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Senate

The Senate met at 10 a.m. and was called to order by the Honorable CHRISTOPHER A. COONS, a Senator from the State of Delaware.

PRAYER

The PRESIDING OFFICER. Today's prayer will be offered by Chaplain Gerald Theroit, American Legion National Chaplain.

The guest Chaplain offered the following prayer:

Let us join in the spirit of prayer.

Heavenly Father, we humbly gather in united prayer, giving thanks for Your blessings to this body. In Your holy Name, I ask that the wise use of the gift of reasoning that You have granted to all be strengthened within this Chamber so that the opportunities and paths to cooperation with just solutions will be realized.

Our Nation has been blessed with the establishment and the appreciation for a system of government that is unlike any other. As we have been blessed with the privilege of selecting a few to represent many, it is in them we place our trust that they will seek Your counsel and do what is best for us all.

Dear God, bless them during their research and in their deliberations, and have them to know that all things are possible through Your grace. As we enjoy the freedoms that we have and the privilege of supporting the way in which our government operates, we ask Your blessings on the shapers and protectors of these freedoms—our Congress, our President, our military, our first responders, and our Nation.

Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 28, 2012.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

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

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

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

The legislative clerk proceeded to call the roll.

Mr. REID. 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.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks the Senate will be in a period of morning business until 12:30. The majority will control the first 30 minutes and the Republicans will control the second 30 minutes.

The Senate will recess from 12:30 to 2:15 today for our weekly caucus meetings.

MEASURE PLACED ON CALENDAR—H.R. 1173

Mr. REID. Mr. President, I am told H.R. 1173 is due for a second reading.

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

The legislative clerk read as follows:

A bill (H.R. 1173) to repeal the CLASS program.

Mr. REID. I would object to any further proceedings at this time to this piece of legislation.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

MAKING THE SENATE WORK

Mr. REID. Mr. President, last evening in an hour set aside at the request of Senators PRYOR and ALEXANDER, a very good conversation took place on the Senate floor.

Senators PRYOR and ALEXANDER are exemplary in trying to work things out; they are good legislators because they understand no side gets their way. I have been here a long time, and I have been fortunate to get pieces of legislation passed that I sponsored and worked toward, but I have never ever had a piece of legislation that I introduced that wound up with that piece of legislation; always there are changes. That is the legislative process.

That is what Senator PRYOR and ALEXANDER talked about yesterday evening. It was important. They talked about the need to bring bills to the floor. They focused on appropriations bills—and rightfully so. I am a longtime member of the Appropriations Committee, as is the Republican leader, and we understand the importance of working on these bills.

In the last number of years, we haven't been able to do individual appropriations bills, except on rare occasions. We have done these omnibus and minibuses, and we are trying to get away from that. I think the framework

laid last night was extremely important.

The Republican leader and I have talked individually, personally, away from everyone, about the need to get this done for the integrity of the Senate, and the colloquy last night helped what I think the Republican leader and I wish to get done. We need the agreement of Senate Republicans and Democrats that we will work together to complete this important work, and they talked about appropriations bills.

Senator WARNER and Senator HAGAN joined Senator PRYOR; Senators ISAKSON, COLLINS, BOOZMAN, and GRAHAM joined Senator ALEXANDER. So it was a significant number of Senators who talked about wanting to do the same thing and I commend and applaud their work.

Mr. MCCONNELL. Will my friend yield for me to make a couple observations on what he just said?

Mr. REID. I will yield.

Mr. MCCONNELL. We have negotiated the top line for the discretionary spending for this coming fiscal year. That process is normally done by the passage of a budget by the House and a budget by the Senate, with some reconciliation between the two bodies on the top line. But we already have that number. I wish to second what my friend the majority leader said. There is no good reason for this institution not to move forward with an appropriations process that avoids what we have done so frequently under both parties for years and years: either continuing resolutions or omnibus appropriations.

We have an opportunity to avoid that this year. It is the basic work of Congress. I wish to second what the majority leader said and congratulate Senator ALEXANDER and Senator PRYOR for their leadership on this issue. I hope we can join together and do the basic work of government this year and do it in a timely fashion.

I commend the majority leader and associate myself with his comments.

Mr. REID. I have spoken to Senator INOUYE, the chairman of the Appropriations Committee. He is beginning, with Senator COCHRAN, the hearing process where administration officials come in and report to the individual appropriations subcommittees.

Senator INOUYE thinks that, come late April, we can start moving some of these bills to the floor. We have to wait until the House does something because otherwise we get into procedural hurdles. But the House, I am told, wants to move these quickly also. I hope we can get these bills done.

The first real good experience I had in the Senate was working as a conferee on individual appropriations bills. That is fun. That is what legislation is all about and we have gotten away from that and I hope we can get back to doing some good things in that regard.

THE AUTO INDUSTRY

Mr. President, when President Obama took office 3 years ago, the auto industry was on a life support system. It was in very bad shape. I am sorry to say the life support system the Detroit auto industry was surviving on, Republicans wanted to pull the plug.

One man who is now seeking the Republican nomination for President of the United States said, ''We should kiss the American automobile industry good-bye.'' We can't make up stuff like that. That is what he actually said. He called the death of American auto manufacturers ''virtually guaranteed.'' ''Virtually guaranteed'' is another direct quote. So he argued we should let Detroit go bankrupt. But he wasn't alone. If he were alone, that would be a lone wolf crying in the wilderness, but that is not the way it was. Republicans in this Chamber agreed. Many of them agreed.

Democrats, though, weren't willing to give up on American manufacturing because saving the automobile industry wasn't about saving corporations; it was about saving millions of Americans who work for these corporations. It wasn't about saving the people who own race cars; it was about saving the people who work on assembly lines making the parts to keep those race cars running.

There is no way Democrats would walk away from millions of Americans whose jobs were on the line. Americans working in dealerships and distribution centers and manufacturing plants across the country were depending on us to do something, and we did. We didn't give up the fight to save the auto industry. We didn't give up even when one Senate Republican called the efforts ''a road to nowhere.''

Here, the verdict is in. We were right. The American auto industry has added 160,000 jobs in the last 24 months alone. Last year, General Motors reported record profits and sold more vehicles than any other car company in the world. Chrysler is profitable again. People are boasting about the quality of American cars, and Chrysler is growing faster in the United States than any other major automobile manufacturer.

So when a Republican Presidential frontrunner said we should kiss the American automobile industry goodbye, he couldn't have been more wrong. We all make mistakes. We all get one wrong occasionally. The test of character is admitting when we make that mistake, and it is time for Republicans to recognize that saving the American automobile manufacturing industry and millions of middle-class jobs was the right thing to do.

There is good news from the auto industry: Twenty-four months of private sector job growth is evidence our country is headed in the right direction. But too many Americans are still hurting financially and struggling to find work, and it is crucial Congress continue efforts to create jobs and rebuild our economy. So Democrats are moving forward with a bipartisan package of bills that will spur small business growth.

These measures will improve innovators' access to capital—that is so important—and will streamline how companies sell stocks through initial public offerings or, as they are called, IPOs. These pieces of legislation will also protect the rights of investors.

Next week, Chairman JOHNSON, the senior Senator from South Dakota, will hold a Banking Committee hearing on this issue. It will be the third hearing on these measures since December. Senate Democrats have been working on these measures for a long time, and I am so happy to have read that House Republicans are joining Democrats to move this legislation. Commonsense issues such as these should not have to turn into knock-down, drag-out fights. This is something on which we should agree.

These companies need the ability to get cash to innovate, to grow, to build. This legislation that is being promulgated in the Banking Committee and the hearing that takes place there is very important to our country. I look forward to moving these measures and our economy forward with the help of my Republican colleagues.

The ACTING PRESIDENT pro tempore. The Republican leader.

ENERGY POLICY

Mr. MCCONNELL. Mr. President, over the past few weeks, the American people have begun to feel the painful effects of President Obama's energy policy.

Make no mistake, the rising price of gasoline isn't simply the result of forces we can't control. It is, to a large extent, the result of a vision this President laid out even before he was elected to office. That vision was on clear display just last week.

As millions of Americans groaned at the rising cost of a gallon of gasoline, the President took to the microphones to talk about a far-off day when Americans might be able to use algae as a substitute for gas. Then, dusting off the same talking points Democrats have been using for decades, he claimed there is no short-term solution to the problem.

In other words, he kicked the can down the road for another day, another time, abdicating leadership on yet another issue of national significance.

This morning, I think it is worthwhile to take a step back from the rhetoric and look at what this President has actually done about this problem and what his energy policies would mean for the future because, according to numerous private and public energy experts, gas prices are only going to keep rising in the weeks and months ahead, going up and up. Some say the average price for a gallon of gasoline could hit $4 by late spring, early summer, and could reach $5 or even $6 in some areas of our country. When that moment comes, Americans should know what the administration had to do with it.

For starters, let's not forget that as a candidate the President himself said he preferred what he called a ''gradual adjustment'' to gas prices—in other words, higher prices that went up slowly so people did not feel the pinch quite as acutely. Let's also recall that after his election the President chose an Energy Secretary who said he wanted gas prices more in line with those over in Europe, where folks pay about $8 a gallon for gas. That is what they pay for gas over in Europe, where the Energy Secretary said we should be looking to establish gas prices. Let's not forget that the President chose as Interior Secretary a man who, as a U.S. Senator, objected to increased oil and gas drilling here at home even if the price of gas exceeded $10 a gallon—right here on the Senate floor. So no one should be surprised at the fact that we are well on the road to European gas prices when the President and the two Cabinet officials he chose to deal with the issue are all on record supporting them.

Let's be honest, the only problem the President sees in all of this is the political blowback he is getting for it, and that is why last week he gave another speech—this time to absolve himself from any of the blame for high gas prices even as he sought to take credit for the actions of the private sector and that his predecessors took to increase energy production here at home.

It is kind of interesting—the President seems to blame his predecessor on a weekly basis for the problems we face today, but when he finds something he likes, he doesn't commend him but claims it as an achievement for himself. Yes, oil production is at an all-time high in this country, thanks to the decisions that were made before this President took office.

But let's be very clear about something: The actions of this President are driving down oil production, and here is how. This President continues to limit offshore areas of energy production and is granting fewer leases to public land for oil drilling. His administration is imposing regulations that will further drive up the cost of gasoline for the consumer. He wants to raise taxes on oil and gas—a proposal the Congressional Research Service tells us will increase the price of oil and gas and, by the way, send jobs overseas. And he alone rejected the Keystone XL Pipeline—a potentially game-changing domestic energy project that promises not only energy independence from Middle Eastern oil but tens of thousands of private sector jobs.

The President has done all of those things, all the while claiming there are not any silver bullets. The fact is this President's policies are designed and intended to drive up energy prices, reduce domestic oil production, increase our demand on foreign sources of oil, and drive high-paying American jobs overseas. Those are the direct results of the policies of this administration. So forget the rhetoric; that is this President's record. It is in perfect keeping with the vision he set out at the beginning of his administration. This President will go to any length to drive up gas prices and pave the way for his ideological agenda. That is this President's notion of fairness, that struggling Americans pay more at the pump while their tax dollars go to prop up solar companies like Solyndra and the executives who run them into the ground.

I do not think it is particularly fair—speaking of fairness—for people who are out there trying to scrape a living together to subsidize bonuses for folks who would not even have a business without a taxpayer handout. That is not my definition of fairness, but that is the economy this President wants. That is what his policies lead to. That is his vision. So, in my view, reversing this President's wrongheaded energy policies is the silver bullet.

Look, the President can taunt his critics for suggesting that we actually use the resources we have, but I think the American people realize that a President who is out there talking about algae when they are having to choose between whether to buy groceries or fill up the tank is the one who is out of touch. Americans get this issue. They understand it fully. They get that we need to increase oil production right here at home, not simply by relying on pipedreams—pipedreams like algae—or by wasting billions of taxpayer dollars on more failed clean energy projects like Solyndra, especially at a time when we are running trillion-dollar deficits. We cannot afford it.

It is time for the President to join with Republicans and put American energy and economic security ahead of his own ideological agenda.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business until the hour of 12:30 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled by the leaders or their designees, with the majority controlling the first hour and the Republicans the second hour.

The Senator from Illinois.

JUDICIAL NOMINATIONS

Mr. DURBIN. Mr. President, I was heartened by the dialog between Senators REID and MCCONNELL this morning, talking about more bipartisan cooperation, civility, and cooperation to try to deal with appropriations bills. I would like to commend to the Republican leader not just those important issues but the equally important issue of judicial nominations. It is no secret that the Senate's process for considering nominations has deteriorated under the Obama administration because of resistance from the Republican side of the aisle.

It is a long-honored tradition in America that a President of the United States fills vacancies on the Federal courts with the advice and consent of the Senate. That has been the process since the beginning of this Republic. Yet today we find stacked on our calendar literally 19 judicial nominees pending on the Senate floor. Fourteen of these nominees were reported from the Judiciary Committee last year, some of them as far back as October. They have been sitting here for months. Seventeen of the nominees were reported out of committee with broad bipartisan support, 12 of them unanimously. Ten nominees, incidentally, are supported by their Republican home State Senators.

The bottom line is that judicial nominees with no controversy and with widespread bipartisan approval are being held up on the Senate calendar and not approved. Why? I can tell you why. It is fairly clear. It is part of a strategy that says: If you hold up the judicial nominees as long as possible, in comes that moment of the so-called Thurmond rule or Thurmond tradition. This relates to Senator Strom Thurmond of South Carolina, who basically said when we are engaged in the depths of a Presidential campaign, the Senate should stop approval of judicial nominees.

There is nothing in the law that requires that. There is certainly nothing in the Constitution. In fact, we have in our own way found exceptions in the past. But what we are seeing now is an effort by the Republicans to hold up or stop judicial nominees in the hopes that the positions will be left vacant through the entire calendar year and then, if they have their way at the polls, a Republican President will fill the vacancies a year from now with new nominees. That is crass. It is unfair.

The men and women who submit their names to be considered as judicial nominees go through a rigorous background check at many different levels—first by the Senators who would nominate them, then by the White House, then the routine examination by the Federal Bureau of Investigation, then once reported to the Senate Judiciary Committee for further investigation and hearing. Their lives are on hold during this process. They wait on the Senate. Once they have cleared these hurdles and finally reach the calendar, many of them believe they can breathe a sigh of relief. A unanimous vote or a strong bipartisan vote in the

Judiciary Committee used to be a signal of success on the floor. Not anymore. At this point they reach the ultimate roadblock: they are stopped on the Senate floor by the Republican minority.

It is not just unfair to judicial nominees—men and women of quality, many of whom have been proposed by Republican Senators—it is fundamentally unfair to our court system. You see, many of these nominees are filling vacancies that are absolutely essential.

Last week I received a letter from the chief judge of the Northern District of Illinois, Judge Jim Holderman. His district is one that has been declared a judicial emergency, meaning the backlog of cases is stacking up and the vacancies need to be filled. He was writing to me and Senator KIRK asking that we do everything in our power to move two noncontroversial, strongly supported nominees through the Judiciary Committee. They are moved through. These two, who came through a bipartisan process, are now sitting on the Senate calendar. They are John Lee and Jay Tharp. John Lee is my nominee, and Jay Tharp is Senator KIRK's nominee. A bipartisan agreement by a bipartisan committee has led to their selection. No one has questioned their ability to serve well on the Federal court.

This is what Judge Holderman wrote:

> The vacancies [that they would fill] have been declared judicial emergencies by the Administrative Office of the U.S. Courts. More than a thousand cases that would have been addressed by judges in those positions have been delayed. The other judges of the district have worked to resolve these cases as promptly as possible along with our other assigned cases, but we need help. . . .

He went on to say:

> Recently, two other active judges [in the Northern District] were in the hospital and remain unable to take new assignments. New civil case filings in our district court have increased. . . .

Judge Holderman concludes by saying, '' . . . the people of the northern district of Illinois need your assistance,'' he writes to Senator KIRK and myself, and the full Senate should ''promptly confirm the nominees Jay Tharp and John Lee.''

This is a classic illustration. Well-qualified individuals, having cleared the hurdle, receiving strong bipartisan support in the Senate Judiciary Committee, are mired down on the Senate calendar. Time after time we see when we can finally spring one of these nominations that will have 80 or 90 votes of Senators who approve it. They are noncontroversial. It is clearly a slowdown strategy, so the other side of the aisle, saying their prayers that they can replace President Obama, will literally leave these vacancies for a year or more in the hopes that another President will pick another person. That is unfair to the process. It is certainly unfair to the nominees. It is unfair to this system of government where we are shirking our responsibility to advise and consent for critical vacancies to be filled so our Federal courts can operate in the best interests of justice across America.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New York.

JUDICIAL NOMINATIONS

Mr. SCHUMER. Mr. President, I thank my colleague from Illinois for his usual articulate and prescient comments about our judicial crisis, and that is what we have here in the Senate and in the third branch of government.

I rise today, along with many of my colleagues, to address a serious problem for which there is an easy solution. We have a crisis in our third independent branch of government, and it is one that only we in the Senate can solve. We can solve it. We need to come together as we have in the past and confirm judges to our article III courts and dispense with petty politics and hostage-taking.

Let me give just one example of how our process has broken down. In December, for the second year in a row, my colleagues across the aisle refused to consent to confirm even a single judicial nomination before the end of the Senate session. This senseless rejection of the Senate's longstanding practice of confirming consensus nominees is starting to do real damage to our Federal courts. One out of 10 on the Federal bench, 1 out of 10 seats on the Federal bench is currently vacant. Judicial vacancies are double, two times what they were at this point in President Bush's first term. We have confirmed only 3 judicial nominees this session, only 5 in the past 2 months, and only 11 in the last 90 days. And of the three judges we have confirmed this session, we had to file cloture on two of them. This is not a responsible use of the Senate's advice and consent powers; rather, this is a handful of people—plain and simple—using the Senate's procedures to thwart the will of the majority of Americans. The vast majority of Americans want us to confirm good, moderate, pragmatic judges to the U.S. district courts. After all, judges on the district court don't make law, they follow law. They are not supposed to make law at all. Courts of appeal have a little more latitude, and, of course, the Supreme Court can make law, although they are supposed to follow tradition and precedent, and they claim they do. We can discuss that a different day.

A few outside groups are trying to accomplish in the third branch of government what they have been unable to accomplish in the other branches of government by making sure that judges with moderate, pragmatic credentials don't get confirmed in the hopes they can fill the bench with people who meet their narrow ideology at some point in the future.

Now, to be sure, my colleagues have offered a wide variety of reasons to explain their inability to consent to votes on district court judges. Some have said they are upset about the President's improper use of his recess appointment powers, powers about which five experts can give five different opinions. What that has to do with the judicial appointments is beyond me. Some have said they are upset about the ability to get floor time on something that is not even germane to judicial nominations.

To hold the third branch of government hostage because they have a different beef on a legislative issue is virtually unprecedented, at least certainly to the extent it has been done here. Some have given into terrible, misleading, and sometimes even vicious attacks on pending nominees. I have seen material circulated by outside groups that appear ready to oppose nominees using any and all tactics. Some of them—not all, not most, but some, and any one is too many—can only be described as bigoted. I have seen it. I have seen the letters to our colleagues here in an attempt to pressure them.

This behavior needs to be stopped, and it certainly needs to stop having an effect on any Member in this body. I have seen material that twists a candidate's record beyond all recognition. In fact, just before recess one group circulated patently inaccurate quotes that were supposed to be from a brief written by now Judge Jesse Furman for a client.

I have said time and time again—and I will say once more today—the Senate certainly has an obligation to take a hard look at the President's judicial nominees. My view is that ideology does matter and every Senator here has the right to make sure a President's judicial nominees are within the mainstream. I would even admit that some definitions of mainstream are different from others, but when nominee after nominee—many of whom were reported unanimously out of the Judiciary Committee, which has some very conservative as well as some very liberal members—are held up by a handful of people, we are not talking about views outside of the mainstream. We are talking about something larger and, frankly, less defensible.

There will always be nominees, especially to the courts of appeals, about whom we will disagree. There will be those whom some of us view as so extreme that we will refuse to give consent to holding an up-or-down vote. But let's be clear; that is not what is going on today.

What is going on today is obstruction, plain and simple—obstruction against anybody, any nominee, and obstruction at unprecedented levels. The total number of Federal circuit and district judges confirmed during the first 3 years of the Obama administration is far less than for previous Presidents. The Senate is more than 40 confirmations behind the pace we set confirming President Bush's nominees between 2001 and 2004. The sheer amount

of resistance to President Obama's district court judges indicates the level of obstruction we are facing.

In 3 years President Obama's nominees have received five times as many no votes as President Bush's district court nominees did over 8 years. Isn't that incredible?

The proof is in the pudding. The President's nominees for district court are not out of the mainstream. Almost all of them have logged years in public service or worked in law firms or excelled in other ways that characterized the nominees of previous Presidents. The issue is that the standard has changed. It is no longer, will this judge be good for the country and meet the standards we demand from an article III judge. Now, it is, did I personally approve of this judge; and if I didn't, what can I get by voting for him or her or I am going to block that judge and tie the Senate in a knot so judges only in my narrow viewpoint can be appointed, even though the President is of a different party and of a different philosophy, even though the majority of the Senate on both sides of the aisle are of a different philosophy. This is nothing short of tragic.

I implore my colleagues to think about what they are doing. Let's come together, as I know we can, and confirm qualified district court judges without further gamesmanship, without further obstruction, and without the further view: It is my way or the highway, and if I don't get my way, I am going to try and cripple 1 out of 10 vacancies and cripple the article III branch of government. It is getting close to that.

There are emergencies on many circuits. The future of our courts and even this body could well depend on it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I heard the remarks of the distinguished Senator from New York, and, obviously, I agree and I guess I would like to add my 2 cents to the arguments presented.

I am a 19-year member of the Judiciary Committee, so I have had a front-row seat for judicial nominations for a long time. Over 800 judges have been confirmed since I came to the Senate.

Now, it was not so long ago that liberals and conservatives could easily win confirmation as long as they were well qualified, fair-minded, and had judicial temperament. They were confirmed. It may even surprise some that Justice Ruth Bader Ginsburg was confirmed by a vote of 96 to 3, and Justice Antonin Scalia was confirmed 98 to 0. That was a different time.

Today partisanship has stalled even the most uncontroversial judicial appointments. Senate Republicans allowed no nominees to be confirmed at the end of the last session and have allowed only five so far this year. In this environment even those reported out of committee by voice vote without any controversy are unable to receive a floor vote for many months if they ever receive one at all.

Let me give a recent example, a judge I recommended to the President. Judge Cathy Bencivengo's nomination to the Southern District of California was approved by the Judiciary Committee by voice vote. Yet she waited 4 months for a floor vote. Then she was ultimately confirmed 90 to 6, showing that there simply was no need to hold up the nomination in the first place. This level of obstruction is relatively new and has impeded the confirmation process for both judicial and executive branch nominees.

Let's do a quick comparison. Nearly 80 percent of President George W. Bush's judicial nominees during his first term were confirmed—80 percent. In contrast, less than 60 percent of President Obama's judicial nominees have been confirmed. As a result, the judicial vacancy rate stands at nearly 10 percent. That is double what it was when President Bush left office.

Similarly, during the first session of the 112th Congress, the confirmation rate of President Obama's executive branch appointments was only 51 percent. President George W. Bush and Bill Clinton each had a confirmation rate of over 70 percent during comparable periods in their Presidency.

So, clearly, there has been a change post-Bush, and I think that is what we are talking about. This is not good for the judiciary, it is not good for this body, and it is not good as standard operating practice of the Senate. It is clear we are seeing a degree of obstruction that is unprecedented and that hampers the ability of the judicial and executive branches to perform their constitutional functions. It is preventing us, the legislative branch, from fulfilling the responsibility that we owe to the two other branches of government.

In my State we have three nominees, each for positions the judicial conference has declared to be judicial emergencies, which means extraordinarily heavy caseloads. These should win confirmation without delay.

I will give you one: Judge Jacqueline Nguyen, a nominee for the Ninth Circuit. She is a remarkable jurist with an impeccable record. She was confirmed to the district court 97 to 0 in 2009. She was approved by the Judiciary Committee for the Ninth Circuit by a bipartisan voice vote. Yet her nomination has been pending on the floor for nearly 3 months. This is an easy one: unanimously passed, has served as a district court judge, could be voted for and passed if not by 100 percent, very close to it. The Ninth Circuit, which has by far more pending cases per appellate panel than any other appellate court, needs her to be confirmed without further delay.

There is a reason for this. I think Republicans don't like some of the appellate courts; therefore, what they try to do, candidly, is keep the positions vacant and hope that after the election there will be a Republican President and they will get their nominees through. Well, what is sauce for the goose is sauce for the gander, and this is not a good way to handle judicial appointments.

Let me give another one: Paul Watford should be confirmed quickly to the Ninth Circuit. He is eminently qualified. He clerked for conservative Ninth Circuit Judge Alex Kozinski and Justice Ruth Bader Ginsburg. He served as a Federal prosecutor, and he has been a distinguished practitioner of appellate law in California for many years. He is uncontroversial. He has been endorsed by the former president of the Los Angeles Chapter of the Federalist Society by conservative law professor Eugene Volokh and by the general counsels of several major corporations that he has represented in appellate cases. The Senate should confirm him without delay.

Michael Fitzgerald, a nominee to the Central District of California, should also be confirmed quickly. This is a court that ranks as the ninth busiest in the Nation in terms of filings per judgeship. Mr. Fitzgerald is an extraordinarily qualified nominee with 25 years of experience as a Federal prosecutor and as a lawyer in private practice. His nomination was also reported by the Judiciary Committee by a bipartisan voice vote. Yet his nomination has been waiting for a vote on the floor for nearly 4 months. All of this is unnecessary. They could go through by unanimous consent.

Now, I understand that some of my Republican colleagues believe President Obama's recent recess appointments are a reason to delay needed confirmations to overburdened courts around the country. I would simply remind my colleagues of a bit of history and ask them to think carefully about whether they want to go down this very dangerous path.

Many will recall that President Bush made two controversial recess appointments to the Eleventh Circuit and the Fifth Circuit in early 2004. Like Republicans now, Democrats were upset about the President's appointments. Nevertheless, in the months that followed, Democrats permitted numerous circuit court and district court nominees to be confirmed. The Senate continued to act on such nominees until September of 2004—2 months before the Presidential election.

So I say to my colleagues—and say this respectfully—take a step back. Do not obstruct every judicial nomination from this President. Our judicial system depends on a Senate willing to do its constitutional duty and provide advice and consent on judicial nominees. Most pending nominees are well-qualified, consensus choices for courts that urgently need them to begin their service. We should confirm them without delay.

Our job is to vote. Our job is not to obstruct, to delay. It is to vote. We

function on a majority system. If you do not think someone is qualified, if you do not believe they have the judicial temperament, if you do not believe they have enough experience, if you do not like them for any reason, vote no. That is entirely within the prerogative of a Senator. But to hold them up, despite judicial emergencies, despite high caseloads, is to impact the system of justice.

I think this 10-percent vacancy factor now indicates that the condition of justice is, in fact, being affected throughout our country, particularly in the Ninth Circuit and in California as well as in many other States.

I thank the Acting President pro tempore and yield the floor.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. COONS. Madam President, I rise today to continue to address an issue which I have just had the joy of hearing the Presiding Officer and the Senators from New York and Illinois speak to, and that concern I raise today is the ongoing crisis in our courts, the nearly 10-percent vacancy rate in judicial positions all across the United States.

I rise today as the junior Senator from Delaware but also as a member of the Delaware Bar and as a former Federal court clerk, and as someone who has, I think, a personal sense, from that experience and my service on the Judiciary Committee, of the consequences of these delays—the consequences of steadily climbing caseloads, significant judicial vacancies, judicial emergencies in districts across our great country, including in the State of California, and what that means for people, for companies, for communities for whom justice is being delayed and thus denied.

Earlier this month I attended the investiture ceremony of Judge Richard Andrews who was sworn into the U.S. District Court for Delaware. This is the first time in 6 years the very busy District Court of Delaware has had a full complement of district court judges.

Although I am relieved and the people of Delaware are grateful to have a full bench, and although Judge Andrews is an extremely talented lawyer and a devoted public servant and utterly nonpartisan—just the sort of district court nominee about whom the Presiding Officer just spoke—his nomination took nearly 6 months to be confirmed by the Senate.

I am glad Judge Andrews has made it through because in the Senate the confirmation process seems to be more broken this year than last. When I joined the Senate in 2010, judicial nominations had slowed to a crawl. I watched with dismay as folks whom I viewed as highly qualified were blocked.

Goodwin Liu, for example—a brilliant and qualified legal scholar, a nominee twice to the Ninth Circuit—could not overcome a GOP filibuster, in part payback for a view, I believe, on the other side of the aisle of the rough handling of Miguel Estrada, whose nomination was defeated during the Bush Presidency.

What I have been most concerned about as a freshman Senator is how the history lying about this Chamber seems to steadily pile up session after session, and the process seems to be weighed down by this burden of history.

But next, Caitlin Halligan—an extremely competent attorney without a single partisan blemish on her record—was nominated to the DC Circuit, and her nomination, in my view, was also blocked based on a grotesque misrepresentation of her actual record. The major talking point against her nomination, if I recall right, was that the DC Circuit already had more than enough judges.

Judge Halligan would have been the 9th judge on that court. Notably, all the GOP Members who spoke against her had no qualms when the Senate confirmed the 10th and 11th judges to sit on that very same circuit during the Bush nomination period. But I think these sorts of fine points of history are lost on the people, the communities, and the companies across our Nation who go to the courthouse seeking justice and find none.

In 2012, as some of the previous Senators have stated, we have so far confirmed just five judges. Today, there are 19 nominees on the floor, 12 of whom came out of our Judiciary Committee unanimously, who are now languishing on our Executive Calendar. Republicans have not stated objection to these nominees but refuse to grant consent for a vote to be scheduled.

President Obama's nominees have waited four times longer after committee approval than did President Bush's nominees at this point in his first term, and the Senate is more than 40 confirmations behind the pace set during the Bush administration.

It is not just judges who have been the subject of this ongoing weighting down. The Executive Calendar, which I have the privilege to flip through every time I preside, is filled with nominees for vacancies in every major department and in every major independent agency in this government. It is more than a dozen pages long of nominations that have sat for months and months.

Last month, in response to the Republican obstructionism in moving this Executive Calendar and in filling these administrative vacancies, President Obama made recess appointments: the Consumer Financial Protection chief, Richard Cordray, and members of the National Labor Relations Board. Some of us on both sides of the aisle do agree that Congress, and not the President, has the right to declare when the Senate is in recess. But whatever one's view of these appointments, there is no questioning that in either case, Republicans forced the issue through their unprecedented refusal to vote the President's nominees up or down and allow him to proceed with the progress of our Nation.

As Senators, we have a responsibility to advise the President as to his nominations and, where we agree, to consent; where we do not, each of us is free to vote no. Some Senators have suggested they will oppose all nominations in opposition to the President's recess appointments. In my opinion, a pledge to oppose all nominations is a pledge not to do his or her job. In my view, we ought not to make such a pledge. In my view, while so many Americans are out of work, and so many of us are here on the public payroll, we can, we should, and we must move forward with the judicial nominees.

This morning, this session began with a very encouraging moment of harmony between the majority leader and the Republican leader on the concept of moving ahead with appropriations. It is my hope and prayer we will do the same on judicial nominations as well.

I call upon my colleagues on the other side to rethink this strategy of obstruction at all costs because it is the American people who pay the price in the end.

With that, I yield the floor.

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

ORDER OF PROCEDURE

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to enter into a colloquy with my Republican colleagues for up to 30 minutes.

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

DOMESTIC ENERGY

Mrs. HUTCHISON. Mr. President, I think it is obvious all around our country that Americans are struggling right now with gasoline prices. The average American family spent more than $4,000 on gasoline last year, and it will be more this year, with the additional devastating price increases we are seeing now that will wreak havoc on our economy.

The national average price of a gallon of gasoline has gone up every single day for the last 3 weeks. In many parts of our country, prices at the pump are around $4 a gallon. But instead of encouraging an ''all-of-the-above'' approach, which the administration has said it is doing, the administration, instead, has been frustrating every domestic source of energy production that does not conform to a narrow view of alternative fuels.

The President is opposed to increased drilling in the Arctic National Wildlife Reserve and opening additional areas of the Outer Continental Shelf off the Alaskan coast.

The people of Alaska have voted to support the ANWR drilling because they know ANWR is an area that is the size, approximately, of the State of South Carolina, and the part that would be drilled is approximately the size of Washington National Airport. So they know this would be good jobs for Alaska, and it would not harm the environment at all because the drilling area is so very small in this vast wildlife reserve.

The President has also restricted drilling on Federal lands, opposes the development of shale gas and coal, and will not open additional areas of the Outer Continental Shelf in the lower 48 States. Even though some State legislatures, such as Virginia, have said they would like to do it, the President has shut that down.

The President opposes further drilling in the Gulf of Mexico, and nuclear energy is also now on the list, I guess, of moratoria. He has rejected the Keystone XL Pipeline.

What the President does favor is the Saudis increasing oil production and increased use of solar, wind, and algae at home.

Does that substitute for an energy policy? Is that something Americans can count on to increase the supply of energy in our country?

Last week, the President said: We cannot drill our way to lower gas prices. This statement is inaccurate. Increased domestic production will go a long way toward stabilizing gas prices. Why does this President want to turn his back on critical sources of domestic energy which seems incomprehensible to anyone looking at this issue?

So I have colleagues on the Senate floor who come from different States—States where unemployment is high and people are looking for jobs and looking for alternatives.

I would like to turn to the Senator from the great State of Missouri, Mr. BLUNT, and ask the Senator from Missouri if he has a view. Is he hearing from his constituents in Missouri?

Mr. BLUNT. Well, I do. I think I will quickly yield to my good friend from Ohio and then speak again.

Actually, I just met with disabled veterans who are here in town today. I told them I was going to be talking about energy, and they said the long-term effort of the Veterans' Administration to get veterans to their health care appointments is dramatically impacted by these high gas prices—just like for veterans and retirees of all kinds with the number of dollars going into their gas tanks.

As they see the price of that tank of gas go up $10, maybe they decide: I am going to have to quit because that is all the money I have with me or I am going to fill up the tank and see it go to $40, $50, $60.

As families look at that, as retirees look at that, as veterans look at that, they have got to be thinking as that gas tank number changes, something else they were going to do that week is something they are not going to be able to do. This has dramatic impact on families; it has dramatic impact on the way we live; it has dramatic impact on the confidence people have in our economy.

If you look at any charts of gas prices going up, you see consumer confidence going down. It happens in States such as the Senator's or in States in the middle of the country such as Missouri or Senator PORTMAN's State of Ohio. I know we have all been home. I am sure you cannot have been home and not have heard a lot about gas prices.

Mr. PORTMAN. The Senator is absolutely right. I say to my colleagues from Texas and Missouri, they are right on in terms of the impact on Ohio families. I was home last week. In fact, I drove from Ohio to Washington last night. I had to fill up a couple of times on the way, and the price was over $3.70 a gallon. According to AAA, the average price now is over $2.70 a gallon.

This is impacting families. I have met with people who were in the trucking business and small operators who are trying to make ends meet. They are saying: ROB, I do not know how this is going to work because our gas prices keep going up at a time when our expenses are going up as well. They are getting squeezed out. Of course, higher prices for gas affect all of us as families, they affect everything we buy, because that cost is embedded there. So this is hurting our economy in very fundamental ways.

Record levels for this time of year. This is not just a seasonal issue. This is a longer term failure of an energy policy by the Obama administration. That is something we all need to focus on, not to just be critical of bad policies which have gotten us here, but how do we get out of it? What do we do? That is what I wish to talk about for a minute today.

Let me give you a couple of interesting numbers. The price of gas has increased by 94 percent in the last 3½ years, during the Obama administration. So you are talking about almost a 100-hundred percent increase in the cost of gasoline.

There was an all-time high last year of $2.53 a gallon, and again over $3.70 this year already. By the way, last year the average amount spent by a family in America for gasoline at the pump—over $4,000. So this is a big part of people's budgets. We have been hit hard. At a time when millions of Americans are struggling amid a continuing weak economy, it is particularly tough because budgets are already stretched thin.

We need to produce more, in my view. If you produce more, you are going to see prices come down. It is sort of the basic law of supply and demand. So right now we have demand around the world maybe picking up a little bit, and yet we are not producing as much as we should be. And, frankly, we are producing less than we have.

Let me give you some interesting numbers here that actually surprised me in terms of what the President is saying versus the facts. The President says we are producing more than we have in the past. The production of natural gas on public lands and waters went down 11 percent last year; decline in oil production, 14 percent. In the Gulf of Mexico, there was a 17-percent drop from 618 million barrels in 2010 to 514 in 2011.

The Senator from Texas talked about this. We are not seeing an increase; we are seeing a decrease. This is at a time when all of us, I hope, realize that we have to be focused on producing more here at home, one, so we can get prices down, and, two, so we can get less dependent on these dangerous and volatile parts of the world. If we do not do that, we are going to be subject to what happens in Libya or Iran and see gas prices spike up as we are seeing now. We have got to produce more and we have got to produce it here at home to get away from the OPEC cartel. Washington wastes time by not acting now to immediately expand that production.

The White House says you cannot immediately expand production because it takes some time. Well, all the more reason to get started with it, as the Senator from Texas has said. If we had started a few years ago, we would be in much better shape. But also the price of gasoline reflects what people think it is going to be in the future. So even if we made a commitment today to get busy on more domestic production, oil and natural gas, it would affect the price because it would affect what folks are thinking about what the future prices are going to be.

Mrs. HUTCHISON. Would the Senator from Ohio yield.

I think the Senator from Ohio is making such a good point, because here the President is saying producing more will not lower prices. Does that seem like the fundamental supply-and-demand explanation that most economists have adopted in our country, that if you supply more the price will go down? Does not that seem like a non sequitur?

Mr. PORTMAN. It does. I think most people get it. Because even if you do not have a degree in economics, and I do not, we understand the law of supply and demand works. So if you are going to cut the supply, as has happened, you are going to see prices go up.

Let me give you an example. In 2010, the President cancelled leases in the Gulf of Mexico and the Mid-Atlantic. In 2011, he put forward a 5-year lease plan that reinstitutes a moratorium in the Atlantic, Pacific, halves the number of lease sales in the old plan. So, again, if supply is going down, you are likely to see prices go up. That is exactly what

has happened. He slowed down permits for deepwater and shallow water drilling in the gulf. He is now set to impose severe new regulations on oil refiners. That is going to further raise prices.

Speaking of oil refineries, that is a big part of the cost of gasoline. About 11 percent of the cost, according to the American Petroleum Institute, of the price of gasoline comes from refining. By putting more and more regulations and costs on refining, you are going to have an impact on prices as well that is negative and hurting our families.

The EPA, the cap-and-trade regime, did not get through the Congress. So they are moving ahead through regulations, causing a lot of uncertainty, a lack of construction of refineries. The first new refinery in a generation, in fact, has been delayed because of it.

This actually brings us to the second problem, I say to my colleagues from Missouri and Texas. This is not just about gas prices, as important as that is; it is about jobs. Because by stopping the construction of a refinery, we are putting new regulations on not allowing the kind of drilling we want to do in the State of Ohio to bring jobs, and you are hurting the very jobs Americans need to be able to pay their gas bill. These are good-paying jobs. They tend to be jobs that pay well, have good benefits. So a progrowth energy strategy does not just result in a more secure energy source, more reliable energy, it also results in more jobs, which we need desperately.

The President seems to be saying he is going to reverse course. In his State of the Union Address, he says he is for an all-of-the-above strategy. By the way, a week after that, do you know what he did? He rejected the Keystone XL Pipeline, which—talk about all of the above—we certainly should be from our strong ally to the North getting oil we need for our refineries to get the cost down.

By the way, that pipeline also picks up American oil. I bet you that our colleague from North Dakota is going to talk about that in a little while, because he has been Governor of North Dakota and understands the importance of the Keystone XL Pipeline. So whether it is the offshore drilling we talked about, moving ahead with drilling onshore, and exploration that can help create jobs and energy security, whether it is the Keystone XL Pipeline, whether, as I talked about in terms of the regulations on our refineries, there are things we can do and should do and do immediately, if we do these things to have more domestic energy production, yes, we will begin to see these prices go down and stabilize.

I come from Ohio. As the Senator from Missouri said, we have a tradition of producing oil and gas. It goes back to the turn of the century, the last century. Then we kind of got away from it for a while and people in Texas started producing a lot more oil and gas. We are back in the business, thanks to these shale finds. The Marcellus shale—it is the Utica shale, it is natural gas. But it is also oil and what they call wet gas, which is very valuable.

I will tell you, having spent a lot of time in eastern Ohio over the last several days, people are excited about this. It is bringing back good-paying jobs, allowing people to stay in these communities and be able to raise their families with not just a living wage but real hope for the future.

It also will have an effect on our gas prices. We have an opportunity, before things get worse, to come up with a different solution, a sensible national energy policy that stops our dangerous dependence on foreign oil and leads to more domestic production and therefore prices we can afford at the pump.

Mrs. HUTCHISON. I want to say to the Senator from Ohio that I am very pleased Ohio is getting back into the drilling business. That is creating jobs in a State that I know has had high unemployment. It is so clearly in America's best interests to have our people working.

And, of course, the Keystone Pipeline, which our colleague from North Dakota is going to talk about in a few minutes, is the perfect place to create jobs; instant jobs with not one dime of taxpayer dollars. This would be private dollars invested in a pipeline that would bring oil from our friends in Canada all the way through the United States to the refineries in Texas, which it is estimated would produce 830,000 barrels of oil into gasoline a day—a day. Think of what that would do to the price.

The Secretary of Energy has actually made the statement that we want gasoline prices to increase along the lines of Europe. Oh, really? I wish to ask my friend from Missouri, how would the working people in his State feel about $8 or $9 per gallon, which is what they pay in Europe, as a cost at the pump? What would that do to the economy of Missouri? What would that do to the unemployment in Missouri?

Mr. BLUNT. I was asked the other day when I was home: Does the administration have a plan? I said: Well, if you listen to what they say, this is their plan, for these gas prices to go up. We are not Europe. In spite of what the Secretary of Energy may have said the month before he was named as Secretary, that our big problem was our gas was not as high as gasoline in Europe, that was, according to him, our big problem.

The President who appointed him said a few weeks before that, at the San Francisco Chronicle editorial board: Under my energy policies, energy prices will skyrocket. So apparently they are well along on the plan.

As I mentioned a couple of times already, gasoline is twice as high as it was in January of 2009. We are not Europe. We are a big country that is dependent on transportation. We drive farther to go to work than most Europeans do. We transport our goods more than most Europeans do. We have this big agricultural economy that feeds a whole lot of the world and only works with affordable energy.

There are two points both Senators have made that I wish to drive home. One is that more American energy means more American jobs, and not just the jobs to build something such as the Keystone Pipeline but also the jobs at the refinery when that 800,000 barrels of oil a day gets to our refinery. They are American workers running that refinery.

If our economy is prosperous, there are more people working in manufacturing and transportation and all of the things that we do for a living. The shortest path to more American jobs is more American energy. We should be working on that, and then the impact on families. You know, as families see what is happening at the gas pump, as I said earlier, they give up on other things they would hope to do.

The President said at the State of the Union that he was for an all-of-the-above strategy. Apparently the regulators do not know about this. The regulators the President has appointed seem to have no clue that the all-of-the-above strategy of coal, of natural gas, of oil, needs to be part of what we are doing as we invest in the future.

Nobody is opposed to looking for what comes next after fossil fuel. The concern is we are not there. Even if we knew we were going there, we would not get there for a long time. Even if we knew what would power our cars 30 years from now, most cars 20 or 25 years from now will still be pulling up to a gas pump. Most trucks will still be pulling up to a gas pump.

Frankly, the economy could not absorb it any other way. And we do not know yet what is the likely next thing. I am for seeing us invest in that. I am for conservation so we use our energy more wisely. But let me say, the poorest people are the last ones who get the new high-mileage vehicles or the energy-efficient refrigerator or the new windows. Retired Americans, Americans struggling to get by, are going to be the last people to benefit, in most cases, from those ideas.

Let's conserve our way out of this or let's price our way out of this. More American energy is good for us. Energy from our friend and next-door neighbor is the next best thing to energy we produce ourselves. We ought to do all we can to produce all the competitive energy we can on our own. We then ought to do all we can to encourage our closest trading partner, our most equitable trading partner. When we send them a dollar, they send us almost a dollar back every single time. Regarding energy security, the odds that we are going to have a problem with our Canadian neighbor are a lot less than the odds that something will happen in the Middle East that will be a problem for us. Because of these new finds in gas shale, oil shale, tar sands, and other things, we can now use small

platforms to access it that would not be disruptive in a significant way; a small drilling platform doesn't do that.

I thank our good friend, Senator HUTCHISON from Texas, for putting this discussion together and for being such a leader on energy issues. Senator HOEVEN, when he was Governor, saw what could happen in the economy of a State when we decide we are going to make the most of our natural resources. The economy of North Dakota changed dramatically while he was Governor because it became an energy producer and is now one of the biggest energy producers in our country. He wants to talk about the Keystone Pipeline, and I wish to hear that if the Senator is ready. We can go back to the Senator from Texas, and then we will hear from Senator HOEVEN.

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

Mrs. HUTCHISON. Mr. President, I thank the Senator from Missouri for the point he made about trading with Canada, our ally and closest neighbor, our biggest trading partner, as opposed to having Canada ship the oil they are now producing in the Alberta sands over to China or over someplace else, and sometimes it would be shipped back in or we would be taking oil from the Middle East, and all the things that can happen when oil is being shipped from the Middle East to America are risks we would have to take.

Mr. BLUNT. Mr. President, if I may make a final point. Every other country in the world looks at its natural resources, and the first two words they think of are ''economic advantage'' or ''economic opportunity.'' That is what the Canadians are doing. Only in the United States do we have any significant number of leaders who look at our natural resources, and the first words they think of are ''environmental hazard'' and ''what is the worst thing that could happen?'' And ''what if that happened every day?''

The Canadian Prime Minister was in China just in the last month talking about selling their oil to the Chinese, who want to buy it. That is what the Canadians should be doing. They would prefer to sell it to us. We should buy it. But they are not going to decide that if our most logical partner doesn't want it, we will just let our economy suffer and not do anything with it. Nobody else looks at energy resources that way. We should not either, and we should not expect the Canadians to do that.

That pipeline is either going to go south to our refinery or west to the coast, where they will ship that oil to Asia. We should not let that happen. They don't want it to happen. We should not be upset with them if we will not buy it and they decide they are going to benefit from their own resources, as they should.

Mrs. HUTCHISON. The Senator makes the exact right point. Of course, they should look for markets so their people can be employed. The folly is that America would not be the logical place to say, yes, we want it, of course. Let me give a statistic, and I will ask the Senator from North Dakota his opinion. Frankly, he has been the leader in the Senate to try to get the Keystone Pipeline approved by the State Department and the White House. He has been the leader. I was amazed just yesterday that the White House did a kind of a double backflip with a twist. The Wall Street Journal said it best: ''Obama's Keystone Jujitsu.'' What the administration did, in a mind-numbing kind of logic, was say: We said no after more than 3 years of environmental studies that all approved the Keystone Pipeline coming from Canada down through Oklahoma and into the refineries in Texas. Instead of approving it after more than 3 years of good environmental studies that came out positive, the President said no.

But yesterday, the President said: We will approve and say it is a good idea to do the pipeline from Oklahoma down to Texas. That is not bad; it is great to have that, but the problem is, if we do the 830,000 barrels a day that would come from Canada all the way down to the refineries in Texas, it would produce 34 million gallons of oil a day, or the equivalent of more than 16 million gallons of gasoline.

I ask the Senator from North Dakota, who could be bypassed with this new plan, how is that going to affect the rest of America—not the America between Oklahoma and Texas but the rest of America, including the State of North Dakota? Why would he think the President would think that is a solution?

I wish to make sure the Senator has up to 10 minutes, so I ask unanimous consent for that.

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

Mrs. HUTCHISON. I yield to the Senator from North Dakota for up to 10 minutes. I ask him, how on Earth does this affect the price of gasoline when we could be putting 34 million gallons of oil, or more than 16 million gallons of gasoline a day into people's tanks? How could the President say that would not lower the price?

Mr. HOEVEN. Mr. President, I thank the Senator from Texas for organizing this colloquy with the Senator from Missouri and the Senator from Ohio on this very important issue.

We have our American consumers paying more than $3.70 at the pump today. Actually, today the price is $3.72. That is the right question because that hits every single American. As the Senator from Texas and the other Senators have pointed out, when the administration took office, the price of gasoline per gallon was about $1.85. Today, it is $3.70. Actually, again, this chart is already old; today the average price is $3.72. In some places, it is already well over $4. The projection is that by Memorial Day, gasoline will be $4 a gallon and by later this summer it could be as much as $5 a gallon.

Let's put that into perspective for just a minute, following up on the question by the Senator from Texas. Recently, the President wanted a payroll tax cut, and the Congress passed that payroll tax cut. As the President liked to point out, that was about $1,000 a year. The benefit of that payroll tax averaged about $1,000 a year for the American worker or about $40 a paycheck. People get a paycheck every week, so it would be $40 a paycheck for the average working American. That is about $20 a week.

When we are paying between $4 and $5 a gallon for gas at the pump, we more than pay that additional $20 we got in that payroll tax, don't we? In other words, it costs us more than that. In essence, we have gone back because of the high price of gasoline.

What is the administration doing? As the Senator from Missouri just pointed out, the administration has an all-of-the-above strategy. What is that? That means we produce more energy from all our resources—oil, gas, biofuels, solar, wind, nuclear, and biomass. I agree with that. We should produce all our energy resources and have an all-of-the-above strategy. The problem is the administration is saying that, but they are not doing it. They are saying we should have an all-of-the-above strategy, but they are not doing it. Not only are they not doing it, they are actually blocking oil and gas development in our country, and they are blocking our ability to get oil from our closest ally and trading partner, Canada.

The Keystone XL Pipeline, which they have turned down, is a great example of that. That is 830,000 barrels a day that we are not getting from Canada, because after 3½ years of study, the administration turned down the project. The Keystone XL Pipeline and projects similar to it are very important parts of the solution. We still get 30 percent of our crude from the Middle East and Venezuela. Oil prices are going up because of instability in the Middle East. That creates a risk premium to the price of gasoline, which we could reduce substantially by producing more oil and gas here at home and with our closest friend and trading partner, Canada.

Ironically, the President wanted a payroll tax cut to stimulate our economy, he said, and to help the American worker. Then he more than takes away any benefit from that payroll tax cut by blocking our ability to develop oil and gas in this country and to get oil from Canada. In my State of North Dakota, not only can we not get our oil to market because we cannot put it into the Keystone XL Pipeline and get it to refineries, we cannot get the oil from Canada either, and our consumers, working Americans, pay the price at the pump. Why would the administration do that? Why?

I think some insight is provided by Ted Turner's letter on the CNN Web site. He has a letter on that Web site,

and everyone can check it out. Mr. Turner cites a number of arguments as to why we should not get oil from Canada. First, he says: That oil we get from Canada—we will just export it, so it will not reduce gas prices in the United States. But in a recent Department of Energy report, dated June 22, 2011, the U.S. Department of Energy says just the opposite; that the crude we bring in from Canada will be refined in the United States, and it will lower gas prices in the United States on the east coast, the gulf coast, and in the Midwest—not ''may'' reduce gas prices but ''will'' reduce them on the east coast, the gulf coast, and in the Midwest. Mr. Turner's letter says the pipeline will leak and, gee, we don't want a pipeline that leaks.

As my second chart shows, this is the second Keystone Pipeline. This first Keystone Pipeline has already been built. He says that Keystone Pipeline leaked, so we cannot build a second one. The first one had no underground leaks. The leaks he refers to were minor leaks at some of the joints as they constructed the thing, which is normal and they were quickly and readily handled and they were no problem. That is functioning today just fine, and there are no underground leaks. So that is not accurate either, is it?

As a matter of fact, let's take a look at this chart. Those are not the only two pipelines we have in the United States. There are others. We have thousands of oil and gas pipelines across the country. But somehow building one more that will bring in 830,000 barrels a day to help reduce the price of gas is a problem. Really? That doesn't make much sense.

The other argument he uses is that we are producing that oil in Canada in the oil sands, and that is not good because we have to excavate to do it. What is the reality with producing oil sands? It does have somewhat higher greenhouse gas emissions. How much? About 6 percent. That is how much more greenhouse gas emission we get. But we are moving from excavating to produce that oil and gas to in situ. In situ is drilling just like we do for conventional oil. That means the same amount of greenhouse gas, the same footprint. Eighty percent is in situ. It has the same amount of greenhouse gas. We have deployed new technologies and produce more energy and do it with better environmental stewardship. So these arguments aren't accurate.

But the reality is this: Folks like Mr. Turner, rich and famous, I guess they can pay $4 for gasoline. They can pay $5 for gasoline or a lot more. That isn't a problem for them. The problem is for hard-working Americans who have to pay that price at the pump every single day. So the administration has to decide who they are going to side with on this issue. Who are they going to side with on this issue? Are they going to continue to side with, I guess rich and powerful interests that want to see those gasoline prices go higher, and for whom the price of gasoline at the pump really isn't an issue or with hard-working Americans for whom this creates real hardship? That is the issue we have here with this vote that we will be having on the Keystone XL Pipeline.

The reality is this: We can have North American energy security. We can do it. Right now, between Canada and the United States, with some help from Mexico, we produce about 70 percent of our crude. The Keystone XL project alone would take us up over 75 percent. And with other sources, which some of my colleagues have referred to, such as shale and the in situ drilling I have talked about, we can easily meet our needs. In fact, if we include the work we are doing with natural gas, with biofuels, and with energy efficiency, I believe we can truly have North American energy security—meaning we can supply the energy needs in the United States and North America, with our friends in Canada, within 5 to 7 years. But we have to get started. We have to get started.

So let's get started, Mr. President. Let's start by approving the Keystone XL Pipeline project. Let's show the world we are serious about getting this done. Asking the Saudis for more oil, as some of my colleagues have done, doesn't solve the problem. Nor does taking oil out of the Strategic Petroleum Reserve. That doesn't solve the problem. We solve the problem by truly producing all of the above—not saying it but doing it.

It is ironic the administration praises TransCanada for moving forward on building the only portion of this pipeline they can build without a Presidential permit. He praises them for moving forward at the very time the administration is blocking the project. And while they are blocking it, that means not one more drop of oil is coming into this country from Canada, not one more drop of oil is coming from my State of North Dakota down to the refineries to help reduce the price of gasoline at the pump. That is not an all-of-the-above energy policy. That is not helping American workers. And that is exactly why gasoline is $3.70 a gallon and going higher.

It is time for Congress to act.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

SURFACE TRANSPORTATION REAUTHORIZATION

Mr. CARDIN. First, let me express my disappointment that we are not here debating the surface transportation reauthorization bill. We had a bill that came out of the Environment and Public Works Committee and came out of several other of our committees by unanimous vote, so it is a bipartisan bill. It is a bill that will save jobs and create jobs here in America. It will reinvest in our own infrastructure to make America more competitive. And, as I said, it has been done in a bipartisan manner thanks to the hard work of many people.

I see Senator BOXER on the floor. Thanks to her incredible leadership, we have an agreed path forward from the point of view of the relevant amendments. So what is holding up the process? It is these amendments that have absolutely nothing to do with the transportation programs of this country. We are talking about policy in Egypt, which has nothing to do with our transportation needs. I would start by saying how disappointed I am that we haven't yet started the real debate on our transportation reauthorization bill which will create jobs, save jobs, modernize America, and make us more competitive.

Let me yield for a moment, if I could, to my colleague from California, Senator BOXER.

Mrs. BOXER. If my friend would yield for a question and keep the floor—and I ask unanimous consent that the time for this colloquy not be taken off his time, or does he have unlimited time?

Mr. CARDIN. It is 10 minutes.

Mrs. BOXER. Well, let me say thank you to my friend. I know he is here to talk about judges, which is a critical issue. I am very happy he is going to do that. The lack of action on these qualified nominees is hurting our people.

But I wanted to thank him for his comments. The Senator from Maryland, Mr. CARDIN, is a senior member of the Environment and Public Works Committee and has worked so hard, along with our invaluable staff, and provided an invaluable contribution to the Transportation bill. I guess the question I will get to is this one: With 2.8 million jobs on the line—that is 1.8 million jobs we have currently attached to a highway bill and then an additional 1 million jobs which will be created because of some of the work we did on TIFIA to leverage the jobs—does not my friend believe this is the time to move a jobs bill, when we are in the process of seeing this economy finally turn around? The turnaround is not as fast as we want, but does my friend believe the timing of this couldn't be better; and that if we pass this bill, which is so bipartisan, it will kick this economic recovery into higher gear?

Mr. CARDIN. The Senator is absolutely correct. We need more jobs in America. I congratulate the Obama administration for turning our economy around. We have had 23 consecutive months of private sector job growth, but we don't have enough jobs yet. We have to create more jobs. Now is the time to be bold on looking for responsible programs that can move this country forward and creating more jobs, not only initially in road construction, in bridge construction and transit construction, but making us more competitive for the future and creating permanent job growth for America, jobs that cannot be exported.

That is what we should be doing, and that is why the surface transportation bill is so important for us to bring up and debate and pass.

And, quite frankly, the Senator from California had performed something unprecedented—well, not unprecedented but unusual here—in that she got bipartisan support from three committees, and we are working on the fourth now. Senator BOXER has gotten all the committees together, and so it is time to move this bill forward for jobs throughout America.

Mrs. BOXER. My very last question. I hope my friend is aware that right now the leadership is working very hard to take this very unwieldy list of amendments and get it down to some responsible number so we can begin, finally, in earnest. I have to point out that I don't understand how my Republican friends think it is appropriate to add to a highway bill the issue of birth control. I don't know how my friends on the other side think it is appropriate to repeal environmental laws on this highway bill. I don't understand, as my friend from Maryland pointed out, how they can say they can see a connection between a highway bill and what is happening in Egypt.

We care about all these issues, and the Senate will address these issues, but this is a jobs bill, a bipartisan jobs bill. So I want to end by thanking my friend for yielding to me, and I look forward to his remarks on judges, and I look forward to getting back to our transportation bill, which I am hopeful will happen at some point today.

Mr. CARDIN. I thank Senator BOXER.

Mr. President, I ask unanimous consent to speak for up to 10 minutes.

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

RUSSELL NOMINATION

Mr. CARDIN. Mr. President, I rise today to urge the Senate to confirm Judge George Levi Russell, III, of Maryland to be a United States District Judge for the District of Maryland.

The nomination of Judge Russell was reported out of the Judiciary Committee on February 16 by a voice vote, as the Acting President of the Senate knows. Judge Russell currently sits as a trial judge in the Baltimore City Circuit Court.

I take seriously the obligation of the Senate in terms of the advice and consent role we play. I am concerned that our judicial confirmation process in the Senate has broken down due to partisanship, particularly for noncontroversial judges. Judge Russell's nomination now joins a long list of backlogged, noncontroversial judicial nominations that are stuck on the Senate floor. As of yesterday, the Senate calendar contained 20 judicial nominations approved by the Senate Judiciary Committee which are still awaiting a final vote. Fifteen of these nominees have been pending since last year, and 18 of them have received strong bipartisan support from the Senate Judiciary Committee. These are noncontroversial nominees that are due the up-or-down vote on the floor of the Senate, and there is no justification for the delay in the Senate's carrying out its constitutional responsibilities.

The Senate is responsible for the rising vacancy rate in our Nation's article III courts. The victims here are not only the nominee and his or her family, who are waiting on final Senate action, but the American people are also victims. They face increasing delays in courts that are overburdened and understaffed. A higher vacancy rate means lack of timely hearings and decisions by our Federal courts, affecting our citizens' access to justice and a fair and impartial resolution of their complaints.

In Maryland, we are trying to fill a vacancy that was created during the end of President Bush's term of office when Judge Peter Messitte took senior status in 2008. So this vacancy has been there for a long time. It is time for us to act. Judge Russell is an excellent candidate. He received bipartisan support in the Judiciary Committee and is ready to take office upon being confirmed by the Senate. The time for action is now.

Judge Russell brings a wealth of experience to this position in both State and Federal courts. Earlier in his career, he served as a Federal prosecutor and as an attorney in a private law firm. He now sits as a State trial judge court in Maryland. He has the experience.

He graduated from Morehouse College with a B.A. in political science in 1988 and a J.D. from Maryland Law School in 1991. He passed the bar examination and was admitted to practice law in Maryland in 1991. He then clerked for Chief Judge Robert Bell on the Maryland Court of Appeals, our State's highest court.

He worked as a litigation associate for 2 years at Hazel, Thomas, and then briefly at Whiteford, Taylor. He then served as an assistant U.S. attorney for the District of Maryland from 1994 to 1999, handling civil cases. In that capacity, he represented various Federal Government agencies in discrimination, accident, and medical malpractice cases. He then worked as an associate at the Peter Angelos law firm for 2 years.

In 2002, he went back to the U.S. Attorney's Office handling criminal cases until 2007. He represented the United States in the criminal prosecution of violent crime and narcotics cases during the investigatory stage, at trial, and on appeal. This included the initiation and monitoring of wiretaps to infiltrate and break up violent gangs in Baltimore City. He also served as the Project Safe Neighborhood coordinator for the office from 2002 until 2005. He participated in community outreach programs, including attending community meetings on behalf of the office, and attending meetings with the Baltimore State's Attorney's Office to reduce violent crime in Baltimore neighborhoods.

In January 2007, Governor Ehrlich, who I am sure you are aware was the Republican Governor of our State, appointed Judge Russell to serve as an associate judge of the Baltimore City Circuit Court for a term of 15 years. As a trial judge, Judge Russell has presided over hundreds of trials that have gone to verdict or judgment and has experience in handling jury trials, bench trials, civil cases, and criminal cases. He has the professional experience which has been recognized by a Republican Governor and a Democratic President. He should receive a vote on the floor of this body and he should be confirmed.

Judge Russell has strong roots, legal experience, and community involvement in the State of Maryland. He was born and raised in Baltimore City, and has extended family who live in Baltimore. He serves as director and trustee on the board of the Enoch Pratt Free Library, which serves the disadvantaged throughout the State of Maryland. He served on the board of directors of the Community Law Center, which is an organization designed to help neighborhood organizations improve the quality of life for their residents. So he brings experience as a community activist as well as his professional experience.

He has also served as a board member of several organizations that devote substantial resources to helping the disadvantaged, including Big Brothers and Big Sisters of Maryland. I know he has often spoken to young people in schools about the obligation, duty, and mandate of a judge, and tries to demystify the role of a judge in a black robe. Judge Russell is particularly concerned with addressing the drug violence and mental health problems that plague Baltimore City.

The reason I went through all of his qualifications right now, even though his nomination is not pending, is that we have to put a face on the people who are being denied the opportunity for an up-or-down vote before the Senate. You hear the numbers; I have mentioned them—20—backed up. That is a large number when you look at the vacancy rates on our courts. When you look at this vacancy that has been pending now for the people of Maryland for 3 years, they have a right to action on the floor of the Senate. They have a right to have these nominees heard in regular order. But I want the people to know about this one individual and how qualified he is to assume the position on the District Court of Maryland.

I urge my colleagues to do everything they can. Let's carry out our responsibility. I am absolutely confident that Judge Russell possesses the qualifications, temperament, and passion for justice that will make him an outstanding United States District Court

judge for the District of Maryland. He will serve the people very well in this position. I therefore urge my colleagues not only to allow us to vote on Judge Russell's confirmation, but let us vote on the 20 nominees who have been reported out of the Judiciary Committee, and show the American people we are ready to carry out our responsibilities.

I ask my colleagues on the other side of the aisle, my Republican friends: It is way past time for us to carry out our responsibility. Stop putting filibusters or holds on these judicial nominations. Let's vote on them and carry out our responsibilities as Senators.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, recently I came to the floor of the Senate to talk about the lack of faith the American people have in the political system and in our government. My focus that day was on campaign finance laws and the impact of the Citizens United decision by the Supreme Court 2 years ago.

Today I am here to discuss, along with my colleagues, another dynamic of Capitol Hill that is making people lose faith in Washington: the apparent inability of Congress to get routine business done; specifically, the failure of the Senate to fill the dozens of judicial vacancies that exist around the country.

This doesn't need to be a partisan debate. I know Senators on each side have their own reasons why it is the other party's fault. But we need to put those arguments behind us and agree to do the people's business.

We have actually done a good job, as Senator CARDIN has pointed out, on the Judiciary Committee with having a number of judges who have come through that committee and are waiting approval on the floor. But often, we approve judges and they don't get floor votes for months and months. Also, the vast majority of judges who get approved, get approved unanimously in committee. That was my experience with the judge I recommended from Minnesota who now is a judge. So we got her done, but there are so many more, as you know, and so many jurisdictions with heavy caseloads which are awaiting judges.

Once these judges get to the floor, almost all of them get a handful of no votes. Why is that? They have been vetted. They have been vetted, their records have been looked at, they have gone through a committee hearing, they have been looked at by Senators on both sides of the aisle in the Judiciary Committee. And if they have reached that point of being on the floor of the Senate, it is no surprise that they might get a few no votes. So I don't see this as a partisan issue, but it is an issue we must get done.

If almost all the Senators support almost all the judges, this isn't about pushing one side's agenda or judicial philosophy. These are extremely qualified judges who Senators believe will be fair, impartial jurists, committed to objectively interpreting the law. But the fact is that we are lagging way behind in the confirmation pace under previous Presidents of both parties and with the Senate controlled by either party. By this time in the Presidency of Bill Clinton, the Senate had confirmed 183 judges. By this time in the Presidency of George W. Bush, the Senate had confirmed 170 judges. And yet as of today, we have only confirmed 129 judicial nominees of President Obama.

It is important to note that President Bush actually ended up getting five more judges approved in his first term than President Clinton. So we don't have a case where there has suddenly been a decline over time with the judges' approval. In fact, it went up after Clinton and now, as we can see, it is going down. There doesn't seem to be any indication at this very moment in time that we are speeding up the process. While earlier in the year we did confirm a number of judges, there was an agreement. There are still way too many out there, and we need to move on them now.

Typically, the Senate will approve noncontroversial judicial nominees before the end of the session in December. But that did not happen this past year, and we have not made too much progress since returning in January. It doesn't take too long to approve a judge on the floor. Often, we have an hour or two of debate and then vote on two or three judges. So we can get these judges confirmed quickly if both sides consent.

Some people listening are probably thinking there must be an explanation; that I am somehow leaving out key numbers when I have just explained that we only need an hour or two for each of these 20-some pending judges. Maybe they are thinking there aren't as many vacancies as under previous Presidents. But, no, under President Clinton there were about 53 vacancies at this point in his Presidency. Under President Bush, there were 46 vacancies. Right now, under President Obama, there are in fact 85 judicial vacancies.

Maybe people at home are thinking the slow process is a result of controversial nominees but, no, it is not that, either. As I mentioned earlier, most of the judicial nominees awaiting a floor vote were approved unanimously by the Senate Judiciary Committee. That is not a committee, as the President knows from serving on that committee, of shrinking violets. There are people with very diverse views. And most of these nominees, as I explained, came through with all of their support. In fact, 16 of the 19 nominees waiting for a floor vote received unanimous votes in committee. They were approved by every single member of the Judiciary Committee from both parties.

Most of those unanimous judges have been waiting for a vote for months. We should confirm them right away. We should confirm them this week. We can have a vote so that the few people on the other side of the aisle who do not agree with those nominees can register their objection and vote no. But there is no reason to hold up all of these nominees for all of these jurisdictions across the country.

For the judges who have come out of committee more recently, I understand that Senators need time to look at their records and qualifications. That is an important part of the process. But after a reasonable period of time, let's move on to confirm the newer judges as well. Let's vote up or down on all of the judges and get them on the bench.

I also want to point out that the judicial nomination process is bipartisan. That may surprise some people watching at home. They may think I am making that up. But the truth is that nominees don't move forward in the Judiciary Committee unless both of the home State Senators sign off. So whether it is two Democrats or two Republicans or one from each party, both Senators have effective veto power over the judicial nominees from their State. And usually the judges proposed by the President first are recommended by Senators. So it is not a question of President Obama picking whomever he wants and appointing them to the judiciary. He has to pick people who are okay with both Senators regardless of party. It forces a President of either party to choose high-quality, well-respected mainstream judges.

I remain hopeful we can rectify this situation and start getting judges approved in a timely manner and catch up to where we were under previous Presidents. But it is not about keeping some scorecard from President to President, as much as I have loved using these statistics today, or from Congress to Congress. In truth, it is about justice. And we all know that. We are constantly hearing complaints about the slow pace of Federal courts. Those delays are real, and they impact people—real people—every day. Whether we are talking about people seeking to protect their rights under the Americans With Disability Act or companies trying to resolve commercial disputes—I have a few of them in my State—unreasonable delays in court proceedings undermine our system of justice, and things won't get any better if we understaff our Federal judiciary.

There are many problems facing our country that do not have simple solutions. There are many problems for which the two parties have vastly different solutions. But in this case with judicial vacancies, there is only one solution, and it is well within our grasp given that so many of these judges were noncontroversial.

This is the solution, Mr. President. It is two words: Let's vote. Let's vote on all of the pending nominees, and let's continue to vote as more nominees emerge from the Judiciary Committee.

If a Senator wants to vote no on a particular nominee, if he or she wants to give a long and glorious speech about why they are opposed to the nominee, please let them do that. Let them do that today. All we are asking for is a vote.

Mr. UDALL of New Mexico. Mr. President, I come to the floor today to discuss our broken judicial confirmation process. I know many of my colleagues will discuss individual nominees and how long they have languished on the executive calendar without a vote. We can point to many statistics about the length of time it takes to confirm President Obama's nominees versus President Bush's and how many nominees each had confirmed in their first term.

This is an important argument to make. And while these statistics are helpful in highlighting the problem, they are merely the symptoms of a much larger disease—a broken Senate. Since joining the Senate in 2009, I've said repeatedly that we must take decisive action to reform our rules in order to restore deliberativeness to this body.

At the beginning of this Congress, Senators HARKIN, MERKLEY, and I tried to do that. Ultimately, our success was limited. We didn't achieve the broad reforms we wanted. But we did initiate a debate that highlighted some of the most egregious abuses of the rules, including how the rules are manipulated to obstruct the confirmation process for judges and executive branch nominees.

There was some hope that the debate we had, along with the modest reforms that were adopted, would encourage both sides of the aisle to restore the respect and comity that is often lacking in today's Senate. Unfortunately, any goodwill rapidly deteriorated and the partisan rancor and political brinksmanship quickly returned.

That is why we are here again today, talking about yet another aspect of this body's dysfunction—the broken judicial confirmation process.

This is not a new problem, nor is it one on which either side can claim to be innocent. For about the past decade, the minority party—whether Republicans or Democrats—has gone to inexcusable lengths to slow or block judicial nominees who have strong majority support. This has lead to a new norm in the Senate—the need for any nominee to get at least 60 votes for confirmation. This directly conflicts with the Founders' intent and a plain reading of the Constitution.

The arguments my colleagues and I make today—that judicial nominees who have been approved by the Judiciary Committee deserve a vote by the full Senate—are the same arguments my Republican colleagues made when President Bush's nominees were held up by a Democratic minority.

In April 2003, the freshmen members of the 108th Congress sent a letter to Majority Leader Frist and Minority Leader Daschle. That freshman class was made up of nine Republicans and one Democrat. I'd like to read part of that letter. The senators wrote:

[W]e write to express our concerns about the state of the federal judicial nomination and confirmation process. The apparent breakdown in this process reflects poorly on the ability of the Senate and the Administration to work together in the best interests of our country. The breakdown also disserves the qualified nominees to the federal bench whose confirmations have been delayed or blocked, and the American people who rely on our federal courts for justice. . . . We seek a bipartisan solution that will protect the integrity and independence of our nation's courts, ensure fairness for judicial nominees, and leave the bitterness of the past behind us.

Regrettably, the rest of the Senate did not heed their advice and the confirmation process remained dysfunctional. Two years later, Senator HATCH, a former chairman of the Judiciary Committee, wrote an op-ed in the National Review Online that clearly outlined the problem. Senator HATCH's commentary began with the following:

Judicial nominations will be one of the most important issues facing the Senate in the 109th Congress and the question is whether we will return to the tradition of giving nominations reaching the Senate floor an up or down vote. The filibusters used to block such votes have mired the judicial-confirmation process in a political and constitutional crisis that undermines democracy, the judiciary, the Senate, and the Constitution.

He then went on to argue that there was a solution to address this crisis—using the Constitutional Option to amend the Senate rules. Just as I argued last year at the start of the session, Senator HATCH stated that at the beginning of a new Congress, a simple majority can invoke cloture and change the Senate rules. The rules weren't amended then, and they weren't amended last year, either. This is why we are here today, having the same debate about judicial nominations that the Republicans had when they were in the majority and President Bush's nominees were stalled.

It's time we stop having this debate and actually fix the process. Both sides have acknowledged the problem and offered solutions when they were in the majority. In the 108th Congress, Senator Frist introduced a resolution to change Rule XXII that would have gradually reduced the cloture threshold on nominations after successive votes over the course of several days of debate. That resolution was cosponsored by Senators MCCONNELL, KYL, and CORNYN—all members of the current minority leadership.

Last year, at the beginning of this Congress, Senators HARKIN, MERKLEY, and I introduced a resolution to reform the rules. It included reforms that would have addressed the broken confirmation process, including reducing the post-cloture time on nominees from thirty hours to two and requiring real debate in order to sustain a filibuster. Unfortunately, neither of these resolutions was adopted.

During the debate on our resolution last year, Senator HARKIN made a very good point. He said, ''I believe each Senator needs to give up a little of our pride, a little of our prerogatives, and a little of our power for the good of this Senate and the good of this country.'' Let's hope that someday enough of our colleagues will agree with him and we finally institute the reforms necessary to restore the Senate's reputation as the ''World's Greatest Deliberative Body.''

I ask unanimous consent that the letter from the freshman class of the 108th Congress and Senator HATCH's National Review op-ed be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, April 30, 2003.

DEAR SENATORS FRIST AND DASCHLE: As the ten newest members of the United States Senate, we write to express our concerns about the state of the federal judicial nomination and confirmation process. The apparent breakdown in this process reflects poorly on the ability of the Senate and the Administration to work together in the best interests of our country. The breakdown also disserves the qualified nominees to the federal bench whose confirmations have been delayed or blocked, and the American people who rely on our federal courts for justice.

We, the ten freshmen of the United States Senate for the 108th Congress, are a diverse group. Among our ranks are former federal executive branch officials, members of the U.S. House of Representatives, and state attorneys general. We include state and local officials, and a former trial and appellate judge. We have different viewpoints on a variety of important issues currently facing our country. But we are united in our commitment to maintaining and preserving a fair and effective justice system for all Americans. And we are united in our concern that the judicial confirmation process is broken and needs to be fixed.

In some instances, when a well qualified nominee for the federal bench is denied a vote, the obstruction is justified on the ground of how prior nominees—typically, the nominees of a previous President—were treated. All of these recriminations, made by members on both sides of the aisle, relate to circumstances which occurred before any of us arrived in the United States Senate. None of us were parties to any of the reported past offenses, whether real or perceived. None of us believe that the ill will of the past should dictate the terms and direction of the future.

Each of us firmly believes that the United States Senate needs a fresh start. And each of us believes strongly that we were elected to this body in order to do a job for the citizens of our respective states—to enact legislation to stimulate our economy, protect national security, and promote the national welfare, and to provide advice and consent, and to vote on the President's nominations to important positions in the executive branch and on our nation's courts.

Accordingly, the ten freshmen of the United States Senate for the 108th Congress urge you to work toward improving the Senate's use of the current process or establishing a better process for the Senate's consideration of judicial nominations. We acknowledge that the White House should be included in repairing this process.

All of us were elected to do a job. Unfortunately, the current state of our judicial confirmation process prevents us from doing an

important part of that job. We seek a bipartisan solution that will protect the integrity and independence of our nation's courts, ensure fairness for judicial nominees, and leave the bitterness of the past behind us.

Yours truly,

John Cornyn; Mark Pryor; Lisa Murkowski; Lindsey Graham; Elizabeth Dole; Saxby Chambliss; Norm Coleman; James Talent; Lamar Alexander; John E. Sununu.

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[From the National Review Online, January 12, 2005]

CRISIS MODE—A FAIR AND CONSTITUTIONAL OPTION TO BEAT THE FILIBUSTER GAME

(By Senator Orrin G. Hatch)

Judicial nominations will be one of the most important issues facing the Senate in the 109th Congress and the question is whether we will return to the tradition of giving nominations reaching the Senate floor an up or down vote. The filibusters used to block such votes have mired the judicial-confirmation process in a political and constitutional crisis that undermines democracy, the judiciary, the Senate, and the Constitution. The Senate has in the past changed its procedures to rebalance the minority's right to debate and the majority's right to decide and it must do so again.

Newspaper editorials condemning the filibusters outnumber supporting ones by more than six-to-one. Last November, South Dakotans retired former Senate Minority Leader Tom Daschle, in no small part, because he led the filibuster forces. Yet within hours of his election to succeed Senator Daschle as Minority Leader, Senator Harry Reid took to the Senate floor to defend them. Hope is fading that the shrinking Democratic minority will abandon its destructive course of using filibusters to defeat majority supported judicial nominations. Their failure to do so will require a deliberate solution.

If these filibusters were part of the Senate's historical practice or, as a recent NRO editorial put it, merely made confirming nominees more difficult, a deliberate solution might not be warranted. But this is a crisis, not a problem of inconvenience.

Senate rules reflect an emphasis on deliberation and debate. Either by unanimous agreement or at least 60 votes on a motion to invoke cloture under Rule 22, the Senate must end debate before it can vote on anything. From the Spanish filibustero, a filibuster was a mercenary who tries to destabilize a government. A filibuster occurs most plainly on the Senate floor when efforts to end debate fail, either by objection to unanimous consent or defeat of a cloture motion. During the 108th Congress, Senate Democrats defeated ten majority-supported nominations to the U.S. Court of Appeals by objecting to every unanimous consent request and defeating every cloture motion. This tactic made good on then-Democratic Leader Tom Daschle's February 2001 vow to use ''whatever means necessary'' to defeat judicial nominations. These filibusters are unprecedented, unfair, dangerous, partisan, and unconstitutional.

These are the first filibusters in American history to defeat majority supported judicial nominations. Before the 108th Congress, 13 of the 14 judicial nominations on which the Senate took a cloture vote were confirmed. President Johnson withdrew the 1968 nomination of Abe Fortas to be Supreme Court chief justice the day after a failed cloture vote showed the nomination did not have clear majority support. In contrast, Democrats have now crossed the confirmation Rubicon by using the filibuster to defeat judicial nominations which enjoy clear majority support.

Focusing on President Clinton's judicial nominations in 1999, I described what has been the Senate's historical standard for judicial nominations: ''Let's make our case if we have disagreement, and then vote.'' Democrats' new filibusters abandons this tradition and is unfair to senators who must provide the ''advice and consent'' the Constitution requires of them through a final up or down vote. It is also unfair to nominees who have agreed, often at personal and financial sacrifice, to judicial service only to face scurrilous attacks, trumped up charges, character assassination, and smear campaigns. They should not also be held in permanent filibuster limbo. Senators can vote for or against any judicial nominee for any reason, but senators should vote.

These unprecedented and unfair filibusters are distorting the way the Senate does business. Before the 108th Congress, cloture votes were used overwhelmingly for legislation rather than nominations. The percentage of cloture votes used for judicial nominations jumped a whopping 900 percent during President Bush's first term from the previous 25 years since adoption of the current cloture rule. And before the 108th Congress, the few cloture votes on judicial nominations were sometimes used to ensure up or down votes. Even on controversial nominees such as Richard Paez and Marsha Berzon, we invoked cloture to ensure that we would vote on confirmation. We did, and both are today sitting federal judges. In contrast, these new Democratic filibusters are designed to prevent, rather than secure, an up or down vote and to ensure that targeted judicial nominations are defeated rather than debated.

These filibusters are also completely partisan. The average tally on cloture votes during the 108th Congress was 53–43, enough to confirm but not enough to invoke cloture and end debate. Democrats provided every single vote against permitting an up or down vote. In fact, Democrats have cast more than 92 percent of all votes against cloture on judicial nominations in American history.

Unprecedented, unfair, and partisan filibusters that distort Senate procedures constitute a political crisis. By trying to use Rule 22's cloture requirement to change the Constitution's confirmation requirement, these Democratic filibusters also constitute a constitutional crisis.

The Constitution gives the Senate authority to determine its procedural rules. More than a century ago, however, the Supreme Court unanimously recognized the obvious maxim that those rules may not ''ignore constitutional restraints.'' The Constitution explicitly requires a supermajority vote for such things as trying impeachments or overriding a presidential veto; it does not do so for confirming nominations. Article II, Section 2, even mentions ratifying treaties and confirming nominees in the very same sentence, requiring a supermajority for the first but not for the second. Twisting Senate rules to create a confirmation supermajority undermines the Constitution. As Senator Joseph Lieberman once argued, it amounts to ''an amendment of the Constitution by rule of the U.S. Senate.''

But don't take my word for it. The same senators leading the current filibuster campaign once argued that all filibusters are unconstitutional. Senator Lieberman argued in 1995 that a supermajority requirement for cloture has ''no constitutional basis.'' Senator Tom Harkin insisted that ''the filibuster rules are unconstitutional'' because ''the Constitution sets out . . . when you need majority or supermajority votes in the Senate.'' And former Senator Daschle said that because the Constitution ''is straightforward about the few instances in which more than a majority of the Congress must vote. . . . Democracy means majority rule, not minority gridlock.'' He later applied this to judicial nomination filibusters: ''I find it simply baffling that a Senator would vote against even voting on a judicial nomination.'' That each of these senators voted for every judicial-nomination filibuster during the 108th Congress is baffling indeed.

These senators argued that legislative as well as nomination filibusters are unconstitutional. Filibusters of legislation, however, are different and solving the current crisis does not require throwing the entire filibuster baby out with the judicial nomination bathwater. The Senate's authority to determine its own rules is greatest regarding what is most completely within its jurisdiction, namely, legislation. And legislative filibusters have a long history. Rule 22 itself did not even potentially apply to nominations until decades after its adoption. Neither America's founders, nor the Senate that adopted Rule 22 to address legislative gridlock, ever imagined that filibusters would be used to highjack the judicial appointment process.

Liberal interest groups, and many in the mainstream media, eagerly repeat Democratic talking points trying to change, rather than address, the subject. For example, they claim that, without the filibuster, the Senate would be nothing more than a ''rubberstamp'' for the president's judicial nominations. Losing a fair fight, however, does not rubberstamp the winner; giving up without a fight does. Active opposition to a judicial nomination, especially expressed through a negative vote, is the best remedy against being a rubberstamp.

They also try to change the definition of a filibuster. On March 11, 2003, for example, Senator Patrick Leahy, ranking Judiciary Committee Democrat, used a chart titled ''Republican Filibusters of Nominees.'' Many individuals on the list, however, are today sitting federal judges, some confirmed after invoking cloture and others without taking a cloture vote at all. Invoking cloture and confirming nominations is no precedent for not invoking cloture and refusing to confirm nominations.

Many senators once opposed the very judicial nomination filibusters they now embrace. Senator Leahy, for example, said in 1998: ''I have stated over and over again . . . that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported.'' Since then, he has voted against cloture on judicial nominations 21 out of 26 times. Senator Ted Kennedy, a former chairman of the Judiciary Committee, said in 1995 that ''Senators who believe in fairness will not let a minority of the Senate deny [the nominee] his vote by the entire Senate.'' Since then, he has voted to let a minority of the Senate deny judicial nominees a vote 18 out of 23 times.

Let me put my own record on the table. I have never voted against cloture on a judicial nomination. I opposed filibusters of Carter and Clinton judicial nominees, Reagan and Bush judicial nominees, all judicial nominees. Along with then-Majority Leader Trent Lott, I repeatedly warned that filibustering Clinton judicial nominees would be a ''travesty'' and helped make sure that every Clinton judicial nomination reaching the full Senate received a final confirmation decision. That should be the permanent standard, no matter which party controls the Senate or occupies the White House.

The Senate has periodically faced the situation where the minority's right to debate has improperly overwhelmed the majority's right to decide. And we have changed our procedures in a way that preserves the minority's right to debate, and even to filibuster legislation, while solving the crisis at hand.

The Senate's first legislative rules, adopted in 1789, directly reflected majority rule. Rule 8 allowed a simple majority to ''move the previous question'' and proceed to vote on a pending matter. Invoked only three times in 17 years, however, Rule 8 was dropped in the Senate rules revision of 1806, meaning unanimous consent was then necessary to end debate. Dozens of reform efforts during the 19th century tried to rein in the minority's abuse of the right to debate. In 1917, President Woodrow Wilson described what had become of majority rule: ''The Senate of the United States is the only legislative body in the world which cannot act when its majority is ready for action. . . . The only remedy is that the rules of the Senate shall be altered.'' Leadership turned gridlock into reform, and that year the Senate adopted Rule 22, by which ⅔ of Senators present and voting could invoke cloture, or end debate, on a pending measure.

Just as the minority abused the unanimous consent threshold in the 19th century, the minority abused the ⅔ threshold in the 20th century. A resolution to reinstate the previous question rule was introduced, and only narrowly defeated, within a year of Rule 22's adoption. A steady stream of reform attempts followed, and a series of modifications made until the current 60-vote threshold was adopted in 1975. The point is that the Senate has periodically rebalanced the minority's right to debate and the majority's right to decide. Today's crisis, with constitutional as well as political dimensions and affecting all three branches of government, presents an even more compelling case to do so.

These filibusters are an unprecedented shift in the kind, not just the degree, of the minority's tactics. After a full, fair, and vigorous debate on judicial nominations, a simple majority must at some point be able to proceed to a vote. A simple majority can achieve this goal either by actually amending Rule 22 or by sustaining an appropriate parliamentary ruling.

The Senate exercises its constitutional authority to determine its procedural rules either implicitly or explicitly. Once a new Congress begins, operating under existing rules implicitly adopts them ''by acquiescence.'' The Senate explicitly determines its rules by formally amending them, and the procedure depends on its timing. After Rule 22 has been adopted by acquiescence, it requires 67 votes for cloture on a rules change. Before the Senate adopts Rule 22 by acquiescence, however, ordinary parliamentary rules apply and a simple majority can invoke cloture and change Senate rules.

Some object to this conclusion by observing that, because only a portion of its membership changes with each election, the Senate has been called a ''continuing body.'' Yet language reflecting this observation was included in Senate rules only in 1959. The more important, and much older, sense in which the Senate is a continuing body is its ongoing constitutional authority to determine its rules. Rulings by vice presidents of both parties, sitting as the President of the Senate, confirm that each Senate may make that decision for itself, either implicitly by acquiescence or explicitly by amendment. Both conservative and liberal legal scholars, including those who see no constitutional problems with the current filibuster campaign, agree that a simple majority can change Senate rules at the beginning of a new Congress.

An alternative strategy involves a parliamentary ruling in the context of considering an individual nomination. This approach can be pursued at any time, and would not actually amend Rule 22. The precedent it would set depends on the specific ruling it produces and the facts of the situation in which it arises.

Speculation, often inaccurate, abounds about how this strategy would work. One newspaper, for example, offered a common description that this approach would seek ''a ruling from the Senate parliamentarian that the filibuster of executive nominations is unconstitutional.'' Under long-standing Senate parliamentary precedent, however, the presiding officer does not decide such constitutional questions but submits them to the full Senate, where they are debatable and subject to Rule 22's 60-vote requirement. A filibuster would then prevent solving this filibuster crisis. Should the chair rule in favor of a properly framed non-debatable point of order, Democrats would certainly appeal, but the majority could still sustain the ruling by voting for a non-debatable motion to table the appeal.

Democrats have threatened that, if the majority pursues a deliberate solution to this political and constitutional crisis, they will bring the entire Senate to a screeching halt. Perhaps they see this as way to further escalate the confirmation crisis, as the Senate cannot confirm judicial nominations if it can do nothing at all. No one, however, seriously believes that, if the partisan roles were reversed, Democrats—the ones who once proposed abolishing even legislative filibusters—would hesitate for a moment before changing Senate procedures to facilitate consideration of judicial nominations they favored.

The United States Senate is a unique institution. Our rules allowing for extended debate protect the minority's role in the legislative process. We must preserve that role. The current filibuster campaign against judicial nominations, however, is the real attack on Senate tradition and an unprecedented example of placing short-term advantage above longstanding fundamental principles. It is not simply annoying or frustrating, but a new and dangerous kind of obstruction which threatens democracy, the Senate, the judiciary, and even the Constitution itself. As such, it requires a more serious and deliberate solution.

While judicial appointments can be politically contentious and ideologically divisive, the confirmation process must still be handled through a fair process that honors the Constitution and Senate tradition. If the fight is fair and constitutional, let the chips fall where they may. As it has before, the Senate must change its procedures to properly balance majority rule and extended debate. That way, we can vigorously debate judicial nominations and still conduct the people's business.

Mr. UDALL of New Mexico. 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 assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

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 in morning business.

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

HEALTH CARE REFORM

Mr. DURBIN. Mr. President, we were engaged in lengthy debate for months—maybe years—about health care in the United States, and I believe we passed a historic bill that addresses some of the most fundamental issues about health care: first, to address affordability because if you can't afford it, it doesn't matter how good medical care is; second, to make sure it was successful for people rich and poor alike; third, to make sure the basic health insurance policies being offered in America covered the most important things in a person's life. That was part of the debate, and an important part of it.

A fundamental principle of health care reform is to ensure Americans have access to a comprehensive package of health services—we call them essential benefits under the law—which includes maternity care, vaccinations, and preventive care.

Many years ago when I was a new lawyer working in the Illinois State Senate, someone approached me and said: Are you aware of the fact that you can buy a health insurance plan that covers a family and literally covers a newborn but exempts coverage for the first 30 days of their life in Illinois?

I said: No, that is impossible.

He said: No, that kind of health care is for sale, and it is a little cheaper because we all know that if a baby is born with a serious problem, the first 30 days can be extremely expensive.

They were literally selling health insurance plans that left that family and baby vulnerable for 30 days. We changed the law in Illinois and said: You can't offer a health insurance plan that covers maternity and newborns unless you cover them from the moment they are born. So it was written into the law as a protection against consumers who unwittingly would sign up for the cheaper policy that would never be there when they needed it.

When we talked about the Federal standards when it came to health insurance, we wanted to make certain that some of the most basic things—the essential services—were covered, and that includes maternity care, vaccinations, and preventive care for women.

There is an amendment we will consider this week offered by Senator BLUNT of Missouri that I am afraid will threaten the vital consumer protections in the health reform law. These protections ensure that women, men, and children have access to basic health care. The amendment by Senator BLUNT would allow any employer or insurance company to deny health insurance for any essential or preventive health care service they object to on the basis of ''undefined'' religious or moral convictions. That means an employer can not only deny access to family planning and birth control, but they could deny access to any health care services required under our new Federal health care reform law.

Many supporters of this amendment stress how the amendment will protect

employers with religious objections to things such as coverage for contraception, but in reality this amendment goes much further: it would allow employers to deny coverage for any health service. For example, under the Blunt amendment, if an employer objects morally to vaccinations, then their insurance policy would not have to cover potentially lifesaving vaccinations for the children of that employer's workers or if an employer has religious objections to mental health care, their employees would not have access to basic health care services that we fought to protect. The Blunt amendment will have a harmful effect on all people and would undermine our Nation's effort to ensure that everyone in this country has access to a basic standard of health coverage.

Who opposes the Blunt amendment? It is not just women's groups, as you might expect, but the American Academy of Pediatrics, AIDS United, the American Nurses Association, and the American Congress of Obstetricians and Gynecologists.

Mr. President, I know your personal background and field of study has included theology and religious training, in that area, and I know this particular debate was brought on because of President Obama's decision when it came to the health care coverage offered by religious colleges, universities, and charities. The President's offer at this point says that no religious-sponsored institution, such as a college, university, hospital, or charity, will be forced to offer health services that violate their basic principles and values, their religious values. The President goes on to say, though, that the employees of that institution would have the right, on their own initiative, to a service not provided to them under the hospital or university policy that they could secure by going directly to the insurance company. It removes the church-sponsored, religious-sponsored institution from making the initial decision that might run counter to their values but gives the freedom to the individual employee to pursue the health care under the law which they consider to be essential, such as family planning. Some say this is unacceptable. I think it strikes the right balance—the balance between respecting the conscience and religious values of certain institutions while still protecting the freedom of individuals.

There has been a lot of talk in this Presidential campaign about religion, and much of it has come from a former Senator from Pennsylvania. I would like to remind him and those who have not followed it closely that there are exactly three provisions in the U.S. Constitution when it comes to religion. One of them says that we have the freedom of religion, religious belief, which gives us the right to believe what we want to believe or to believe nothing. That is guaranteed under the Constitution. Secondly, the government will not pick a religion. I have heard candidates say we are a Christian nation. No. We are an American nation, which includes many Christians but also others of different religious beliefs, and the Constitution says the government will never pick its religion. The third point that is often overlooked—and I would refer to the Senator from Pennsylvania—it is in the Constitution that there will be no religious test for office. In other words, we could not establish under the law, if anyone cared to, that only Christians or Jewish people could be elected to the Senate or the House. That is strictly unconstitutional.

Those three principles have guided us well, and it is important for us to make sure as we tackle the issues of the day that we apply the principles that have endured. In this circumstance, we have to understand that militant secularization is as intolerant as militant desecularization. We have to try to strike that balance.

I recommend to those who are following my remarks and would like to read more an article that was published in the New York Times on February 24 by Joe Nocera entitled ''A Revolutionary Idea.'' Mr. Nocera is a thoughtful writer, and he traces the history of this. His opening remarks include the following: ''Rick Santorum is John Winthrop''—referring, of course, to Mr. Winthrop who joined with the Puritans in trying to assert that our government needed to stand for puritanical values and beliefs. That debate, which even predates the Constitution, is one that molded our country and makes it what it is today. There emerged from that debate over the Puritans and what they would do a feeling that there had to be a separation between church and state, religious belief and secular administration of our government. That is the debate that continues today.

This generation, regardless of the issue of the day, needs to preserve the same basic values that led to this debate in the early Colonies and ultimately to our constitutional principles. As we find countries all over the world bitterly and violently divided over religion, we need to take care in our generation that we protect the basics. The President's decision when it comes to health care through the insurance policies protects those basic values.

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

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

The legislative clerk proceeded to call the roll.

Mr. 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.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2:15 p.m. today.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT—Resumed

Mr. REID. Mr. President, would you state the pending business.

The PRESIDING OFFICER. The pending business is S. 1813, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid amendment No. 1730, of a perfecting nature.

ORDER OF PROCEDURE

Mr. REID. Mr. President, at the beginning of this month—in fact, February 7—I moved to proceed to the surface transportation bill that is before us today—an extremely important bill, a bipartisan bill. This effort has been led by two fine Senators—one quite progressive and the other very conservative—Senators BOXER and INHOFE, the chairman and ranking member of the very important Environment and Public Works Committee. This is a vital job-creating measure. The bill would create and maintain up to 2.8 million jobs.

On February 9, 2 days after I moved to this bill, the Senate voted 85 to 11 to invoke cloture on the motion to proceed. The bill has broad bipartisan support. But immediately after the Senate moved to the bill on February 9, Senator BLUNT asked unanimous consent that it be in order to offer his amendment on contraception and women's health. I was stunned. I couldn't believe this. I said, What is going on here? I objected at the time. I didn't see why this surface transportation jobs bill was the appropriate place for an amendment on contraception and women's health.

But the Republican leader and others on the Republican side of the aisle have made it very clear the Senate is not going to be able to move forward on this important surface transportation bill unless we vote on contraception and women's health. My friend the Republican leader said it on national TV

on ''Face the Nation'' with Bob Schieffer. Senator MCCONNELL said, ''The issue will not go away.''

So I believe it is vital to get this jobs bill done. What is standing in the way is the Republicans' insistence on having a vote on a measure that would deny women access to health services such as contraception and even prenatal screenings. So after discussing it with numerous Senators, I decided we should set up a vote on the one amendment, on contraception and women's health. There has been enough delay on this bill. So we will have a vote on this Blunt amendment on Thursday. After that, we hope to be able to work out an agreement to have votes on a number of nongermane amendments on each side. Maybe we will need to have some side-by-sides, the Republicans may need some side-by-sides on our amendments. That is fine, but let's move forth.

Meanwhile, the managers have made tremendous progress on clearing more than 25 agreed-to amendments. I know the managers will want to work on clearing even additional germane amendments. So I believe this process will be the most constructive way to move the bill forward. I hope this will help us be in a position to work through to completing the transportation bill by the end of next week.

I ask unanimous consent that it be in order for the Blunt amendment No. 1520 to be called up; that on Thursday, March 1, at a time to be determined by the majority leader, after consultation with the Republican leader, the Senate proceed to vote in relation to the Blunt amendment; further, that no other amendments be in order prior to the vote in relation to the Blunt amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1520 TO AMENDMENT NO. 1730

Mr. REID. Mr. President, I call up the Blunt amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] for Mr. BLUNT, for himself and Mr. MCCONNELL, Mr. JOHANNS, Mr. WICKER, Mr. HATCH, Ms. AYOTTE, Mr. RUBIO, and Mr. NELSON of Nebraska, proposes an amendment numbered 1520 to amendment No. 1730.

Mr. REID. I ask unanimous consent that further reading of the amendment be waived.

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

The amendment is as follows:

(Purpose: To amend the Patient Protection and Affordable Care Act to protect rights of conscience with regard to requirements for coverage of specific items and services)

At the appropriate place, insert the following:

SEC. ___. RESPECT FOR RIGHTS OF CONSCIENCE.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds the following:

(A) As Thomas Jefferson declared to New London Methodists in 1809, ''[n]o provision in our Constitution ought to be dearer to man than that which protects the rights of conscience against the enterprises of the civil authority''.

(B) Jefferson's statement expresses a conviction on respect for conscience that is deeply embedded in the history and traditions of our Nation and codified in numerous State and Federal laws, including laws on health care.

(C) Until enactment of the Patient Protection and Affordable Care Act (Public Law 111–148, in this section referred to as ''PPACA''), the Federal Government has not sought to impose specific coverage or care requirements that infringe on the rights of conscience of insurers, purchasers of insurance, plan sponsors, beneficiaries, and other stakeholders, such as individual or institutional health care providers.

(D) PPACA creates a new nationwide requirement for health plans to cover ''essential health benefits'' and ''preventive services'' (including a distinct set of ''preventive services for women''), delegating to the Department of Health and Human Services the authority to provide a list of detailed services under each category, and imposes other new requirements with respect to the provision of health care services.

(E) While PPACA provides an exemption for some religious groups that object to participation in Government health programs generally, it does not allow purchasers, plan sponsors, and other stakeholders with religious or moral objections to specific items or services to decline providing or obtaining coverage of such items or services, or allow health care providers with such objections to decline to provide them.

(F) By creating new barriers to health insurance and causing the loss of existing insurance arrangements, these inflexible mandates in PPACA jeopardize the ability of individuals to exercise their rights of conscience and their ability to freely participate in the health insurance and health care marketplace.

(2) PURPOSES.—The purposes of this section are—

(A) to ensure that health care stakeholders retain the right to provide, purchase, or enroll in health coverage that is consistent with their religious beliefs and moral convictions, without fear of being penalized or discriminated against under PPACA; and

(B) to ensure that no requirement in PPACA creates new pressures to exclude those exercising such conscientious objection from health plans or other programs under PPACA.

(b) RESPECT FOR RIGHTS OF CONSCIENCE.—

(1) IN GENERAL.—Section 1302(b) of the Patient Protection and Affordable Care Act (Public Law 111–148; 42 U.S.C. 18022(b)) is amended by adding at the end the following new paragraph:

''(6) RESPECTING RIGHTS OF CONSCIENCE WITH REGARD TO SPECIFIC ITEMS OR SERVICES.—

''(A) FOR HEALTH PLANS.—A health plan shall not be considered to have failed to provide the essential health benefits package described in subsection (a) (or preventive health services described in section 2713 of the Public Health Service Act), to fail to be a qualified health plan, or to fail to fulfill any other requirement under this title on the basis that it declines to provide coverage of specific items or services because—

''(i) providing coverage (or, in the case of a sponsor of a group health plan, paying for coverage) of such specific items or services is contrary to the religious beliefs or moral convictions of the sponsor, issuer, or other entity offering the plan; or

''(ii) such coverage (in the case of individual coverage) is contrary to the religious beliefs or moral convictions of the purchaser or beneficiary of the coverage.

''(B) FOR HEALTH CARE PROVIDERS.—Nothing in this title (or any amendment made by this title) shall be construed to require an individual or institutional health care provider, or authorize a health plan to require a provider, to provide, participate in, or refer for a specific item or service contrary to the provider's religious beliefs or moral convictions. Notwithstanding any other provision of this title, a health plan shall not be considered to have failed to provide timely or other access to items or services under this title (or any amendment made by this title) or to fulfill any other requirement under this title because it has respected the rights of conscience of such a provider pursuant to this paragraph.

''(C) NONDISCRIMINATION IN EXERCISING RIGHTS OF CONSCIENCE.—No Exchange or other official or entity acting in a governmental capacity in the course of implementing this title (or any amendment made by this title) shall discriminate against a health plan, plan sponsor, health care provider, or other person because of such plan's, sponsor's, provider's, or person's unwillingness to provide coverage of, participate in, or refer for, specific items or services pursuant to this paragraph.

''(D) CONSTRUCTION.—Nothing in subparagraph (A) or (B) shall be construed to permit a health plan or provider to discriminate in a manner inconsistent with subparagraphs (B) and (D) of paragraph (4).

''(E) PRIVATE RIGHTS OF ACTION.—The various protections of conscience in this paragraph constitute the protection of individual rights and create a private cause of action for those persons or entities protected. Any person or entity may assert a violation of this paragraph as a claim or defense in a judicial proceeding.

''(F) REMEDIES.—

''(i) FEDERAL JURISDICTION.—The Federal courts shall have jurisdiction to prevent and redress actual or threatened violations of this paragraph by granting all forms of legal or equitable relief, including, but not limited to, injunctive relief, declaratory relief, damages, costs, and attorney fees.

''(ii) INITIATING PARTY.—An action under this paragraph may be instituted by the Attorney General of the United States, or by any person or entity having standing to complain of a threatened or actual violation of this paragraph, including, but not limited to, any actual or prospective plan sponsor, issuer, or other entity offering a plan, any actual or prospective purchaser or beneficiary of a plan, and any individual or institutional health care provider.

''(iii) INTERIM RELIEF.—Pending final determination of any action under this paragraph, the court may at any time enter such restraining order or prohibitions, or take such other actions, as it deems necessary.

''(G) ADMINISTRATION.—The Office for Civil Rights of the Department of Health and Human Services is designated to receive complaints of discrimination based on this paragraph and coordinate the investigation of such complaints.

''(H) ACTUARIAL EQUIVALENCE.—Nothing in this paragraph shall prohibit the Secretary from issuing regulations or other guidance to ensure that health plans excluding specific items or services under this paragraph shall have an aggregate actuarial value at least equivalent to that of plans at the same level of coverage that do not exclude such items or services.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if included in the enactment of Public Law 111–148.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, as the majority leader is leaving the floor, I wish to say I am pleased he has decided to take us forward on this highway bill.

So where do we stand? We are in a situation, here in the 21st century, where in order to move forward on a highway bill—a bill that funds our highways, our roads, our bridges, and our transit systems—in order to move forward on a jobs bill—where 2.8 million jobs are at stake in this great Nation—we have to have a vote on birth control. I want to say to my friends on the other side of the aisle, What are you thinking? But if this is what you want to do, fine.

I want to make it clear to the people who are listening that the Blunt amendment would say that any insurance company and any employer for any reason could deny coverage to their employees. But it is not just about birth control; it is any service.

Now, Mr. President, you serve proudly on the HELP Committee, and you were very instrumental in working through the essential services that are covered, the preventive services that are covered. It is very important that we note what those are. We have a list of the essential services and the preventive services, and what I am going to do is to read them. As I read them, I want people who are listening to this to think about whether these services are important, and to understand that under the Blunt amendment any one of these services can be denied by any employer, any insurance company, for any reason.

So I am going to list these services: Emergency services, hospitalization, maternity and newborn care, mental health treatment, preventive and wellness services, pediatric services, prescription drugs, ambulatory patient services, rehabilitative services and devices, and laboratory services.

Those are the categories of essential health benefits this Senate voted to make sure are covered under insurance plans. That is the law. The Blunt amendment would allow any insurer and any employer to deny any of these services for any reason. All they have to say is they have a moral objection.

Let's take maternity and newborn care. If somebody works for you, and they are not married and they are pregnant and are having this child, you can say: From now on, I am not covering anybody who works for me who isn't married because I have a moral objection.

Mental health treatment. You could say: I don't consider this a disease. I think if God decided that somebody has mental health problems, that is just the way it is. I deny that.

It goes on and on.

Emergency services. If some employer believes if you have a heart attack it is God's will, that is their moral belief. That is it. They can deny that kind of coverage.

Now we go to preventive health, and I am going to read these. The Blunt amendment would also say any employer, any insurance company can deny any of these benefits to anybody at any time.

So listen to these services which came, again, out of your committee. Breast cancer screenings. Maybe an employer doesn't believe that is necessary. They could deny it. Cervical cancer screenings, hepatitis A and B vaccines, measles, mumps vaccine—there is some controversy over vaccines. Somebody could say: Well, I have a moral problem. I am not going to offer these vaccines in my plan.

Colorectal cancer screenings. We found out those save lives, a huge number of lives. They say the death rates are going down, because of colorectal cancer screenings, by 50 percent. An employer or an insurance company could deny that kind of screening.

Diabetes screening, cholesterol screening, blood pressure screening, obesity screening, tobacco cessation, autism screening, hearing screening for newborns, sickle cell screening for newborns, fluoride supplements, tuberculosis testing, depression screening, osteoporosis screening, flu vaccines for children and the elderly, contraception—there. That is what started all of this, contraception.

By the way, 15 percent of women who take contraceptives take them to prevent cancer, to prevent debilitating monthly pain, and it is even taken to prevent serious skin problems that are very debilitating. But there is no mention of that in the Blunt amendment. No, no.

HIV screening, STD screening, HPV testing, well woman visits, breast feeding support, domestic violence screening, and gestational diabetes screening, which is the kind of diabetes some women get when they are pregnant.

So here is where we are. The Blunt amendment would take this list of preventive health benefits, this list of essential health benefits, and send a very clear, unequivocal message to every insurer in this country and every employer that regardless of any other laws, if they decide they have a moral objection or religious objection, they do not have to offer this coverage.

Remember what we are talking about. We are talking about coverage. We are not saying people have to do all of these things. If I have an objection to doing any of these things, as an employee I don't have to do it. But I have coverage if I decide to do it. That is the beauty of the health care bill we passed. It says: Here are essential health benefits; here are preventive health benefits. Employers and insurers, you have to offer this coverage. If people want to take it, they can, and what will happen is good.

Now, when we hear the other side describe the Blunt amendment, they will not tell you what it is. But I have a very clear take on what it is because I printed it out, and it says: A health plan shall not be considered to have failed to provide the essential health benefits package described in subsection (a) or preventive health services described in section 2713 if they decide they have a moral or religious objection.

That is the basis of it. So we take that and say: OK, here are the essential health benefits. They no longer have any meaning. Here is the list of preventive health benefits. Those are at the whim of the employer, the whim of the insurance company, and it is really disturbing.

Mr. President, you have some great career in your life, and you are a great Senator now. Before that you told a lot of great stories and a lot of great jokes. I have to tell you that Jon Stewart took this issue on and said: Well, I will tell you something. I love the Blunt amendment because I am an employer and I believe humor is the best medicine. Humor is the best medicine, he said.

So he said: So that is what I am going to do. I have an example.

Then this guy comes on to the stage with a very bad cold and flu and he is sneezing. He says: Mr. Stewart, do I have to have another treatment now?

He says: Yes. And he takes a seltzer bottle and sprays it all over the guy. That was his treatment because it was funny, and he was supposed to laugh and that was supposed to cure this person.

He said: Not another treatment.

So in the darkest moments one finds consolation in humor. But just think, there are people who believe and have a strong moral and religious conviction that they don't want to take medicine. They just believe they are in the hands of God. I personally respect it 100 percent, and people die for their right to have that view, and I think that is appropriate. We should respect religion, everybody's religion. So the way to deal with that is if that individual doesn't want to ever be treated, that is their choice. But, frankly, if they put at risk a child who has cancer—and we have had cases like this in America where a parent said they didn't believe in medicine—a child could be cured with some cancer treatment, people have stepped in and said: We are going to make sure the child gets treatment.

So all we are saying in our health care bill is, here is a list of essential health services and preventive health services that scientists and doctors have told us will save our families pain and suffering and cost and all the rest, and we make them available through the insurer and the employer. That is all. People don't have to take them, but they are available.

Under the Blunt amendment, if your boss happens to be a person who doesn't believe in medicine, he can just say: Sorry, I am not a believer. You can have an insurance plan that may have nothing behind it—no services, none of these services that we worked so hard to put into law.

So it is stunning that in this year we would be on a highway bill anticipating a vote on Thursday on an amendment that has to do with women's health. There is a lot of concern out there because we saw when this whole thing started there was a hearing in the House of Representatives where they had a panel on women's health that dealt with, especially, access to birth control. Not one woman was on that panel, and the men decided it was wrong that women should have access to birth control without a copay even when the doctors and the scientists have said it is so important.

When our families are planned, what happens? There are fewer abortions. It is not even arguable. Fewer abortions. I would think we could be in agreement on that. Fewer problems for our families, fewer economic problems when they plan their families.

Now, if you don't want to plan your family, that is just fine. You don't have to take that coverage. You don't have to take that contraception.

So the President, in his decision, I thought, struck a great compromise. What he said was, because the experts, the medical experts—the Institute of Medicine told us contraception is a very important choice for people because 15 percent of them use it not just for birth control but to fight disease, cancer, and cysts on their ovaries and such. Because that is important, we put it in this list of essential benefits, preventive benefits. But if you are a church, you don't have to offer it to your employees. That is what the President said.

There are 335,000 religious institutions that are exempted from having to offer this through insurance. The religious-affiliated hospitals and universities were uncomfortable because they wanted to be able to not be directly connected to the contraception, and the President struck what I thought was a good compromise. He said to those institutions: OK. It will be offered to your people, but it will be done by a third party.

Almost everyone applauded it. Catholic Charities applauded it, the Catholic Health Association applauded it. They represent thousands of providers. Catholics United applauded it, and the bishops were still unhappy. But the institutions that provide the service felt the President struck a good bargain.

So we were all pleased. We thought this was fine because everybody's religious freedom should be respected, and that is what the President did. But now we have the Blunt amendment. Not only does this open a Pandora's box, it opens a very dangerous policy. It allows insurers and employers to simply say they have a moral problem with something and they don't have to offer a list of services. Maybe they will do it because they really have a moral conviction, but you can't really prove it. Maybe they will do it because they want to save some money. We don't know. But it opens a very bad situation. We have to table or beat this Blunt amendment. It is very dangerous.

How about having it on a highway bill? I still can't get over it. When I first heard about it, I thought: What does it have to do with highways? Maybe it says you can't take a birth control pill when you are driving on a highway. I mean, there was no connection, and there is no connection.

But the majority leader is right to get a vote. I will tell you why: It is holding up our highway bill. We can't get off dead center. We have been on this bill days and we can't get off dead center because my Republican friends want to vote on contraception and women's health care on a highway bill.

So we are going to do it and, hopefully, that will signal our goodwill to move forward with this bill. There are 2.8 million jobs at stake. Our bridges are in desperate need of fixing. We have 70,000 bridges that are in very bad condition, and 50 percent of our roads are not up to standard. We have had stories of bridges crumbling, and we have had stories of highways in trouble. So we shouldn't be stuck on this bill.

I could proudly say that Senator INHOFE and I worked in the most remarkable bipartisan way to get a great bill out of our committee. The Banking Committee did the same, Senators JOHNSON and SHELBY. The Commerce Committee got a little stuck, but they are getting unstuck, and we are moving forward on that piece. Finance has done an excellent job of finding the funds for us to fill the trust fund.

I want you to think in your mind's eye of a football stadium that hosts the Super Bowl. Think of what it looks like when it is jam packed with people. It is about 100,000 seats. Fifteen of those stadiums could be filled with unemployed construction workers. So think about what that would look like, 15 Super Bowl stadiums sold out, every seat filled. That is how many unemployed construction workers we have because of the housing crisis.

This bill will put them back to work. In a bipartisan fashion we have protected the 1.8 million jobs, and we create up to another 1 million jobs. So I can't believe we are discussing birth control on a highway bill, but such is life. That is the way it is. If that is what we need to move this bill forward, I am happy.

If we have to move on some other issues that are not germane to the bill, I am even willing to do that, because that is really what is at stake. What is at stake is construction jobs. What is at stake is falling bridges. I do not have to tell my friend the effect of a falling bridge. We know it happens. Senator INHOFE is eloquent on the point. He lost a constituent who was taking a walk and a huge piece of a bridge fell and killed her. This is not the way to run a country that is the No. 1 economic power in the world.

I tell you, if we want to stay the No. 1 economic power in the world, we cannot be stuck in traffic and have all that congestion. Billions of hours and billions of dollars are lost because we are not keeping up with the image that was painted for us by Dwight Eisenhower way back when I was a kid when he said we need to have a network of highways that run seamlessly across our Nation and connect us, one to the other—a national highway system. We cannot lose that vision.

There are some people who say: Why do we need a national system? Let's just have the States do it.

No. This is one Nation under God, indivisible. We need to be connected. When the imports come in from all the various countries, from the Asian nations into Los Angeles—and 40 percent of our imports come in there—we take those, we put them on trains and trucks, and they get shipped out all across America to every State in the Union. That is commerce. That is called commerce, interstate commerce. We need the roads to be ready and able to take that kind of traffic and not have a situation where so much is added to the cost of transport because there is so much congestion that we begin to lose our effectiveness as an economic power. That, frankly, is where we are. Not only do we import, we export, so we have to take the exports to the coasts, the east coast and west coast. We have a lot of opportunity to go to the gulf coast. If we do not keep up with this national system of highways, we are in trouble.

This is a great bill. This bill is a reform bill. You take it down from a lot of titles to just a couple dozen titles. We do not overspend. We keep spending at current levels. The Finance Committee has done its job to help us build a trust fund for 2 years.

The last point I would make before yielding the floor because I know my friend from Georgia is here, and he is my very good friend—I know he has some remarks he might have on this subject or another subject, and he is going to talk to me as the chairman. We have some work we want to do, so I am going to close it here.

What I want to say is that this is really close to an emergency, and I do not overstate it. The entire transportation program expires on March 31. That means all of our States are going to be hit with the end of a program that is essential to their people, to their businesses. That is why we have 1,000 organizations representing millions of people—from the chambers of commerce, to the AFL–CIO, to the granite people, to the cement people, to the general contractors; seriously, the AAA—it goes on and on from A to Z, 1,000 organizations that are behind our bill. They are not going to look kindly on a situation we could come to, which is that we do not have a bill. You cannot just extend this bill because the money is not in the trust fund anymore. It is not like past years where you could extend it. The money is not in the trust fund. If we have to cut one-

third, we are talking about hundreds of thousands of workers who would be laid off.

I again thank the majority leader, Senator REID, because he is getting us off center here. He is getting us off that line. We are moving forward.

Mr. President, I ask unanimous consent that there be no motions in order other than a motion to table prior to the vote in relation to amendment No. 1520.

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

Mrs. BOXER. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest 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. I ask unanimous consent to speak as in morning business.

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

REMEMBERING DR. YOUNG WOO KANG

Mr. DURBIN. Mr. President, the march of progress in America can be marked by the expansion of freedom. Slaves who were denied full citizenship under our Constitution were given their rights with amendments after our Civil War. Civil rights legislation in the 1960s helped African Americans and others claim their rightful place in our society. And women, denied a vote in America for generations, finally won that right early in the 20th century.

Yet it took us until nearly the end of the 20th century to acknowledge the rights of another group of Americans who have suffered discrimination throughout history: people with disabilities. I would like to take a moment to recognize one of the heroes of the disability rights movement who passed away this past Thursday at the age of 68.

Dr. Young Woo Kang was a champion for people with disabilities in America, his native South Korea, and throughout the world. Born in a small farming village in South Korea under the shadow of the Korean war, Young Woo Kang overcame adversity to become the first blind South Korean to earn a Ph.D.

Dr. Kang's life reminds us that disability can happen to anyone at anytime. When he was 14 years old, a soccer injury cost him his eyesight. He spent the next 2 years in the hospital and endured several surgeries before learning that he would never regain his sight.

That was in 1960. At that time, there were only two professions in South Korea open to the blind: masseur and fortune teller. But Young Woo Kang had other plans. When he was refused admission to college because of his disability, he challenged the system and won. And when he was allowed to take the college entrance exam, he scored in the top ten—out of hundreds of students. Dr. Kang became the first blind person to graduate—with highest honors—from Yonsei University, South Korea's oldest and most prestigious university.

He planned to earn a post-graduate degree in special education from the University of Pittsburgh. In fact, he had already been accepted at the university when he learned that South Korean policy prohibited its citizens with disabilities from studying abroad.

He lobbied successfully to have this policy changed—not only for himself but also for the thousands of other South Koreans with disabilities.

In 1976, after obtaining his Ph.D., Dr. Kang taught international affairs at Taegu University in South Korea and became a disability rights advocate.

He urged the passage of legislation in Korea similar to the Americans with Disabilities Act and helped develop the first Braille alphabet for the Korean language. He also founded Goodwill in Korea, which provides job training and career services to people with disabilities.

Dr. Kang and his wife Kyoung, or ''Kay,'' as she is known, were blessed with two sons, Paul and Chris. Dr. Kang and his wife both worked in the Gary, Indiana, public school district for decades—he as a supervisor for special education and she as a teacher for visually impaired students. He also served as an adjunct professor for Northeastern University in my home State of Illinois.

In 2002, Dr. Kang was nominated by President George W. Bush to serve on the prestigious National Council on Disability, an independent federal agency that advises the President and Congress on issues affecting the 54 million Americans with disabilities.

A moment ago I mentioned Dr. Kang's sons. Dr. Paul Kang is an ophthalmologist and has served as the President of the Washington, DC Metropolitan Ophthalmological Society. Chris Kang, a familiar name to many in this Chamber, was a member of my Senate staff for 7 years. Like his father, Chris is brilliant and hard-working.

After graduating from the University of Chicago and the Duke University Law School, Chris came to work for me answering constituents' letters and emails. Chris says he was drawn to public service by the example of his father, who taught him that government can limit people, but it can also help people.

He rose quickly through the office ranks, moving from answering letters to serving as one of my Judiciary counsels. He became my chief floor counsel and served 4 years negotiating legislation, helping me better understand Senate procedure, and conducting important whip counts.

Three years ago, Chris Kang accepted a position as Special Assistant to the President on the White House legislative affairs team. He has made history in his own right by helping to pass such historic laws as the American Recovery and Reinvestment Act, the Affordable Care Act, and the Fair Sentencing Act. Last year, Chris moved into a new position, a promotion, as senior counsel in the White House Counsel's office, where he is now the President's top advisor on judicial nominations.

How's that for an American success story—an immigrant father appointed by a Republican president and his American-born sons, a doctor and Senior Counsel to a Democratic President?

The great humanitarian Helen Keller, who lost her hearing and her sight as a young child, was asked once whether she could imagine any fate worse than losing one's sight. She replied, ''Yes, losing one's vision.''

Like Helen Keller, Dr. Young Woo Kang lost his sight due to an injury. But he was blessed with vision. That vision enabled him to create a life for himself that was almost unimaginable in the world in which he grew up. He had a vision of an America and a world in which people were measured by their abilities, not their disabilities. His vision and courage helped to expand our own vision and make us a better nation.

I offer my deepest condolences to his wife Kay, his sons, Paul and Chris, and his extended family, friends and colleagues. Dr. Kang lived a life of accomplishment and inspiration. His legacy will live on through his sons and four grandchildren, including 4-month-old Katie, a source of great pride for Dr. Kang. And his mission will live on through the good he achieved and the doors he opened for people with disabilities in Korea and America and around the world.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

AMENDMENT NO. 1520

Mr. FRANKEN. Madam President, I would like to talk for a moment about religious freedom. Our country was founded on the belief that all Americans should have the right to practice their religious beliefs as long as their faith does not infringe on the rights of others. This concept, which is, I have the freedom to stretch out my hand as far as I can unless I punch Hannah here in the face—I do not have the freedom to do that; that is impinging on Hannah's rights—actually pertains to more than just freedom of religion but our basic concepts of what people's rights are, and this is an idea that is woven through our Constitution and our Bill of Rights. I have the right to choose my profession, where I live, and I have a right to choose my doctor according to my own faith, but I do not have the right to choose yours.

When we wrote the health reform bill, we made sure to account for this balance. The health reform law required insurance companies to cover preventive health benefits without copays, and we asked the Institute of Medicine to study which preventive health benefits should be included. Last summer, the IOM—the Institute of Medicine—recommended to the Department of Health and Human Services that contraceptives should be covered, along with cancer screening, screening for domestic violence, and many other services that have been shown to improve women's health.

A number of religious institutions objected to being required to cover contraceptive services as a preventive health benefit for their employees. President Obama heeded their concerns, and he created an exception for churches and other religious institutions. The President went even further by saying that religiously affiliated organizations will not have to pay for contraceptive coverage for their employees. I will say that again. A religiously affiliated, nonprofit employer will not have to pay for contraceptives for their employees—and that was applauded by a lot of Catholic groups, for example—but the employees would have the right to contraception, to exercise their religious rights. And very often, contraception is used as a medical preventive—I think 15 percent of all use of contraception is to prevent maladies women have.

I believe all Americans should be able to freely and fully practice their religious beliefs to the extent their practice does not infringe on the freedom of others. I believe this freedom is at the heart of our society in America.

I applaud the President for finding a solution that protects religious freedoms while also providing health care to nearly all women. However, my friend Senator BLUNT, with whom I am actually working on a separate transportation amendment, has filed a nongermane amendment that goes much further than the President's accommodation of religious employers.

His amendment says that any employer or health insurer could opt out of any essential benefit or preventive service required by the Affordable Care Act. All they have to do is say that their objection is on religious or moral grounds. This amendment would upend how our entire insurance system works. It would allow any employer to opt out of covering any health care service guaranteed to Americans by the Affordable Care Act. This is an unprecedented proposal, one that could change the structure of health care in our country much for the worse.

The President found a balanced approach that maintains women's access to health care, while allowing religiously affiliated organizations to opt out of paying for it. On the other hand, Senator BLUNT's amendment would allow employers to prohibit health plans from providing preventive health services guaranteed by the Affordable Care Act. For example, under this amendment, an employer could object to covering vaccines for children. There are people in this country—I am sure many of them are employers—who have a moral objection to vaccines, so the plan would not be required to cover it or an employer could choose not to allow an insurer to cover maternity care for a single woman. There are people with moral objections to people having children outside marriage. So the woman would have to pay for her prenatal care and her maternity care out of pocket, if the employer just says: Oh, nope. I have a moral problem with that.

Of course, Senator BLUNT's amendment ignores the religious freedom of women to be able to access contraceptives. The President's accommodation a couple weeks ago protected the religious freedom of religious organizations, while also protecting the religious freedom of the women who are their employees. Remember, the employees have religious freedom too.

The Blunt amendment violates the freedom of women to receive the kind of scientifically proven health care that she chooses—she chooses. This proposal does not simply put women's access to birth control in the hands of their employers, it does not simply allow politics to get between women and their doctors, it changes the way health care is provided in our country. It violates a core belief in our society that our religious decisions are our own and that each of us, every woman and man in our society, has the right to make decisions about our own health for ourselves and for our families.

Over the last decade, we have seen proposal after proposal that would politicize the decisions that women make with their doctors. Now we are seeing an all-out attack on women's rights to protect their health by using contraceptives, something that almost all women in this country use at some point in their lives. These women choose to do that. It conforms with their own beliefs about what is best for them.

I think we all believe, or almost all of us believe that women should have that right. This seems to be a clear case of one person's religious beliefs impinging on the rights of others. It is a deeply worrying case of one person's hand meeting another's face.

I rise to urge my colleagues to fight back against these assaults. I urge my friends on both sides of the aisle to think about this, to respect the decisions that each woman makes about her health care, to protect each woman's religious freedom, her liberty, and to oppose Senator BLUNT's amendment to undermine this basic freedom.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

DENTAL CRISIS IN AMERICA

Mr. SANDERS. Madam President, I am here for Senator BOXER, in terms of the Transportation bill, but before I get into transportation, I wanted to say a word on another issue that does not get the attention it deserves, and that is why, as chairman of the Subcommittee on Primary Health Care, I will be holding a hearing on the dental crisis in America.

As I think many Americans know—although they do not hear a whole lot about it—we as a Nation are in the midst of a very severe dental crisis. More than 47 million Americans live in places where it is difficult to get dental care. About 17 million low-income children received no dental care in 2009. One quarter of adults in the United States ages 65 or older have lost all of their teeth. Low-income adults are almost twice as likely as higher income adults to have gone without a dental checkup in the previous year.

I should tell you that bad dental health impacts overall health care. When you talk about dental care, you are talking about health care in general. If people have bad teeth or no teeth, they are unable to digest their food, which causes digestive problems. People who have poor teeth can get infections leading to very serious health problems. And, in fact, there are instances where people have actually died because of poor teeth and infections. Furthermore, the risk for diabetes, heart disease, and poor birth outcomes are also significant if people are not having their teeth well maintained.

Since 2006, there were over 830,000 visits to emergency rooms across the country because we have a lot of low-income people who are in severe pain and they can't find a dentist. So they go into an emergency room, and I suspect maybe they get their tooth extracted or get some pain killer. But that is certainly not an adequate substitute for providing the dental care that all Americans need.

Almost 60 percent of children ages 5 to 17 have cavities, making tooth decay 5 times more common than asthma among children of this age. In fact, as I understand it, the single most prevalent reason for children being absent from school is, in fact, dental problems.

In the midst of the severe need for more dentists, what is happening is our dentists in our dental communities are becoming older and many of them are retiring. In fact, we need a lot more new dentists to replace those who are retiring. The sad truth is that more dentists retire each year than there are dental school graduates to replace them.

One of the other problems we are facing is that only 20 percent of the Nation's practicing dentists provide care

to people with Medicaid. So that is a serious problem. We need more dentists but, equally important, we need to make sure that dentists are providing service to the people who need it the most. And one of the sad realities of contemporary dental life is that only 20 percent of the Nation's practicing dentists provide care to people who are on Medicaid, and only an extremely small percentage devote a substantial part of their practice to caring for those who are underserved.

The current access problem is exacerbated by the fact that private practices are often located in middle-class and wealthy suburbs. What we need is to bring dentists into those areas where people need dental care the most. That is certainly something we need to do.

Further, we need to expand Medicaid and other dental insurance coverage. One-third of Americans do not have dental coverage. Traditional Medicare for seniors does not cover dental services. States can choose whether their Medicaid Programs provide coverage for dental care for adults, and the truth is many of them do not.

Let me give some good news, though, in terms of where we are making some progress. Recently—and I have been active in this effort—there has been an expansion of federally qualified community health centers. Community health centers provide health and dental care to anybody in the area regardless of their ability to pay. We now have a situation where community health centers are providing dental services to over 3½ million people across the country.

I am happy to say in the State of Vermont, in recent years, we have seen a very significant increase not only in community health centers in general but in community health centers that are providing state-of-the-art dental care. We have beautiful new facilities located in Richford, in the northern part of our State; in Plainfield, VT, in the central part of our State; and in Rutland. Burlington is just developing a beautiful new dental facility.

Furthermore, one of the areas where I think we are seeing some progress not only in Vermont but around the country—and which I think has huge potential—is putting dental offices right in schools. I know in Burlington, VT, we helped bring that about some years ago, and we have kids from all over the city of Burlington getting their dental care at one particular school. It is working phenomenally well, and we have similar programs in Bennington and Richford.

I did want to mention that I think the time is now for the Congress to begin addressing this issue. One of the things I have done recently on my Web site—which is sanders.senate.gov—I have asked people in Vermont and all over the country to tell us their stories in terms of what happens if they do not or if members of their family don't have access to dental care. We have received more than 1,200 stories from Vermont and all over this country. Those stories are heartbreaking because they tell the tales of people who are suffering every day because they simply don't have the money to go to a dentist to take care of their dental needs. These are parents who are worried about their kids and pointing out how hard it is to find affordable dental care in their communities. So if people want to write my office, they can go to my Web site, sanders.senate.gov, and we would love to hear from them. Because I think there are a lot of stories out there that are not being told.

What I wish to do now is to read from a publication that we have just produced called ''Dental Crisis in America: The Need to Expand Access.'' This will be distributed and released tomorrow at our hearing, but I did want to read a few stories which I think speak to the experience that a whole lot of people from one end of this country to the other are having regarding lack of access to dental care.

This is from a woman named Heather Getty, who lives in East Fairfield, VT, in the northern part of our State. This is what she says:

My husband and I and our four kids are the working poor. We have to think about rent and electricity before we think about dental care. My wisdom teeth have been a problem for over a decade now. I take ibuprofen and just keep on going. My husband has not seen a dentist since he was a teenager. He's afraid of the costs if they find something. So it's been 20 years. Because of Vermont's Dr. Dynasaur program, at least my children have been lucky enough to have regular cleanings, but I have to comb through the Yellow Pages to find an office who will accept their coverage. One time I missed an appointment because my car broke down, and when I called to reschedule, they told me that we had been blacklisted and that no one from my family could be seen by that office again. We've learned over the years how important dental care is. If you get preventive care early, you are less likely to have problems later on.

That is from Heather Getty in East Fairfield, VT.

Let me read a statement from Shawn Jones in Brattleboro, VT.

Last year, I had a toothache that was so painful, I had trouble eating and sleeping. My girlfriend is also covered by Medicaid so I called her dentist, but they wouldn't see me. So I called 12 more dentists in the area, but they all said the same thing: They weren't taking new Medicaid patients. A few said to call back in three months, which seems like a long time to live with a bad toothache. Finally, someone from Office of Vermont Health Access helped me get an emergency voucher to get my tooth pulled. I'm just grateful that my girlfriend had a car to get me there.

That is just a couple of the statements that came from Vermont, and in fact from all over the country. But let me read a statement from Dr. David Nash, who is the William R. Willard Professor of Dental Education, Professor of Pediatric Dentistry, College of Dentistry, University of Kentucky in Lexington. Dr. Nash writes:

Society has granted the profession of dentistry the exclusive right and privilege of caring for the oral health of the nation's children. Unfortunately, the dental delivery system in place today does not provide adequate access to care for our children. In many instances it is because few dentists will accept Medicaid payments. In other countries of the world, children's oral health is cared for by dental therapists, primarily in school-based programs. This results in an overwhelming majority of children being able to receive care. Dental therapists as utilized internationally do not create a two-tiered system of care. They have extensive training in caring for children, significantly more than the typical graduate of our nation's dental schools. International research supports the high quality of care dental therapists provide. The time has arrived for the United States to develop a new workforce model to care for our children's oral health.

What Dr. Nash is talking about is another issue we will be discussing tomorrow in the hearing; that is, it is clear from international studies and, in fact, from some States in the United States that there are well-trained people who can take care of certain types of dental problems who are not dentists. I think that is an area we need to explore—how can we expand the dental profession to include people who do not graduate dental school but who have the qualifications to take care of a variety of dental problems?

Let me read another story that comes from Vermont regarding what happens if you don't have dental care. It is from Kiah Morris from Bennington, VT.

When I was pregnant, I had a tooth infection that had gotten into my lymph nodes and I needed a root canal, but adult Medicaid has a $495 cap, which wasn't enough. Dental care shouldn't be a luxury.

What she is saying is that in Vermont and in many other States where you do have Medicaid helping out for dental care for low-income people, there is often a cap, and that cap is much too low to provide the services many folks need.

So the bottom line is that we have a crisis in terms of access to dental care in this country. We lag behind many other countries around the world in that regard. We have many people who have no dental insurance at all. Some who do have dental insurance, such as my family, have very limited coverage—I think it is about $1,000 a year. Meanwhile, the cost of dental care is sky-high, and we are also going to explore why that is so. I am not sure I understand or many people understand why dental care is as expensive as it is. What I do know is that there is a city in northern Mexico whose function in life is to provide dental care for Americans who go down below the border because they can't afford dental care in this country.

There is a serious problem. People don't have dental insurance. Low-income people don't have access to dental care. We have many dentists out there who are not accepting Medicaid patients or, