanamo than any other nation except Albania not counting those who were repatriated to their home countries.

It is important to note that this legislation is time-sensitive. The first 15-year term of compact financial assistance ended with fiscal year 2009. Fiscal Year 2010 funding for Palau was pro-

vided through enactment of a 1-year extension in the fiscal year 2010 Omnibus Appropriations bill, and the first few months of fiscal year 2011 funding is made available by the recent continuing resolutions. It is important that the next CR include continued financial support for Palau through the end of this fiscal year, to allow time for Congress to consider and pass this legislation. I understand that the administration's fiscal year 2012 budget will assume enactment of the bill before October 1, leaving the Congress a relatively short period of time to do its work.

I look forward to working with Ranking Member MURKOWSKI and our colleagues on the Committee in moving this bill promptly. I anticipate reaching out to our colleagues on the Foreign Relations and Armed Services Committees because of the important role Palau plays in U.S. foreign and defense policy. Finally, I look forward to working with officials in the administration and in Palau who conducted the compact Review and concluded this important Agreement. I urge my colleagues to join with me and Senator MURKOWSKI in approving this agreement and assuring the continued strength of this historic partnership.

Mr. President, I ask unanimous consent that the text of the bill and a letter of support be printed in the RECORD.

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

S. 343

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Title I of PL 99-658 is hereby amended by inserting a new section 105 as follows:*

**“SEC. 105. RESULTS OF COMPACT REVIEW.**

“(a) The Agreement between the Government of the United States of America and the Government of the Republic of Palau Following the Compact of Free Association Section 432 Review set forth in subsection (b) of this section, is hereby approved.

“(b)

**“AGREEMENT BETWEEN THE  
GOVERNMENT OF THE  
UNITED STATES OF AMERICA  
AND THE  
GOVERNMENT OF THE REPUBLIC OF  
PALAU  
FOLLOWING THE COMPACT OF FREE  
ASSOCIATION  
SECTION 432 REVIEW**

“In recognition of the ties that were developed between the United States of America and Palau during World War Two, and the subsequent half century of United States administration of Palau and the continuing close relationship between the Governments of the United States and Palau under the Compact of Free Association (“Compact”), following the fifteenth anniversary review of the relationship conducted pursuant to Section 432 of the Compact (which provides: “Upon the fifteenth and thirtieth and fortieth anniversaries of the effective date of this Compact, the Government of the United States and the Government of Palau shall formally review the terms of this Compact and its related agreements and shall consider

the overall nature and development of their relationship. In these formal reviews, the governments shall consider the operating requirements of the Government of Palau and its progress in meeting the development objectives set forth in the plan referred to in Section 231(a). The governments commit themselves to take specific measures in relation to the findings of conclusions resulting from the review. Any alteration to the terms of this Compact or its related agreements shall be made by mutual agreement, the terms of this Compact and its related agreements shall remain in force until otherwise amended or terminated pursuant to Title Four of this Compact”), and in light of the desire of the United States of America and the Republic of Palau to deepen their relationship, now, therefore, the Government of the United States of America and the Government of the Republic of Palau agree as follows:

**“1. Compact Section 211(f) Fund**

“The Government of the United States of America (the ‘Government of the United States’) shall contribute \$30.25 million to the Fund referred to in Section 211(f) of the Compact in accordance with the following schedule: \$3 million annually for ten years beginning with Fiscal Year 2013 through Fiscal Year 2022, and \$250,000 in Fiscal Year 2023.

**“2. Infrastructure Maintenance Fund**

“(a) The Government of the United States shall provide a grant of \$2 million annually from the beginning of Fiscal Year 2011 through Fiscal Year 2024 to create a trust fund (the ‘Infrastructure Maintenance Fund’) to be used for the routine and periodic maintenance of major capital improvement projects financed by funds provided by the United States. The Government of the Republic of Palau (the ‘Government of Palau’) will match the contributions made by the United States by making contributions of \$150,000 to the Infrastructure Maintenance Fund on a quarterly basis from the beginning of Fiscal Year 2011 through Fiscal Year 2024. Implementation of this subsection shall be carried out in accordance with the provisions of Appendix A to this Agreement.

“(b) The \$3 million owed to the Government of the United States under paragraph 3(d) of Article V of the Agreement Concerning Special Programs Related to the Entry Into Force of the Compact of Free Association Between the Government of the United States and the Government of the Republic of Palau (the Guam Accords) done at Guam, May 26, 1989, plus accumulated interest, shall be paid into the Infrastructure Maintenance Fund. The \$3 million shall remain in the Infrastructure Maintenance Fund and not be expended for any purpose. All past and future income generated by the \$3 million shall be used exclusively for the routine maintenance of the Compact Road provided by the United States under Section 212 of the Compact.

**“3. Fiscal Consolidation Fund**

“The Government of the United States shall provide the Government of Palau \$5 million in Fiscal Year 2011 and \$5 million in Fiscal Year 2012 for deposit in an interest bearing account to be used to reduce government payment arrears of Palau. Implementation of this section shall be carried out in accordance with the provisions of Appendix B to this Agreement.

**“4. Direct Economic Assistance**

“(a) In addition to the \$13.25 million in economic assistance provided to the Government of Palau by the Government of the United States in Fiscal Year 2010, and unless otherwise specified in this Agreement or in an Appendix to this Agreement, the Government of the United States shall provide the

Government of Palau \$107.5 million in economic assistance as follows: \$13 million in Fiscal Year 2011; \$12.75 million in Fiscal Year 2012; \$12.5 million in Fiscal Year 2013; \$12 million in Fiscal Year 2014; \$11.5 million in Fiscal Year 2015; \$10 million in Fiscal Year 2016; \$8.5 million in Fiscal Year 2017; \$7.25 million in Fiscal Year 2018; \$6 million in Fiscal Year 2019; \$5 million in Fiscal Year 2020; \$4 million in Fiscal Year 2021; \$3 million in Fiscal Year 2022; and \$2 million in Fiscal Year 2023. The funds provided in any fiscal year under this subsection shall be provided in four (4) quarterly payments (30 percent) in the first quarter, 30 percent in the second quarter, 20 percent in the third quarter, and 20 percent in the fourth quarter) unless otherwise specified in this Agreement or in an Appendix to this Agreement.

“(b) Notwithstanding the provisions of Compact section 211(f) and the Agreement Between the Government of the United States and the Government of Palau Regarding Economic Assistance Concluded Pursuant to Section 211(f) of the Compact of Free Association, with respect to Fiscal Years 2011 through Fiscal Year 2023 and except as otherwise agreed by the Government of the United States and the Government of Palau, the Government of Palau agrees not to exceed the following distributions from the Section 211(f) Fund: \$5 million annually beginning in Fiscal Year 2011 through Fiscal Year 2013; \$5.25 million in Fiscal Year 2014; \$5.5 million in Fiscal Year 2015; \$6.75 million in Fiscal Year 2016; \$8 million in Fiscal Year 2017; \$9 million in Fiscal Year 2018; \$10 million in Fiscal Year 2019; \$10.5 million in Fiscal Year 2020; \$11 million in Fiscal Year 2021; \$12 million in Fiscal Year 2022; and \$13 million in Fiscal Year 2023.

“(c) No portion of the funds provided to the Government of Palau under this section, including the funds distributed from the Section 211(f) Fund, shall be used, directly or indirectly, to fund state block grants, or the activities of the Office of the President of Palau, of the Olbiil Era Kelulau (the Palau National Congress), or of the Palau Judiciary. Annually, \$15 million of the funds provided to the Government of Palau under this section, including the funds distributed from the Section 211(f) Fund, shall be used exclusively for purposes related to education, health, and the administration of justice and public safety, recognizing that these funds are subject to the provisions of subsection 4(h) herein.

“(d) In order to increase the long term economic stability of Palau and to maximize the benefits of the economic assistance provided by the Government of the United States, the Government of Palau shall undertake economic, legislative, financial, and management reforms, and shall give due consideration to reforms such as those described in the International Monetary Fund’s (IMF) Country Report No. 08/162, Republic of Palau: Selected Issues and Statistical Appendix, (May 2008), and the Asian Development Bank’s (ADB) Strategy and Program Assessment, Palau: Policies for Sustainable Growth, A Private Sector Assessment (July 2007) and any other similar subsequent and future reports and recommendations issued by the IMF, the ADB, and other credible institutions, organizations or professional firms. To the extent that anticipated fiscal and economic reforms require substantial financial resources to design, implement, or mitigate negative impacts, the Government of Palau may propose and the two governments may agree to the use of additional funds from the Section 211(f) Fund, provided that the two governments agree in writing that the additional withdrawals from the Section 211(f) Fund will not impair the abil-

ity of the fund to provide \$15 million annually from Fiscal Year 2024 through Fiscal Year 2044, and that the proposed reforms are a necessary and prudent use of the funds. Government to government communications shall be through diplomatic channels.

“(e) The Government of the United States and the Government of Palau shall establish, effective on the day this Agreement enters into force, an Advisory Group on Economic Reform (the ‘Advisory Group’). The purpose of the Advisory Group is to contribute to the long-term economic sustainability of Palau by recommending economic, financial, and management reforms. The Advisory Group shall be composed of five (5) members, two (2) of whom shall be designated by the President of Palau and two (2) of whom shall be designated by the Government of the United States, the fifth of whom shall be chosen by the Government of the United States from a list of not fewer than three (3) persons not residents of Palau submitted by the President of Palau. In the event the Government of the United States rejects the persons enumerated in the list submitted by the President of Palau, then the fifth member shall be chosen by the President of Palau from a list of not fewer than three (3) persons submitted by the Government of the United States. In making their designations, the President and the Government of the United States shall give consideration to the mix of expertise that would be most beneficial to the work of the Advisory Group. The Advisory Group will be chaired by a member chosen by the members from among their number. Its meetings will be held once a year in Palau and once a year in Hawaii, unless otherwise agreed by the members. Each government shall provide the necessary support for its designated representatives on the Advisory Group. Support for the fifth member shall be borne by the government that recommended the member. Unless otherwise agreed by the two governments the Advisory Group shall terminate at the end of Fiscal Year 2023.

“(f) The Advisory Group shall recommend economic, financial and management reforms and the schedule on which the reforms should be implemented. The Advisory Group shall report annually not less than thirty (30) days prior to the annual bilateral economic consultations to be held on or about June 1 every year on the Government of Palau’s progress in implementing reforms recommended by the Advisory Group or other reforms taken by the Government of Palau. The two governments are committed to these annual economic consultations being meaningful, substantive, and comprehensive.

“(g) The Government of Palau’s progress in achieving reforms shall be reviewed at the annual bilateral economic consultations. Examples of significant progress in a fiscal year would be, but are not limited to: meaningful improvements in fiscal management, including the elimination and prevention of operating deficits; a meaningful reduction in the national operating budget from the previous fiscal year; a meaningful reduction in the number of government employees from the level the previous fiscal year; a meaningful reduction in the annual amount of the national operating budget dedicated to government salaries from the previous fiscal year; demonstrable reduction of government subsidization of utilities, and meaningful tax reform.

“(h) If the Government of the United States determines after the annual bilateral economic consultations that the Government of Palau has not made significant progress in implementing meaningful reforms, then, after direct consultation with the President of Palau, the Government of the United

States may, after ninety (90) days notice to the Government of Palau, delay payment of economic assistance under this section. The Government of the United States shall determine the amount of the economic assistance to be delayed. Any assistance delayed shall be held and released when the Government of the United States determines that Palau has made sufficient progress on the reforms.

#### “5. Infrastructure Projects

“The Government of the United States shall provide grants totaling \$40 million to the Government of Palau as follows: \$8 million annually in Fiscal Years 2011 through Fiscal Year 2013; \$6 million in Fiscal Year 2014; and \$5 million annually in Fiscal Years 2015 and 2016; towards one or more mutually agreed infrastructure projects in accordance with the provisions of Appendix C to this Agreement.

#### “6. Reporting and Auditing

“Palau shall resolve all deficiencies in the Annual Single Audit such that by 2018 no deficiency or recommendation dates from before Fiscal Year 2016. By the first day of the fourth quarter of each fiscal year or as soon as practicable thereafter, in the annual report it submits under Section 231(b) of the Compact, the Government of Palau shall report on the status and use of all funds provided under this Agreement. The status and use of all funds provided under this Agreement shall also be discussed in the annual bilateral economic consultations. The financial information relating to this funding shall conform to the standards of the Government Accounting Standards Board. All funds provided under this Agreement shall be subject to a financial and compliance audit and other requirements in accordance with the provisions of Appendix D to this Agreement.

#### “7. Federal Programs and Services

“The Government of the United States shall make available to Palau through Fiscal Year 2024, in accordance with and to the extent provided through amendments to the Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association, signed at Palau on January 10, 1986, the services and related programs covered in that agreement as amended herein. The amendments to that agreement constitute Appendix E to this Agreement.

#### “8. Telecommunication Services

“The Agreement Regarding the Provision of Telecommunication Services by the Government of the United States to Palau Concluded Pursuant to Section 131 of the Compact of Free Association, signed at Koror, Republic of Palau, January 10, 1986 and the Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in Palau Concluded Pursuant to Section 132 of the Compact of Free Association, signed at Koror, Republic of Palau, January 10, 1986 are amended and these amended agreements constitute Appendix F to this Agreement.

#### “9. Passport Requirement

“Section 141 of Article IV of Title One of the Compact shall be construed and applied as if it read as follows:

#### ‘Section 141

‘(a) Any person in the following categories may be admitted to, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (5) or (7)(B)(i)(II) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. § 1182(a)(5) or (a)(7)(B)(i)(II), provided that the passport presented to satisfy section 212(a)(7)(B)(i)(I) of such Act is a valid unexpired machine-readable passport that

satisfies the internationally accepted standard for machine readability:

“(1) a person who, on September 30, 1994, was a citizen of the Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and has become and remains a citizen of Palau;

“(2) a person who acquires the citizenship of Palau, at birth, on or after the effective date of the Constitution of Palau; or

“(3) a naturalized citizen of Palau, who has been an actual resident of Palau for not less than five years after attaining such naturalization and who holds a certificate of actual residence.

“Such persons shall be considered to have the permission of the Secretary of Homeland Security of the United States to accept employment in the United States.

“(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to non-discriminatory limitations provided for:

“(1) in statutes or regulations of the United States; or

“(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

“(c) Section 141(a) does not confer on a citizen of Palau the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of Palau from otherwise acquiring such rights or lawful permanent resident alien status in the United States.”

“10. Effective Date, Amendment, and Duration

“(a) This Agreement, including its Appendices, shall enter into force on the date of the last note of an exchange of diplomatic notes by which the Government of the United States and the Government of Palau inform each other that all internal procedures necessary for its entry into force have been fulfilled.

“(b) This Agreement may be amended at any time by the mutual written consent of the Government of the United States and the Government of Palau.

“(c) This Agreement shall remain in full force and effect until terminated by mutual written consent, or until termination of the Compact, whichever occurs first.

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective Governments, have signed this Agreement.

DONE AT Honolulu, Hawaii, USA, in duplicate, this 3rd day of September 2010, in the English language.

FOR THE GOVERNMENT  
OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT  
OF THE REPUBLIC OF PALAU:

Frankie A. Reed  
[Title]

Johnson Toribiong  
[Title]

“APPENDIX A—INFRASTRUCTURE MAINTENANCE FUND

“1. Subject to the terms of this Appendix, the Government of the United States shall provide the grants specified in section 2(a) of the Agreement between the United States of America and the Government of the Republic of Palau following the Compact of Free Association Section 432 Review (the ‘Agreement’) to which this document is an appendix.

“2. If, in a given Fiscal Year, the Government of Palau does not make the contributions agreed to in section 2(a) of the Agreement, economic assistance funds to be provided to Palau in the following fiscal year under section 4 of the Agreement will be redirected to the Infrastructure Maintenance Fund to make up the contributions owed by the Government of Palau.

“3. Grant funds from the Government of the United States and Government of Palau contributions to the Infrastructure Maintenance Fund shall be deposited in an account established by the Government of Palau. Fiscal control and accounting procedures shall be sufficient to permit the preparation of required reports and to permit the tracing of funds to a level of expenditure adequate to establish that such funds have been used in compliance with this Appendix.

“4. Palau shall report, at the annual bilateral economic consultations, the sources of its contributions to the Infrastructure Maintenance Fund.

“5. The Infrastructure Maintenance Fund, and any interest accruing thereon, is to be used by the Government of Palau for the maintenance of United States financed capital improvement projects such as the road system (Compact Road) provided by the United States under Section 212 of the Compact and the capital improvements provided by the United States to the Airai International Airport. The Government of Palau may request in writing the use of the Infrastructure Maintenance Fund for maintenance of U.S. financed capital improvement projects other than these two, such as the U.S.-financed capital improvements reflected in the Palau national hospital and schools. The Government of the United States shall give due consideration to any such request and shall endeavor to make a determination within sixty (60) days of receipt of the request. Although the primary purpose of the Infrastructure Maintenance Fund is to provide for routine and periodic maintenance, it may be used, when mutually agreed upon in writing, to mitigate damage and make emergency repairs to capital improvement projects funded by the United States.

“6. The Government of Palau shall identify to the Government of the United States the Government of Palau official and office responsible for maintenance of the infrastructure with Fund monies. The official shall be responsible for activities necessary to plan and implement annual programs of maintenance of the Compact Road and the International Airport at Airai, and all other public infrastructure. The official shall be responsible for keeping each facility as nearly as possible in its original condition as constructed. The official shall develop an annual maintenance plan and related budget for reactive, preventive, repetitive, non-recurrent, and emergency-generated maintenance of the infrastructure specified in paragraph 5 and for all other public infrastructure. The plan will include descriptions and schedules of planned activities and shall identify the related costs. The plan for the infrastructure specified in paragraph 5 shall be submitted to the Government of the United States for its approval no less than sixty (60) days prior to the beginning of each fiscal year.

“7. The Government of the United States will base its approval or disapproval of the plan for the infrastructure specified in paragraph 5 on its consideration of the effectiveness of the plan within the bounds of annual resources. Approval by the Government of the United States will be in the form of an

annual grant which incorporates the approved maintenance plan and budget. Acceptance of the grant by the Government of the Republic of Palau will obligate the Government of Palau to the implementation of the annual maintenance plan and budget for the infrastructure specified in paragraph 5.

“8. The grant, annual maintenance plan, and budget for the infrastructure specified in paragraph 5 may be amended by written mutual agreement.

“9. Use of the Fund monies shall be subject to 43 Code of Federal Regulations 12 and all other applicable laws and regulations governing the use of grant funds provided by the Government of the United States. These funds may not be used for any purpose other than that for which they are offered.

“10. Any grant funds remaining unexpended at the end of a fiscal year shall remain in the Infrastructure Maintenance Fund and may be included in subsequent annual maintenance plans and budgets.

“11. Reporting Requirements:

“(a) A Standard Form SF 425 (or successor form) and a narrative project status report shall be submitted quarterly.

“(b) Reports are due within thirty (30) days of the end of each quarter. Final reports are due ninety (90) days after the expiration or termination of the award.

“(c) All required plans and reports must be submitted to the U.S. Department of the Interior Office of Insular Affairs grant manager for the grant.

“APPENDIX B—FISCAL CONSOLIDATION FUND

“1. Subject to the terms of this Appendix, the Government of the United States shall provide the Government of Palau the amounts specified in section 3 of the Agreement of the United States of America and the Government of the Republic of Palau following the Compact of Free Association Section 432 Review (the ‘Agreement’) to which this document is an appendix. Until disbursed, these funds will be deposited in an interest bearing account and the interest generated shall also be used to reduce Palau’s government payment arrears in accordance with the provisions of this Appendix.

“2. The purpose of these funds is to allow the Government of Palau to discharge the level of debts accumulated prior to September 30, 2009. None of the principal or interest accrued on these funds may be disbursed to discharge a debt until the governments agree upon a specific list of debts to be paid with each annual contribution. The funds may not be used to pay off debt owed to another government, to pay an international organization, or to pay off debts which are the subject of current or pending litigation. Unless agreed to in writing by the Government of the United States, the funds may not be used to pay any entity owned or controlled by any member of the government, elected or appointed; to pay any entity owned or controlled by any member of the immediate family of any member of the government; to pay any entity from which a member of the government derives income; or to pay any creditor if the creditor owes money to the Government of Palau unless arrangements are made immediately to offset amounts owed to the Government of

Palau from the funds made available to the creditor. Debts owed to U.S. creditors must receive priority. All debts to be paid with these funds must be properly documented as legitimate debts of the Republic of Palau using generally accepted accounting principles. The total amount of the debt to be paid shall not exceed the general fund deficit established by the Single Audit Report as of September 30, 2009.

"3. The Government of Palau shall report quarterly to the Government of the United States on the use of these funds until they are expended and, until expended, the status and use of these funds shall be a regular agenda item for annual bilateral economic consultations to be held around June 1 of every year. If eligible debts do not amount to \$10 million, upon the request of the Government of Palau, the funds remaining after payment of the eligible debts shall be added to the amounts provided for infrastructure projects in section 5 of the Agreement.

#### "APPENDIX C—INFRASTRUCTURE PROJECTS

"1. Subject to the terms of this Appendix, the Government of the United States shall provide grants towards one or more mutually agreed infrastructure projects as specified in section 5 of the Agreement of the United States of America and the Government of the Republic of Palau following the Compact of Free Association Section 432 Review (the 'Agreement') to which this document is an appendix. These infrastructure grants shall be subject to 43 Code of Federal Regulations 12 and all other applicable laws and regulations governing the use of grant funds provided by the Government of the United States. Grant funds may not be used for any purpose other than that for which they are offered.

"2. Payment of grant funds shall be made as reimbursement of actual or accrued expenditures, using a format provided by the Government of the United States or as mutually agreed.

"3. Prior to requesting reimbursement or payment, the Government of Palau shall, as applicable, provide the following documentation to the Government of the United States:

"(a) Evidence of title, leasehold agreement, or other legal authority for use of the land upon which the capital improvement project(s) is (are) to be constructed.

"(b) A detailed project budget for each infrastructure project. The budget shall include a breakdown of costs (in-house and contract) for planning, engineering and design, real estate, supervision and administration, construction, and construction management and inspection. The Government of Palau and the Government of the United States shall mutually agree to the format of this submission.

"(c) A scope of work that describes the work to be performed and the schedule for planning through completion of construction. A certified professional engineer or architect shall sign both the scope of work and budget for each construction project.

"4. Prior to disbursing funds requested to reimburse for actual project construction, the Government of the United States may review construction plans and specifications, any revised detailed cost estimate, and a detailed construction schedule.

"5. All grant monies shall remain available until expended, unless otherwise provided in this Appendix.

"6. Failure to comply with objectives, terms and conditions, or reporting requirements may result in the suspension of grant payments until the deficiency is corrected.

"7. Reporting Requirements:

"(a) A Standard Form SF 425 (or successor form) and a narrative project status report shall be submitted quarterly.

"(b) Reports are due within thirty (30) days of the end of each quarter. Final reports are due ninety (90) days after the expiration or termination of the award.

"(c) All required documents and reports must be submitted to the U.S. Department of the Interior Office of Insular Affairs grant manager for the grant.

#### "APPENDIX D—AUDIT STANDARDS AND RESPONSIBILITIES

"1. The Government of Palau shall perform a financial and compliance audit, within the meaning of the Single Audit Act, as amended (31 U.S.C. 7501 et seq.), of the uses of the funding provided pursuant to the Agreement Between the Government of the United States of America and the Government of the Republic of Palau following the Compact of Free Association Section 432 Review (the 'Agreement') for each fiscal year during which the Agreement is in effect. The results of these Audits shall be available not later than the beginning of the fourth fiscal quarter following the end of the fiscal year under review, as required by the Single Audit Act. The costs of these audits are to be borne by the Government of Palau, and may be a recognized expense to funds provided under section 4 of the Agreement. If the Government of the Republic of Palau does not endeavor to perform a Single Audit in any given fiscal year, economic assistance funds to be provided to Palau in the following fiscal year under section 4 of the Agreement shall be redirected to pay for the required Single Audit.

"2. In conducting the audits required under this Appendix, the auditors shall take into account relevant laws and regulations of the United States and Palau, including U.S. laws and regulations on the conduct of audits, and Palauan laws and regulations which relate in a material, substantial or direct way to financial statements and operations of the Government of Palau.

"3. The authority of the Government of the United States set forth this Appendix shall continue for at least three (3) years after the last Grant or element of assistance by the Government of the United States under this Agreement has been provided and expended.

"4. Audit officials or agents of the Government of the United States may perform audits on the use of all funding provided pursuant to this Agreement, including grants and other assistance provided to the Government of Palau. The Government of the United States is responsible for all costs attendant to the discharge of this authority.

"5. Audit officials from the Government of the United States are the officials and employees of the Government of the United States who are responsible for the discharge of its audit responsibilities, including those of the Comptroller General of the United States and any Inspector General of an agency of the Government of the United States with programs operating in or otherwise serving the Republic of Palau. While present in the Republic of Palau for the purposes of this Appendix, audit officials from the Government of the United States shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions, except insofar as such immunity may be expressly waived by the Government of the United States. The Comptroller General and his duly authorized representatives, and other audit officials from the Government of the United States, shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration,

fingerprinting, and the registration of foreign agents. Such persons shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations. The privileges, exemptions and immunities accorded under this paragraph are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government of the Republic of Palau.

"6. Audit officials from the Government of the United States shall provide the Government of Palau with advance notice of the specific dates and nature of their visits prior to entering the Republic of Palau and shall show verifiable identification to officials of the Government of Palau when seeking access to records. In the performance of their responsibilities under this Agreement, audit officials from the Government of the United States shall have due regard for the laws of the Republic of Palau and the duties and responsibilities of the officials of the Government of Palau. Officials of the Government of Palau shall cooperate fully to the extent practicable with the United States audit officials to enable the full discharge of their responsibilities.

"7. The Comptroller General of the United States, and officials of the United States Government Accountability Office acting on his or her behalf, shall have coextensive authority with the executive branch of the Government of the United States as provided by this Appendix. The audit officials from the executive branch of the Government of the United States shall avoid duplication between their audit programs and those of the United States Government Accountability Office. The Government of Palau shall cooperate fully to the extent practicable with the Comptroller General of the United States in the conduct of such Audits as the Comptroller General of the United States determines necessary in accordance with this Appendix to enable the full discharge of his responsibilities.

"8. The Government of Palau shall provide audit officials from the Government of the United States with access, without cost and during normal working hours, to all records, documents, working papers, automated data, and files which are relevant to the uses of funding received pursuant to the Agreement by the Government of Palau. To the extent that such information is contained in confidential official documents, the Government of Palau shall undertake to extract information that is not of a confidential nature and make it available to the audit officials from the Government of the United States in the same manner as other relevant information or to provide such information from other sources.

"9. In order to reduce the level of interference in the daily operation of the activities of the Government of Palau, audit officials from the Government of the United States shall, to the extent practicable, inform the Government of Palau of their need for information, including the type of information and its relation to their annual audit schedule. To the extent practicable, the Government of Palau shall make available the information requested by audit officials from the Government of the United States relevant to Audits and available in a manner consistent with generally accepted accounting procedures that allows for the distinction of the Grants, assistance, and payments provided by the Government of the United States from any other funds of the Government of Palau. Such information shall be used and returned as quickly as accurate audit testing and surveying allow.

"10. The Government of Palau shall maintain records, documents, working papers, automated data, files, and other information regarding each such Grant or other assistance for at least three (3) years after such Grant or assistance was provided.

"11. Audit organizations and officials from the Government of the United States, including the Comptroller General of the United States and his duly authorized representatives, shall provide the Government of Palau with at least thirty (30) days to review and comment on draft audit reports prior to the release of the reports. The comments of the Government of Palau shall be included, in full, in the final audit reports. Should a draft audit report be revised based on the comments of the Government of Palau, the Government of Palau shall have an additional period to review and comment on the report prior to its release."

(c) The amendments to the Compact subsidiary agreements referenced in sections 7 and 8 of the Agreement set forth in section 105(b) above are hereby consented to (except for the extension of Article X of the Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association).

(d) There are authorized and appropriated to the Department of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, such sums as are necessary to carry out the purposes of sections 1, 2(a), 3, 4(a), and 5 of the Agreement set forth in section 105(b) above.

(e) If this section 105 and the Agreement set forth in section 105(b) above become effective during fiscal year 2011, and if between September 30, 2010, and the date the Agreement set forth in section 105(b) becomes effective, the Government of Palau withdraws more than \$5,000,000 from the trust fund established under section 211(f) of the U.S.-Palau Compact, amounts payable under sections 1, 2(a), 3, and 4(a) of the Agreement set forth in section 105(b) above, shall be withheld from the Government of Palau until Palau has reimbursed the trust fund for the amount, above \$5,000,000, withdrawn.

(f) There are authorized to be appropriated to the Departments, agencies, and instru-

mentalities named in paragraphs 1, 3, and 4 of section 221(a) of the U.S.-Palau Compact, and their successor Departments, agencies, and instrumentalities, such sums as are necessary to carry out the purposes of those paragraphs, to remain available until expended.

(g) There are authorized to be appropriated to the Department of the Interior \$1.5 million annually for 14 years—Fiscal Year 2011 through Fiscal Year 2024—to subsidize United States Postal Service (USPS) postal services provided to Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia, to remain available until expended.

(h) Section 105(f)(1)(B)(ix) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)(ix)) shall be applied by substituting "2024" for "2009."

JANUARY 14, 2011.

Hon. JOSEPH R. BIDEN, Jr.,  
President of the Senate,  
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill to amend Title I of Pub. L. No. 99-658, 100 Stat. 3672 (Nov. 14, 1986), regarding the Compact of Free Association between the Government of the United States of America and the Government of Palau. The draft bill would approve the results of the 15-year review of the Compact, including the Agreement Between the Government of the United States of America and the Government of the Republic of Palau following the Compact of Free Association Section 432 Review (the Agreement), and appropriate funds to the Department of the Interior for the purposes of the amended Pub. L. No. 99-658 for fiscal years ending on or before September 30, 2024, to carry out the agreements resulting from that review. We strongly urge that the draft bill be introduced, referred appropriately, and enacted at the earliest opportunity.

Section 432 of the Compact of Free Association between the Government of the United States of America and the Government of Palau (Compact) provides for the two governments formally to review the Compact upon the fifteenth anniversary of its effective date—October 1, 2009. The two governments concluded this review with the

signing of the Agreement on September 3, 2010.

The proposed legislation would amend Pub. L. No. 99-658, the legislation that approved the Compact, to add a section to approve and implement the results of the 15-year review. In particular, the proposed legislation would provide \$215.75 million beginning in fiscal year 2011 through fiscal year 2024 to be administered by the Department of the Interior. Over this 14-year period, \$30.25 million would supplement the fund already provided in section 211(f) of the Compact; \$107.5 million would be in direct economic assistance to assist Palau in transitioning to the level of assistance that will be provided exclusively by the section 211(f) fund after fiscal year 2024; \$40 million would be for infrastructure projects; \$28 million would be for maintenance of major infrastructure already provided to Palau (the Compact road and improvements to Palau's international airport); and \$10 million would enable fiscal consolidation.

Under the Agreement, Palau is to undertake economic, legislative, financial, and management reforms; economic assistance may be withheld in the absence of significant progress in implementing meaningful reforms. In addition to providing economic assistance and requiring reform, the Agreement would require citizens of Palau entering the United States to have a passport.

Direct economic assistance is scheduled to end after the expiration of the Continuing Appropriations Act, 2011 (Pub. L. No. 111-242), which is currently March 4, 2011. To ensure continuity of financial assistance for Palau, we are eager to provide Congress whatever information and assistance is necessary to secure early passage of the proposed legislation.

The Statutory Pay-As-You-Go (PAYGO) Act of 2010 provides that revenue and direct spending legislation cannot, in the aggregate, increase the on-budget deficit. If such legislation increases the on-budget deficit and that increase is not offset by the end of the Congressional session, a sequestration must be ordered. This draft bill would increase mandatory outlays and the on-budget deficit as shown below:

FISCAL YEARS  
(\$ Millions)

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	Total
Deficit Impact .....	28	28	26	23	22	20	14	12	11	10	194

This proposal would increase direct spending, and it is therefore subject to the Statutory PAYGO Act and should be considered in conjunction with all other proposals that are subject to the Act.

Enactment of the draft bill would protect United States interests and promote the continued mutual well being of our two countries. Palau is one of our nation's closest and most reliable allies. The legislation will support U.S. national security interests in an important part of the western Pacific where U.S. influence is being challenged. The Office of Management and Budget has advised that enactment of the draft bill would be in accord with the program of the President.

Sincerely,

DAVID J. HAYES,  
Deputy Secretary of  
the Interior.

JAMES B. STEINBEG,  
Deputy Secretary of  
State.

By Mr. REID (for himself, Ms. STABENOW, and Mr. TESTER):

S. 344. A bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation, and for other purposes; to the Committee on Armed Services.

Mr. REID. Mr. President, I rise today on behalf of our nation's veterans to once again discuss the unjust and outdated policy of failing to give our veterans their full earned military retirement benefits and veterans disability compensation. Full payment of retirement and disability benefits, known as "concurrent receipt," is an issue that I have ardently supported for more than 10 years now.

In the past, veterans were prevented from receiving the full pay and benefits they had earned. The law required that military retired pay be reduced dollar-for-dollar by the amount of any VA disability compensation received. Many Senators have joined me in fighting this policy and we have made some progress on behalf of our nation's veterans.

In 2003, Congress passed legislation which allowed disabled retired veterans with at least a 50 percent disability rating to become eligible for full concurrent receipt benefits by 2013. Then in 2004, the 10-year phase-in period was eliminated for veterans with 100 percent service-related disability. These are significant victories that put hundreds of thousands of veterans on track to receiving both their retirement and disability benefits, but many more are

still affected by the unjust denial of concurrent receipt.

For me, this is a simple matter of fairness. There is no reason to deny a veteran who has served his country honorably the right to the full value of their retirement pay simply because his service also caused him to become disabled. Unfortunately, that is exactly what the current law does. This legislation will put an end to it.

It is not a partisan issue. Our nation has been at war for almost a decade, and our soldiers have performed with unmatched honor and courage in difficult theatres of war. Our utmost duty as lawmakers should be to ensure that the brave men and women in the United States Armed Forces receive the benefits they have earned.

Today I reintroduce this legislation which will eliminate all restrictions to concurrent receipt. We must take action now, and support our veterans who have given so much to this grateful nation. This is the right thing to do.

I hope my Senate colleagues will join me in supporting this bill. These veterans have faced arbitrary discrimination long enough.

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. 344

*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 "Retired Pay Restoration Act of 2011".

#### SEC. 2. ELIGIBILITY FOR PAYMENT OF BOTH RETIRED PAY AND VETERANS' DISABILITY COMPENSATION FOR CERTAIN MILITARY RETIREES WITH COMPENSABLE SERVICE-CONNECTED DISABILITIES.

(a) EXTENSION OF CONCURRENT RECEIPT AUTHORITY TO RETIREES WITH SERVICE-CONNECTED DISABILITIES RATED LESS THAN 50 PERCENT.—

(1) REPEAL OF 50 PERCENT REQUIREMENT.—Section 1414 of title 10, United States Code, is amended by striking paragraph (2) of subsection (a).

(2) COMPUTATION.—Paragraph (1) of subsection (c) of such section is amended by adding at the end the following new subparagraph:

"(G) For a month for which the retiree receives veterans' disability compensation for a disability rated as 40 percent or less or has a service-connected disability rated as zero percent, \$0."

(b) CLERICAL AMENDMENTS.—

(1) The heading of section 1414 of such title is amended to read as follows:

**"§ 1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation".**

(2) The item relating to such section in the table of sections at the beginning of chapter 71 of such title is amended to read as follows:

"1414. Members eligible for retired pay who are also eligible for veterans' disability compensation: concurrent payment of retired pay and disability compensation."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on

January 1, 2012, and shall apply to payments for months beginning on or after that date.

#### SEC. 3. COORDINATION OF SERVICE ELIGIBILITY FOR COMBAT-RELATED SPECIAL COMPENSATION AND CONCURRENT RECEIPT.

(a) AMENDMENTS TO STANDARDIZE SIMILAR PROVISIONS.—

(1) QUALIFIED RETIREES.—Subsection (a) of section 1414 of title 10, United States Code, as amended by section 2(a), is amended—

(A) by striking "a member or" and all that follows through "retiree)" and inserting "a qualified retiree"; and

(B) by adding at the end the following new paragraph:

"(2) QUALIFIED RETIREES.—For purposes of this section, a qualified retiree, with respect to any month, is a member or former member of the uniformed services who—

"(A) is entitled to retired pay (other by reason of section 12731b of this title); and

"(B) is also entitled for that month to veterans' disability compensation."

(2) DISABILITY RETIREES.—Paragraph (2) of subsection (b) of section 1414 of such title is amended to read as follows:

"(2) SPECIAL RULE FOR RETIREES WITH FEWER THAN 20 YEARS OF SERVICE.—The retired pay of a qualified retiree who is retired under chapter 61 of this title with fewer than 20 years of creditable service is subject to reduction by the lesser of—

"(A) the amount of the reduction under sections 5304 and 5305 of title 38; or

"(B) the amount (if any) by which the amount of the member's retired pay under such chapter exceeds the amount equal to 2½ percent of the member's years of creditable service multiplied by the member's retired pay base under section 1406(b)(1) or 1407 of this title, whichever is applicable to the member."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2012, and shall apply to payments for months beginning on or after that date.

#### SEC. 4. CLARIFICATION OF COMPUTATION OF COMBAT-RELATED SPECIAL COMPENSATION FOR CHAPTER 61 DISABILITY RETIREES.

(a) IN GENERAL.—Section 1413a(b)(3) of title 10, United States Code, is amended by striking "shall be reduced by the amount (if any) by which the amount of the member's retired pay under chapter 61 of this title exceeds" both places it appears and inserting "may not, when combined with the amount of retired pay payable to the retiree after any such reduction under sections 5304 and 5305 of title 38, cause the total of such combined payment to exceed".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2012, and shall apply to payments for months beginning on or after that date.

### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 49—CELEBRATING BLACK HISTORY MONTH

Mrs. GILLIBRAND (for herself, Mr. LUGAR, Mr. COCHRAN, Mr. MENENDEZ, Ms. MIKULSKI, Ms. SNOWE, Mr. KERRY, Mrs. FEINSTEIN, Mr. NELSON of Florida, Ms. LANDRIEU, Mr. MERKLEY, Mr. JOHNSON of South Dakota, Mr. DURBIN, Mr. LAUTENBERG, Mr. UDALL of Colorado, Mr. WICKER, Mr. FRANKEN, Ms. STABENOW, Mr. PRYOR, Mr. WHITEHOUSE, Mrs. BOXER, Mr. CARDIN, Mr. SCHUMER, Mrs. MURRAY, Mr.

CASEY, Mr. BEGICH, Mr. BROWN of Ohio, Mr. BENNET, Mr. KIRK, Mr. BLUMENTHAL, Mrs. MCCASKILL, Mrs. HAGAN, Mrs. HUTCHISON, and Mr. COONS) submitted the following resolution; which was considered and agreed to:

S. RES. 49

Whereas in 1776, the United States of America was imagined, as stated in the Declaration of Independence, as a new Nation dedicated to the proposition that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness";

Whereas on November 19, 1863, President Abraham Lincoln, in reference to the Declaration of Independence, stated, "[f]our score and seven years ago our fathers brought forth, upon this continent, a new nation, conceived in liberty, and dedicated to the proposition that all men are created equal";

Whereas the history of this Nation includes injustices and the denial of basic, fundamental rights at odds with the words of the Founders of the Nation and the sacrifices commemorated at Gettysburg, and these injustices include nearly 250 years of slavery, 100 years of lynchings, denial of both fundamental human and civil rights, and withholding of the basic rights of citizenship;

Whereas the vestiges of slavery still exist in the systemic inequalities and injustices in our society;

Whereas for every Shirley Chisholm, Dorothy Height, Constance Baker Motley, Charles Hamilton Houston, Thurgood Marshall, Lena Horne, James Baldwin, W.E.B. Du Bois, Harriet Tubman, Frederick Douglass, Sojourner Truth, Jackie Robinson, or Ralph Bunche, each of whom lived a life of incandescent greatness, many African Americans lived, toiled, and died in obscurity, never achieving the recognition they deserved;

Whereas on November 4, 2008, the people of the United States elected an African American man, Barack Obama, as President of the United States, and African-Americans continue to serve our country at the highest levels of our government and military; and

Whereas William H. Hastie, the first African American to be appointed as a Federal judge, stated, "[h]istory informs us of past mistakes from which we can learn without repeating them. It also inspires us and gives confidence and hope bred of victories already won": Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the importance of Black History Month as an opportunity to reflect on our Nation's complex history, while remaining hopeful and confident for the path that lies ahead;

(2) acknowledges the significance of Black History Month as an important opportunity to recognize the tremendous contributions of African Americans to the Nation's history;

(3) encourages the celebration of Black History Month to provide a continuing opportunity for all people in the United States to learn from our past and to understand the experiences that have shaped our Nation; and

(4) calls on citizens to remember that, while this Nation began in division, it must now move forward with purpose, united tirelessly as one Nation, indivisible, with liberty and justice for all, and to honor the contribution of all American pioneers who help ensure the legacy of these great United States.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 74. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table.

SA 75. Mr. BAUCUS (for himself, Mr. BINGAMAN, Mr. KERRY, Mr. WYDEN, Ms. CANTWELL, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill S. 223, supra.

SA 76. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 223, supra; which was ordered to lie on the table.

SA 77. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 223, supra; which was ordered to lie on the table.

SA 78. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 223, supra; which was ordered to lie on the table.

SA 79. Mr. REID of Nevada submitted an amendment intended to be proposed by him to the bill S. 223, supra; which was ordered to lie on the table.

SA 80. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 223, supra; which was ordered to lie on the table.

SA 81. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 223, supra; which was ordered to lie on the table.

SA 82. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 223, supra; which was ordered to lie on the table.

SA 83. Mrs. MURRAY (for herself, Ms. CANTWELL, Mr. BEGICH, Mr. DURBIN, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by her to the bill S. 223, supra; which was ordered to lie on the table.

SA 84. Mr. ROCKEFELLER (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 223, supra; which was ordered to lie on the table.

SA 85. Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 58 proposed by Mr. NELSON of Nebraska (for himself, Mr. SCHUMER, Mr. AKAKA, Mr. MENENDEZ, Mrs. SHAHEEN, Mr. WHITEHOUSE, and Mr. TESTER) to the bill S. 223, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

SA 74. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 230, between lines 7 and 8, insert the following:

**SEC. 565. VALIDATION OF PASSENGER BOARDING PASSES.**

Section 44901 is amended by adding at the end the following:

“(1) VALIDATION OF BOARDING PASSES.—Not later than 1 year after the date of the enact-

ment of the FAA Air Transportation Modernization and Safety Improvement Act, the Administrator of the Transportation Security Administration shall develop and implement a mechanism that can be used at an airport security checkpoint to verify that—

“(1) a boarding pass of an individual has not been tampered with; and

“(2) the boarding pass accurately reflects the name of the person who purchased the boarding pass.”.

SA 75. Mr. BAUCUS (for himself, Mr. BINGAMAN, Mr. KERRY, Mr. WYDEN, Ms. CANTWELL, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

Strike title VIII and insert the following:

**TITLE VIII—AIRPORT AND AIRWAY TRUST FUND PROVISIONS AND RELATED TAXES****SEC. 800. AMENDMENT OF 1986 CODE.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

**SEC. 801. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.**

(a) FUEL TAXES.—Subparagraph (B) of section 4081(d)(2) is amended by striking “March 31, 2010” and inserting “September 30, 2013”.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(j)(1)(A) is amended by striking “March 31, 2010” and inserting “September 30, 2013”.

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) is amended by striking “March 31, 2010” and inserting “September 30, 2013”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2010.

**SEC. 802. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY.**

(a) IN GENERAL.—Paragraph (1) of section 9502(d) is amended—

(1) by striking “April 1, 2010” in the matter preceding subparagraph (A) and inserting “October 1, 2013”, and

(2) by striking the semicolon at the end of subparagraph (A) and inserting “or the FAA Air Transportation Modernization and Safety Improvement Act;”.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(e) is amended by striking “April 1, 2010” and inserting “October 1, 2013”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2010.

**SEC. 803. MODIFICATION OF EXCISE TAX ON KEROSENE USED IN AVIATION.**

(a) RATE OF TAX ON AVIATION-GRADE KEROSENE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) in the case of aviation-grade kerosene, 35.9 cents per gallon.”.

(2) FUEL REMOVED DIRECTLY INTO FUEL TANK OF AIRPLANE USED IN NONCOMMERCIAL AVIATION.—Subparagraph (C) of section 4081(a)(2) is amended to read as follows:

“(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation by a person registered for such use under section 4101, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.”.

(3) EXEMPTION FOR AVIATION-GRADE KEROSENE REMOVED INTO AN AIRCRAFT.—Subsection (e) of section 4082 is amended—

(A) by striking “kerosene” and inserting “aviation-grade kerosene”,

(B) by striking “section 4081(a)(2)(A)(iii)” and inserting “section 4081(a)(2)(A)(iv)”, and

(C) by striking “KEROSENE” in the heading and inserting “AVIATION-GRADE KEROSENE”.

(4) CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 4081(a)(2)(A) is amended by inserting “other than aviation-grade kerosene” after “kerosene”.

(B) The following provisions are each amended by striking “kerosene” and inserting “aviation-grade kerosene”:

(i) Section 4081(a)(3)(A)(ii).

(ii) Section 4081(a)(3)(A)(iv).

(iii) Section 4081(a)(3)(D).

(C) Subparagraph (D) of section 4081(a)(3) is amended—

(i) by striking “paragraph (2)(C)(i)” in clause (i) and inserting “paragraph (2)(C)”, and

(ii) by striking “paragraph (2)(C)(ii)” in clause (ii) and inserting “paragraph (2)(A)(iv)”.

(D) Paragraph (4) of section 4081(a) is amended—

(i) by striking “KEROSENE” in the heading and inserting “AVIATION-GRADE KEROSENE”, and

(ii) by striking “paragraph (2)(C)(i)” and inserting “paragraph (2)(C)”.

(E) Paragraph (2) of section 4081(d) is amended by striking “(a)(2)(C)(ii)” and inserting “(a)(2)(A)(iv)”.

(b) RETAIL TAX ON AVIATION FUEL.—

(1) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—Paragraph (2) of section 4041(c) is amended by inserting “at the rate specified in subsection (a)(2)(A)(iv) thereof” after “section 4081”.

(2) RATE OF TAX.—Paragraph (3) of section 4041(c) is amended to read as follows:

“(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax in effect under section 4081(a)(2)(A)(iv) (4.3 cents per gallon with respect to any sale or use for commercial aviation).”.

(c) REFUNDS RELATING TO AVIATION-GRADE KEROSENE.—

(1) AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION.—Clause (ii) of section 6427(l)(4)(A) is amended by striking “specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be,” and inserting “so imposed”.

(2) KEROSENE USED IN AVIATION.—Paragraph (4) of section 6427(l) is amended by striking subparagraphs (B) and (C) and inserting the following new subparagraph:

“(B) PAYMENTS TO ULTIMATE, REGISTERED VENDOR.—With respect to any kerosene used in aviation (other than kerosene to which paragraph (6) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay (without interest) the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

“(i) is registered under section 4101, and

“(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).”.

(3) AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—Subsection (1) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) REFUNDS FOR AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—If tax has been imposed under section 4081 at the rate specified in section 4081(a)(2)(A)(iv) and the fuel is used other than in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the amount of tax imposed on such fuel reduced by the amount of tax that would be imposed under section 4041 if no tax under section 4081 had been imposed.”.

(4) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 4082(d)(2) is amended by striking “6427(1)(5)(B)” and inserting “6427(1)(6)(B)”.

(B) Paragraph (4) of section 6427(i) is amended—

(i) by striking “(4)(C) or (5)” and inserting “(4)(B) or (6)”, and

(ii) by striking “, (1)(4)(C)(ii), and (1)(5)” and inserting “and (1)(6)”.

(C) Subsection (1) of section 6427 is amended by striking “DIESEL FUEL AND KEROSENE” in the heading and inserting “DIESEL FUEL, KEROSENE, AND AVIATION FUEL”.

(D) Paragraph (1) of section 6427(l) is amended by striking “paragraph (4)(C)(i)” and inserting “paragraph (4)(B)”.

(E) Paragraph (4) of section 6427(l) is amended—

(i) by striking “KEROSENE USED IN AVIATION” in the heading and inserting “AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION”, and

(ii) in subparagraph (A)—

(I) by striking “kerosene” and inserting “aviation-grade kerosene”,

(II) by striking “KEROSENE USED IN COMMERCIAL AVIATION” in the heading and inserting “IN GENERAL”.

(d) TRANSFERS TO THE AIRPORT AND AIRWAY TRUST FUND.—

(1) IN GENERAL.—Subparagraph (C) of section 9502(b)(1) is amended to read as follows: “(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and”.

(2) TRANSFERS ON ACCOUNT OF CERTAIN REFUNDS.—

(A) IN GENERAL.—Subsection (d) of section 9502 is amended—

(i) by striking “(other than subsection (1)(4) thereof)” in paragraph (2), and

(ii) by striking “(other than payments made by reason of paragraph (4) of section 6427(1))” in paragraph (3).

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (4) of section 9503(b) is amended by striking “or” at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by inserting after subparagraph (D) the following new subparagraphs:

“(E) section 4081 to the extent attributable to the rate specified in clause (ii) or (iv) of section 4081(a)(2)(A), or

“(F) section 4041(c).”.

(ii) Subsection (c) of section 9503 is amended by striking paragraph (5).

(iii) Subsection (a) of section 9502 is amended—

(I) by striking “appropriated, credited, or paid into” and inserting “appropriated or credited to”, and

(II) by striking “, section 9503(c)(5)”,.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuels removed, entered, or sold after March 31, 2011.

(f) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of aviation-grade kerosene fuel which is held on April 1, 2011, by any person, there is hereby

imposed a floor stocks tax on aviation-grade kerosene equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date on such kerosene under section 4081 of the Internal Revenue Code of 1986, as in effect on such date.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation-grade kerosene on April 1, 2011, shall be liable for such tax.

(B) TIME AND METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to the Airport and Airway Trust Fund, the tax imposed by this subsection shall be treated as imposed by section 4081(a)(2)(A)(iv) of the Internal Revenue Code of 1986.

(4) DEFINITIONS.—For purposes of this subsection—

(A) AVIATION-GRADE KEROSENE.—The term “aviation-grade kerosene” means aviation-grade kerosene as such term is used within the meaning of section 4081 of the Internal Revenue Code of 1986.

(B) HELD BY A PERSON.—Aviation-grade kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) SECRETARY.—The term “Secretary” means the Secretary of the Treasury or the Secretary’s delegate.

(5) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to any aviation-grade kerosene held by any person exclusively for any use to the extent a credit or refund of the tax is allowable under the Internal Revenue Code of 1986 for such use.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on any aviation-grade kerosene held on April 1, 2011, by any person if the aggregate amount of such aviation-grade kerosene held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

(B) EXEMPT AVIATION-GRADE KEROSENE.—For purposes of subparagraph (A), there shall not be taken into account any aviation-grade kerosene held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5).

(C) CONTROLLED GROUPS.—For purposes of this subsection—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term “controlled group” has the meaning given to such term by subsection (a) of section 1563 of the Internal Revenue Code of 1986; except that for such purposes the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control if 1 or more of such persons is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of the Internal Revenue Code of 1986 on the aviation-grade kerosene involved shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section.

**SEC. 804. AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.**

(a) IN GENERAL.—Section 9502 is amended by adding at the end the following new subsection:

“(f) ESTABLISHMENT OF AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.—

“(1) CREATION OF ACCOUNT.—There is established in the Airport and Airway Trust Fund a separate account to be known as the ‘Air Traffic Control System Modernization Account’ consisting of such amounts as may be transferred or credited to the Air Traffic Control System Modernization Account as provided in this subsection or section 9602(b).

“(2) TRANSFERS TO AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.—On October 1, 2011, and annually thereafter the Secretary shall transfer \$400,000,000 to the Air Traffic Control System Modernization Account from amounts appropriated to the Airport and Airway Trust Fund under subsection (b) which are attributable to taxes on aviation-grade kerosene.

“(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Air Traffic Control System Modernization Account shall be available subject to appropriation for expenditures relating to the modernization of the air traffic control system (including facility and equipment account expenditures).”.

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 9502(d) is amended by striking “Amounts” and inserting “Except as provided in subsection (f), amounts”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 805. TREATMENT OF FRACTIONAL AIRCRAFT OWNERSHIP PROGRAMS.**

(a) FUEL SURTAX.—

(1) IN GENERAL.—Subchapter B of chapter 31 is amended by adding at the end the following new section:

**“SEC. 4043. SURTAX ON FUEL USED IN AIRCRAFT PART OF A FRACTIONAL OWNERSHIP PROGRAM.**

“(a) IN GENERAL.—There is hereby imposed a tax on any liquid used during any calendar quarter by any person as a fuel in an aircraft which is—

“(1) registered in the United States, and

“(2) part of a fractional ownership aircraft program.

“(b) AMOUNT OF TAX.—The rate of tax imposed by subsection (a) is 14.1 cents per gallon.

“(c) FRACTIONAL OWNERSHIP AIRCRAFT PROGRAM.—For purposes of this section—

“(1) IN GENERAL.—The term ‘fractional ownership aircraft program’ means a program under which—

“(A) a single fractional ownership program manager provides fractional ownership program management services on behalf of the fractional owners,

“(B) 2 or more airworthy aircraft are part of the program,

“(C) there are 1 or more fractional owners per program aircraft, with at least 1 program aircraft having more than 1 owner,

“(D) each fractional owner possesses at least a minimum fractional ownership interest in 1 or more program aircraft,

“(E) there exists a dry-lease aircraft exchange arrangement among all of the fractional owners, and



“(F) there are multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.

“(2) MINIMUM FRACTIONAL OWNERSHIP INTEREST.—

“(A) IN GENERAL.—The term ‘minimum fractional ownership interest’ means, with respect to each type of aircraft—

“(i) a fractional ownership interest equal to or greater than  $\frac{1}{16}$  of at least 1 subsonic, fixed wing or powered lift program aircraft, or

“(ii) a fractional ownership interest equal to or greater than  $\frac{1}{32}$  of at least 1 rotorcraft program aircraft.

“(B) FRACTIONAL OWNERSHIP INTEREST.—The term ‘fractional ownership interest’ means—

“(i) the ownership of an interest in a program aircraft,

“(ii) the holding of a multi-year leasehold interest in a program aircraft, or

“(iii) the holding of a multi-year leasehold interest which is convertible into an ownership interest in a program aircraft.

“(3) DRY-LEASE AIRCRAFT EXCHANGE.—The term ‘dry-lease aircraft exchange’ means an agreement, documented by the written program agreements, under which the program aircraft are available, on an as needed basis without crew, to each fractional owner.

“(d) TERMINATION.—This section shall not apply to liquids used as a fuel in an aircraft after September 30, 2013.”.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 4082 is amended by inserting “(other than an aircraft described in section 4043(a))” after “an aircraft”.

(3) TRANSFER OF REVENUES TO AIRPORT AND AIRWAY TRUST FUND.—Subsection (1) of section 9502(b) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

“(B) section 4043 (relating to surtax on fuel used in aircraft part of a fractional ownership program).”.

(4) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 31 is amended by adding at the end the following new item:

“Sec. 4043. Surtax on fuel used in aircraft part of a fractional ownership program.”.

(b) FRACTIONAL OWNERSHIP PROGRAMS TREATED AS NON-COMMERCIAL AVIATION.—Subsection (b) of section 4083 is amended by adding at the end the following new sentence: “For uses of aircraft before October 1, 2013, such term shall not include the use of any aircraft which is part of a fractional ownership aircraft program (as defined by section 4043(c)).”.

(c) EXEMPTION FROM TAX ON TRANSPORTATION OF PERSONS.—Section 4261, as amended by this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) EXEMPTION FOR AIRCRAFT IN FRACTIONAL OWNERSHIP AIRCRAFT PROGRAMS.—No tax shall be imposed by this section or section 4271 on any air transportation provided before October 1, 2013, by an aircraft which is part of a fractional ownership aircraft program (as defined by section 4043(c)).”.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to fuel used after March 31, 2011.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to uses of aircraft after March 31, 2011.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable transportation provided after March 31, 2011.

**SEC. 806. TERMINATION OF EXEMPTION FOR SMALL JET AIRCRAFT ON NON-ESTABLISHED LINES.**

(a) IN GENERAL.—the first sentence of section 4281 is amended by inserting “or when such aircraft is a turbine engine powered aircraft” after “an established line”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable transportation provided after March 31, 2011.

**SEC. 807. TRANSPARENCY IN PASSENGER TAX DISCLOSURES.**

(a) IN GENERAL.—Section 7275 (relating to penalty for offenses relating to certain airline tickets and advertising) is amended—

(1) by redesignating subsection (c) as subsection (d),

(2) by striking “subsection (a) or (b)” in subsection (d), as so redesignated, and inserting “subsection (a), (b), or (c)”, and

(3) by inserting after subsection (b) the following new subsection:

“(c) NON-TAX CHARGES.—

“(1) IN GENERAL.—In the case of transportation by air for which disclosure on the ticket or advertising for such transportation of the amounts paid for passenger taxes is required by subsection (a)(2) or (b)(1)(B), if such amounts are separately disclosed, it shall be unlawful for the disclosure of such amounts to include any amounts not attributable to such taxes.

“(2) INCLUSION IN TRANSPORTATION COST.—Nothing in this subsection shall prohibit the inclusion of amounts not attributable to the taxes imposed by subsection (a), (b), or (c) of section 4261 in the disclosure of the amount paid for transportation as required by subsection (a)(1) or (b)(1)(A), or in a separate disclosure of amounts not attributable to such taxes.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable transportation provided after March 31, 2011.

**SEC. 808. TAX-EXEMPT BOND FINANCING FOR FIXED-WING EMERGENCY MEDICAL AIRCRAFT.**

(a) IN GENERAL.—Subsection (e) of section 147 is amended by adding at the end the following new sentence: “The preceding sentence shall not apply to any fixed-wing aircraft equipped for, and exclusively dedicated to providing, acute care emergency medical services (within the meaning of 4261(g)(2)).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to obligations issued after the date of the enactment of this Act.

**SEC. 809. PROTECTION OF AIRPORT AND AIRWAY TRUST FUND SOLVENCY.**

(a) IN GENERAL.—Paragraph (1) of section 9502(d) is amended by adding at the end the following new sentence: “Unless otherwise provided by this section, for purposes of this paragraph for fiscal year 2012 or 2013, the amount available for making expenditures for such fiscal year shall not exceed 90 percent of the receipts of the Airport and Airway Trust Fund plus interest credited to such Trust Fund for such fiscal year as estimated by the Secretary of the Treasury.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fiscal years beginning after September 30, 2011.

**SA 76.** Mr. CARDIN submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration,

and for other purposes; which was ordered to lie on the table; as follows:

On page 111, after line 25, add the following:

**SEC. 329. TRANSFER OF AIR TRAFFIC CONTROL AUTHORITY.**

Notwithstanding section 47124 of title 49, United States Code, the Administrator of the Federal Aviation Administration shall expeditiously assume operational control of air traffic control services at Martin State Airport, located near Baltimore, Maryland.

**SA 77.** Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 233, strike line 21 and all that follows through page 235, line 4, and insert the following:

**SEC. 603. PRODUCTION OF ALTERNATIVE FUEL TECHNOLOGY FOR CIVILIAN AIRCRAFT.**

(a) IN GENERAL.—From amounts made available under section 48102(a) of title 49, United States Code, the Secretary of Transportation shall establish a research program related to developing jet fuel from natural gas, biomass and other renewable sources through grants or other measures authorized under section 106(1)(6) of such title, including reimbursable agreements with other Federal agencies.

(b) PARTICIPATION IN PROGRAM.—The Secretary shall—

(1) include educational and research institutions that have existing facilities and leverage private sector partnerships and consortia with experience across the supply chain, including research, feedstock development and production, small-scale development, testing, and evaluation of technologies related to the creation, processing, production, and transportation of alternative aviation fuel under the program required by subsection (a); and

(2) consider utilizing the existing capacity in Aeronautics research at Langley Research Center of the National Aeronautics and Space Administration to carry out the program required by subsection (a).

(c) DESIGNATION OF INSTITUTION AS A CENTER OF EXCELLENCE.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall designate an institution described in subsection (b) as a Center of Excellence for Alternative Jet-Fuel Research in Civil Aircraft. The Center of Excellence shall, upon its designation, become a member of the CLEEN Consortium established under section 602(b), and shall, upon its designation, become part of a Joint Center of Excellence with the Partnership for Air Transportation Noise and Emission Reduction FAA Center of Excellence.

(d) IMPLEMENTATION OF THE RECOMMENDATIONS OF THE FUTURE OF AVIATION ADVISORY COMMITTEE.—

(1) NATIONAL LEADERSHIP.—The Administrator of the Federal Aviation Administration shall exercise strong national leadership in promoting and supporting United States commercial aviation as a first user of sustainable alternative fuels by—

(A) taking a lead role within the Biofuels Interagency Working Group; and

(B) supporting activities to promote the commercialization of alternative aviation

fuel through deployment of at least 1 commercial-scale production facility.

(2) **PILOT PROGRAM.**—In carrying out the pilot program described in paragraph (1)(B), the Administrator shall—

(A) coordinate with other Federal agencies to utilize existing Federal support mechanisms, such as loan guarantees (as defined in section 502(3) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(3))) and other authorized credit enhancements and supports, to finance 1 or more facilities capable of producing alternative aviation fuel not later than December 31, 2013; and

(B) give priority to facilities that—

(i) have, or can have in place not later than 180 days after the date of the enactment of this Act, off-take agreements with commercial air carriers;

(ii) will produce at least 50,000,000 gallons of alternative aviation fuel annually; and

(iii) will use agricultural or other renewable sources produced in North America as its primary feedstock.

(3) **STUDY ON FUEL SPECIFICATION, TESTING, AND CERTIFICATION.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that—

(A) identifies any capacity constraints or inefficiencies in existing specification, testing, and certification processes for alternative aviation fuels, including a comparative assessment of such processes across United States Government agencies and international jurisdictions; and

(B) makes recommendations to accelerate the development of specifications, testing, and certification for alternative aviation fuels derived from a range of production processes.

**SA 78.** Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. \_\_\_\_ . STUDIES OF NATURAL SOUNDSCAPE PRESERVATION.**

(A) **STUDY OF LEAST DEGRADED NATIONAL PARK SERVICE NATURAL SOUNDSCAPES.**—

(1) **IN GENERAL.**—Within 12 months after the date of enactment of this Act, the Secretary shall conduct a study to identify National Park Service natural soundscape values and resources, as defined by policies 4.9 and 8.2 of the 2006 Management Policies of the National Park Service.

(2) **IDENTIFICATION OF LEAST DEGRADED SOUNDSCAPES.**—In conducting the study under paragraph (1), the Secretary shall analyze and identify up to 50 National Park Service natural soundscapes that have been the least degraded by—

(A) unnatural sounds; and

(B) undesirable sounds cause by humans.

(3) **TECHNICAL ASSISTANCE.**—To the extent that the Secretary has identified aviation or aircraft noise as one of the sources of natural soundscapes degradation, the Administrator shall provide technical assistance to the Secretary in carrying out the study under paragraph (1).

(b) **PRESERVATION OF NATURAL SOUNDSCAPE RESOURCES.**—To the extent that the Sec-

retary has identified aviation or aircraft noise as 1 of the sources of National Park Service natural soundscapes degradation, the Secretary, in coordination with the Administrator, shall identify methods to preserve each of the National Park Service natural soundscapes identified in the study conducted under subsection (a), including the application of NextGen technologies to minimize overflights of these areas.

(c) **REPORT.**—Within 18 months after the date of enactment of this Act, the Secretary and the Administrator shall jointly submit a report to the Senate Committee on Energy and Natural Resources, the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Energy and Commerce, and the House of Representatives Committee on Transportation and Infrastructure that—

(1) describes the results of the study conducted under subsection (a) and the methods identified under subsection (b); and

(2) includes any recommendations that the Secretary and the Administrator determine to be appropriate.

(d) **DEFINITIONS.**—In this section:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Federal Aviation Administration.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, acting through the Director of the National Park Service.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

**SA 79.** Mr. REID of Nevada submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

**SEC. 733. STUDY ON ECONOMIC IMPACTS OF CERTAIN PROPOSED REGULATIONS ON COMMERCIAL AIR TOUR OPERATORS IN THE GRAND CANYON NATIONAL PARK.**

(a) **IN GENERAL.**—The National Academy of Sciences shall conduct a study to determine the economic impacts of the preferred alternative of the National Park Service with respect to changes to commercial air tour operations in the Grand Canyon National Park Special Flight Rules Area as described in the Notice of Availability of the Draft Environmental Impact Statement for the Special Flight Rules Area in the Vicinity of Grand Canyon National Park for Grand Canyon National Park, Arizona (76 Fed. Reg. 6496).

(b) **ELEMENTS.**—The study required by subsection (a) shall address the impact of the preferred alternative described in that subsection on commercial air tour operators that operate in the Grand Canyon National Park Special Flight Rules Area, including the impact of the preferred alternative on—

(1) the number of flight operations over the Grand Canyon National Park;

(2) the total passenger volume of such flight operations;

(3) the total gross revenue from such flight operations;

(4) employment related to such flight operations; and

(5) the earnings of commercial air tour operators and their employees.

(c) **REPORT REQUIRED.**—Not later than December 31, 2011, the National Academy of

Sciences shall submit to Congress and the Secretary of the Interior a report that contains—

(1) the findings of the National Academy of Sciences under the study required by subsection (a); and

(2) recommendations with respect to measures that could be taken to limit the economic impact of the preferred alternative described in subsection (a) on commercial air tour operators that operate in the Grand Canyon National Park Special Flight Rules Area while continuing to provide for the substantial restoration of natural quiet in the Grand Canyon National Park as required by section 3(b) of Public Law 100-91 (16 U.S.C. 1a-1 note).

**SA 80.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 141, between lines 9 and 10, insert the following:

**SEC. 420. LIMITATION ON ESSENTIAL AIR SERVICE TO LOCATIONS THAT ARE 100 OR MORE MILES AWAY FROM THE NEAREST MEDIUM OR LARGE HUB AIRPORT.**

(a) **IN GENERAL.**—Section 41731(a)(1) is amended—

(1) in subparagraph (A), by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively;

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

(3) in clause (i)(I), as redesignated, by inserting “(A)” before “(i)(I)”;

(4) in subparagraph (A)(ii), as redesignated, by striking the period at the end and inserting “; and”; and

(5) by adding at the end the following:

“(B) is located not less than 100 miles from the nearest medium or large hub airport.”.

(b) **EXCEPTIONS FOR LOCATIONS IN ALASKA.**—Section 41731 is amended by adding at the end the following:

“(c) **EXCEPTION FOR LOCATIONS IN ALASKA.**—Subsection (a)(1)(B) shall not apply with respect to locations in the State of Alaska.”.

**SA 81.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 141, between lines 9 and 10, insert the following:

**SEC. 420. LIMITATION ON ESSENTIAL AIR SERVICE TO LOCATIONS THAT AVERAGE 10 OR MORE ENPLANEMENTS PER DAY.**

(a) **IN GENERAL.**—Section 41731(a)(1) is amended—

(1) in subparagraph (A), by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively;

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

(3) in clause (i)(I), as redesignated, by inserting “(A)” before “(i)(I)”;

(4) in subparagraph (A)(ii), as redesignated, by striking the period at the end and inserting “; and”; and

(5) by adding at the end the following:

“(B) had an average of 10 enplanements per day or more in the most recent calendar year for which enplanement data is available to the Administrator.”.

(b) EXCEPTIONS FOR LOCATIONS IN ALASKA.—Section 41731 is amended by adding at the end the following:

“(c) EXCEPTION FOR LOCATIONS IN ALASKA.—Subsection (a)(1)(B) shall not apply with respect to locations in the State of Alaska.”.

(c) WAIVERS.—Such section is further amended by adding at the end the following:

“(d) WAIVERS.—The Administrator may waive subsection (a)(1)(B) with respect to a location if the Administrator determines that the reason the location averages fewer than 10 enplanements per day is not because of inherent issues with the location.”.

**SA 82.** Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 416 and insert the following:

**SEC. 416. REPEAL OF SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM.**

(a) IN GENERAL.—Section 41743 is repealed.  
(b) CONFORMING AMENDMENT.—The table of sections for chapter 417 is amended by striking the item relating to section 41743.

**SA 83.** Mrs. MURRAY (for herself, Ms. CANTWELL, Mr. BEGICH, Mr. DURBIN, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by her to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

On page 256, between lines 19 and 20, insert the following:

**SEC. 614. AEROSPACE WORKFORCE CENTERS OF EXCELLENCE.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation, in coordination with the Administrator of the National Aeronautics and Space Administration and the heads of other Federal agencies, as appropriate, shall leverage existing resources to establish a program to develop education and career pathways in occupations within existing or emerging sectors in a regional aerospace industry cluster through grants or other measures, including reimbursable agreements with other Federal agencies.

(b) PARTICIPATION IN PROGRAM.—The Secretary shall ensure that participants in the program established under subsection (a) include—

(1) employers or employer groups in the regional aerospace industry cluster;

(2) educational and research institutions that have existing facilities and experience in research, development, and commercialization in the aerospace industry;

(3) institutions of higher education (including community colleges) with experience providing education and training for aerospace industry occupations;

(4) high schools with demonstrated experience in providing career and technical education and training in occupations related to the aerospace industry;

(5) a State or local workforce investment board established under section 111 or 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2821 and 2832), as appropriate;

(6) representatives of workers in the regional aerospace industry cluster; and

(7) other appropriate organizations.

(c) COMPETITIVE GRANT PROCESS.—

(1) IN GENERAL.—The Secretary shall require applicants to submit an application, at such time and in such a manner as the Secretary may reasonably require.

(2) CONTENTS.—The application submitted under paragraph (1) shall contain a description of the eligible participants under subsection (b). Applicants shall be required to describe how participants will work together to accomplish the purposes of the program.

(d) DESIGNATION AS CENTERS OF EXCELLENCE.—

(1) IN GENERAL.—The Secretary and the Administrator of the Federal Aviation Administration shall award grants to not fewer than 6 applicants, which shall be designated as Regional Centers of Excellence in Aerospace Career Pathways.

(2) CONSIDERATIONS.—In making designations under paragraph (1), the Secretary and the Administrator shall—

(A) consider the existing aerospace industry presence and aerospace-related education, workforce training, and research and development activities in the region;

(B) take any necessary measures to ensure—

(i) an equitable geographic distribution of funds; and

(ii) an appropriate balance in addressing the needs of aerospace industry segments; and

(C) consider the presence of high unemployment and economic dislocation in public sector, aerospace-related jobs in the designation of at least 1 center.

**SA 84.** Mr. ROCKEFELLER (for himself and Mrs. HUTCHISON) submitted an amendment intended to be proposed by him to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

**SEC. \_\_\_\_ . RONALD REAGAN WASHINGTON NATIONAL AIRPORT SLOTS.**

(a) INCREASE IN NUMBER OF SLOT EXEMPTIONS.—Section 41718 is amended by adding at the end thereof the following:

“(g) ADDITIONAL SLOTS.—

“(1) INITIAL INCREASE IN EXEMPTIONS.—Within 90 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall grant, by order, 24 slot exemptions from the application of sections 49104(a)(5), 49109, 49111(e), and 41714 of this title to air carriers to operate limited frequencies and aircraft on routes between Ronald Reagan Washington National Airport and airports located beyond the perimeter described in section 49109 or, as provided in paragraph (2)(B), airports located within that perimeter, and exemptions from the requirements of subparts K and S of part 93, Code of Fed-

eral Regulations, if the Secretary finds that the exemptions will—

“(A) provide air transportation with domestic network benefits in areas beyond the perimeter described in section 49109;

“(B) increase competition in multiple markets;

“(C) not reduce travel options for communities served by small hub airports and medium hub airports within the perimeter described in section 49109;

“(D) not result in meaningfully increased travel delays;

“(E) enhance options for nonstop travel to and from the beyond-perimeter airports that will be served as a result of those exemptions;

“(F) have a positive impact on the overall level of competition in the markets that will be served as a result of those exemptions; and

“(G) produce public benefits, including the likelihood that the service to airports located beyond the perimeter described in section 49109 will result in lower fares, higher capacity, and a variety of service options.

“(2) NEW ENTRANTS AND LIMITED INCUMBENTS.—

“(A) DISTRIBUTION.—Of the exemptions made available under paragraph (1), the Secretary shall make 8 available to limited incumbent air carriers or new entrant air carriers and 16 available to other incumbent air carriers.

“(B) USE.—Only a limited incumbent air carrier or new entrant air carrier may use an additional exemption granted under this subsection to provide service between Ronald Reagan Washington National Airport and an airport located within the perimeter described in section 49109.

“(3) IMPROVED NETWORK SLOTS.—If an incumbent air carrier (other than a limited incumbent air carrier) that uses a slot for service between Ronald Reagan Washington National Airport and a large hub airport located within the perimeter described in section 49109 is granted an additional exemption under this subsection, it shall, upon receiving the additional exemption, discontinue the use of that slot for such within-perimeter service and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109.

“(4) CONDITIONS.—Beyond-perimeter flight operations carried out by an air carrier using an exemption granted under this subsection shall be subject to the following conditions:

“(A) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

“(B) An air carrier granted an exemption under this subsection is prohibited from selling, trading, leasing, or otherwise transferring the rights to its beyond-perimeter exemptions, except through an air carrier merger or acquisition.

“(5) OPERATIONS DEADLINE.—An air carrier granted a slot exemption under this subsection shall commence operations using that slot within 60 days after the date on which the exemption was granted.

“(6) IMPACT STUDY.—Within 17 months after granting the additional exemptions authorized by paragraph (1) the Secretary shall complete a study of the direct effects of the additional exemptions, including the extent to which the additional exemptions have—

“(A) caused congestion problems at the airport;

“(B) had a negative effect on the financial condition of the Metropolitan Washington Airports Authority;

“(C) affected the environment in the area surrounding the airport; and

“(D) resulted in meaningful loss of service to small and medium markets within the perimeter described in section 49109.

“(7) ADDITIONAL EXEMPTIONS.—

“(A) DETERMINATION.—The Secretary shall determine, on the basis of the study required by paragraph (6), whether—

“(i) the additional exemptions authorized by paragraph (1) have had a substantial negative effect on Ronald Reagan Washington National Airport, Washington Dulles International Airport, or Baltimore/Washington Thurgood Marshall International Airport; and

“(ii) the granting of additional exemptions under this paragraph may, or may not, reasonably be expected to have a substantial negative effect on any of those airports.

“(B) AUTHORITY TO GRANT ADDITIONAL EXEMPTIONS.—Beginning 6 months after the date on which the impact study is concluded, the Secretary may grant up to 8 slot exemptions, in addition to those granted under paragraph (1) of this subsection, if the Secretary determines that—

“(i) the additional exemptions authorized by paragraph (1) have not had a substantial negative effect on any of those airports; and

“(ii) the granting of additional exemptions under this subparagraph may not reasonably be expected to have a negative effect on any of those airports.

“(C) NEW ENTRANTS AND LIMITED INCUMBENTS.—

“(i) DISTRIBUTION.—Of the exemptions made available under subparagraph (B), the Secretary shall make 2 available to limited incumbent air carriers or new entrant air carriers and 6 available to other incumbent air carriers.

“(ii) USE.—Only a limited incumbent air carrier or new entrant air carrier may use an additional exemption granted under subparagraph (B) to provide service between Ronald Reagan Washington National Airport and an airport located within the perimeter described in section 49109.

“(D) IMPROVED NETWORK SLOTS.—If an incumbent air carrier (other than a limited incumbent air carrier) that uses a slot for service between Ronald Reagan Washington National Airport and a large hub airport located within the perimeter described in section 49109 is granted an additional exemption under subparagraph (B), it shall, upon receiving the additional exemption, discontinue the use of that slot for such within-perimeter service and operate, in place of such service, service between Ronald Reagan Washington National Airport and an airport located beyond the perimeter described in section 49109.

“(E) CONDITIONS.—Beyond-perimeter flight operations carried out by an air carrier using an exemption granted under subparagraph (B) shall be subject to the following conditions:

“(A) An air carrier may not operate a multi-aisle or widebody aircraft in conducting such operations.

“(B) An air carrier granted an exemption under this subsection is prohibited from selling, trading, leasing, or otherwise transferring the rights to its beyond-perimeter exemptions, except through an air carrier merger or acquisition.

“(F) ADDITIONAL EXEMPTIONS NOT PERMITTED.—The Secretary may not grant exemptions in addition to those authorized by paragraph (1) if the Secretary determines that—

“(i) the additional exemptions authorized by paragraph (1) have had a substantial negative effect on any of those airports; or

“(ii) the granting of additional exemptions under subparagraph (B) of this paragraph may reasonably be expected to have a sub-

stantial negative effect on 1 or more of those airports.

“(h) SCHEDULING PRIORITY.—In administering this section, the Secretary shall afford a scheduling priority to operations conducted by new entrant air carriers and limited incumbent air carriers over operations conducted by other air carriers granted additional slot exemptions under subsection (g) for service to airports located beyond the perimeter described in section 49109.”

(b) HOURLY LIMITATION.—Section 41718(c)(2) is amended—

(1) by striking “3 operations” and inserting “4 operations”; and

(2) by striking “subsections (a) and (b)” and inserting “under this section”.

(c) LIMITED INCUMBENT DEFINITION.—Section 41714(h)(5) is amended—

(1) by inserting “not” after “shall” in subparagraph (B);

(2) by striking “and” after the semicolon in subparagraph (B);

(3) by striking “Administration.” in subparagraph (C) and inserting “Administration; and”; and

(4) by adding at the end the following:

“(D) for purposes of section 41718, an air carrier that holds only slot exemptions”.

(d) REVENUES AND FEES AT THE METROPOLITAN WASHINGTON AIRPORTS.—Section 49104(a) is amended by striking paragraph (9) and inserting the following:

“(9) Notwithstanding any other provision of law, revenues derived at either of the Metropolitan Washington Airports, regardless of source, may be used for operating and capital expenses (including debt service, depreciation and amortization) at the other airport.”

**SA 85.** Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 58 proposed by Mr. NELSON of Nebraska (for himself, Mr. SCHUMER, Mr. AKAKA, Mr. MENENDEZ, Mrs. SHAHEEN, Mr. WHITEHOUSE, and Mr. TESTER) to the bill S. 223, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 2 of the amendment, strike line 18 and all that follows through page 3, line 21, and insert the following:

“(b) EXCEPTION.—The prohibition under subsection (a) shall not apply to an individual who, while engaged in or on account of the performance of official duties, distributes, photographs, or otherwise records an image described in subsection (a) during the course of authorized intelligence activities, a Federal, State, or local criminal investigation or prosecution, or other lawful activities by Federal, State, or local authorities, including training for intelligence or law enforcement purposes.

“(c) PENALTY.—An individual who violates the prohibition in subsection (a) shall be fined under this title, imprisoned for not more than 1 year, or both.

“(d) ADVANCED IMAGING TECHNOLOGY DEFINED.—In this section, the term ‘advanced imaging technology’—

“(1) means a device that creates a visual image of an individual showing the surface of the skin beneath clothing and revealing other objects on the body that are covered by clothing; and

“(2) may include devices using backscatter x-rays or millimeter waves and devices re-

ferred to as ‘whole-body imaging technology’ or ‘body scanning’.”

## NOTICES OF INTENT TO OBJECT

I, Senator JON KYL intend to object to H.R. 359, a bill to reduce Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions, dated February 14, 2011.

I, Senator JIM DEMINT intend to object to H.R. 359, a bill to reduce Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions, dated February 14, 2011.

I, Senator RAND PAUL intend to object to H.R. 359, a bill to reduce Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions, dated February 14, 2011.

## NOTICE OF HEARING

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN, Mr. President, this is to advise you that a hearing has been scheduled before the Committee on Energy and Natural Resources. The hearing will be held on Monday, February 21, 2011, at 10 a.m., at the Vincent E. Griego Chambers, Albuquerque/Bernalillo County Government Center, Concourse Level B, One Civic Plaza, 400 Marquette NW, in Albuquerque, New Mexico.

The purpose of the hearing will be to receive testimony regarding recent natural gas service disruptions in New Mexico and the reliability of regional energy infrastructure.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email to Meagan\_Gins@energy.senate.gov.

For further information, please contact Kevin Huyler at (202) 224-6689, Deborah Estes at (202) 224-5360 or Meagan Gins at (202) 224-0883.

## PRIVILEGES OF THE FLOOR

Ms. MURKOWSKI, Mr. President, I ask unanimous consent that a Coast Guard fellow in my office, Charles Banks, be granted floor privileges for the duration of the consideration of the FAA reauthorization bill.

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

## BLACK HISTORY MONTH

Mr. REID, Mr. President, I ask unanimous consent that the Senate proceed

to the immediate consideration of S. Res. 49, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 49) celebrating Black History Month.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I ask unanimous consent that 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 that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 49) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 49

Whereas in 1776, the United States of America was imagined, as stated in the Declaration of Independence, as a new Nation dedicated to the proposition that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness";

Whereas on November 19, 1863, President Abraham Lincoln, in reference to the Declaration of Independence, stated, "[f]our score and seven years ago our fathers brought forth, upon this continent, a new nation, conceived in liberty, and dedicated to the proposition that all men are created equal";

Whereas the history of this Nation includes injustices and the denial of basic, fundamental rights at odds with the words of the Founders of the Nation and the sacrifices commemorated at Gettysburg, and these injustices include nearly 250 years of slavery, 100 years of lynchings, denial of both fundamental human and civil rights, and withholding of the basic rights of citizenship;

Whereas the vestiges of slavery still exist in the systemic inequalities and injustices in our society;

Whereas for every Shirley Chisholm, Dorothy Height, Constance Baker Motley, Charles Hamilton Houston, Thurgood Marshall, Lena Horne, James Baldwin, W.E.B. Du Bois, Harriet Tubman, Frederick Douglass, Sojourner Truth, Jackie Robinson, or Ralph Bunche, each of whom lived a life of incandescent greatness, many African Americans lived, toiled, and died in obscurity, never achieving the recognition they deserved;

Whereas on November 4, 2008, the people of the United States elected an African American man, Barack Obama, as President of the United States, and African-Americans continue to serve our country at the highest levels of our government and military; and

Whereas William H. Hastie, the first African American to be appointed as a Federal judge, stated, "[h]istory informs us of past mistakes from which we can learn without repeating them. It also inspires us and gives confidence and hope bred of victories already won": Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the importance of Black History Month as an opportunity to reflect on our Nation's complex history, while remaining hopeful and confident for the path that lies ahead;

(2) acknowledges the significance of Black History Month as an important opportunity to recognize the tremendous contributions of African Americans to the Nation's history;

(3) encourages the celebration of Black History Month to provide a continuing opportunity for all people in the United States to learn from our past and to understand the experiences that have shaped our Nation; and

(4) calls on citizens to remember that, while this Nation began in division, it must now move forward with purpose, united tirelessly as one Nation, indivisible, with liberty and justice for all, and to honor the contribution of all American pioneers who help ensure the legacy of these great United States.

MEASURE READ THE FIRST  
TIME—H.R. 359

Mr. REID. Mr. President, I understand H.R. 359 has been received from the House. Is that true?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 359) to reduce Federal spending and the deficit by terminating taxpayer financing of presidential election campaigns and party conventions.

Mr. REID. I ask for a second reading and object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

WASHINGTON'S FAREWELL  
ADDRESS

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the resolution of the Senate of January 24, 1901, the traditional reading of Washington's Farewell Address take place on Monday, February 28, at a time to be determined by the majority leader in consultation with the Republican leader.

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

ORDERS FOR TUESDAY,  
FEBRUARY 15, 2011

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until tomorrow, Tuesday, February 15, at 10 a.m.; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to a period of morning business until 11 a.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees; further, that at 11 a.m.

the Senate resume consideration of S. 223, the FAA bill, as provided for under the previous order; and finally, the Senate recess from 12:30 until 2:15 p.m. for the weekly caucus meetings.

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

PROGRAM

Mr. REID. Mr. President, the first vote of the day will occur at approximately noon tomorrow. That vote will be in relation to the Nelson of Nebraska amendment, as amended, regarding the distribution of airport screening x rays. Senators should expect rollcall votes in relation to amendments to the FAA bill to occur throughout the day tomorrow.

ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 8:04 p.m., adjourned until Tuesday, February 15, 2011, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

NATIONAL SECURITY EDUCATION BOARD

MICHAEL E. GUEST, OF SOUTH CAROLINA, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS, VICE JAMES WILLIAM CARR, TERM EXPIRED.

ANA MARGARITA GUZMAN, OF TEXAS, TO BE A MEMBER OF THE NATIONAL SECURITY EDUCATION BOARD FOR A TERM OF FOUR YEARS, VICE GEORGE M. DENNISON, TERM EXPIRED.

SOCIAL SECURITY ADMINISTRATION

HENRY J. AARON, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2014, VICE JEFFREY ROBERT BROWN, TERM EXPIRED.

DEPARTMENT OF STATE

JONATHAN SCOTT GRATON, OF NEW JERSEY, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KENYA.

EXECUTIVE OFFICE OF THE PRESIDENT

MAJOR GENERAL MARILYN A. QUAGLIOTTI, USAF (RET.), OF VIRGINIA, TO BE DEPUTY DIRECTOR FOR SUPPLY REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE JAMES F.X. O'GARA.

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be lieutenant commander*

GARRY W. LAMBERT  
BRYAN P. RASMUSSEN

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADES INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be commander*

KARIN E. THOMAS

*To be lieutenant commander*

MARK T. ANDRES  
RODOLFO J. CANOS  
JUSTIN J. DEGRADO  
JULIE E. DIERKSHEIDE  
JAMES J. EPPERLY  
SAFI R. FARUQI  
TREVOR R. GASKILL  
BRIAN M. GILLEN  
MELANIE D. JOHANSSON  
HYUNG W. KIM  
TAMEEKA L. LAW  
JOE MILLER

FRED F. MO  
JASON A. NYDICK  
DAVID A. PAZ  
HOWARD I. PRYOR II  
DARIAN C. RICE  
ASHER O. SMITH  
AARON D. STAVINOKA  
BRADLEY W. THOMAS  
SARAH A. VILLARROEL

LESLIE A. WALDMAN

THE JUDICIARY

JAMES E. GRAVES, JR., OF MISSISSIPPI, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT.  
EDWARD J. DAVILA, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

CONFIRMATIONS

Executive nominations confirmed by  
the Senate, Monday, February 14, 2011: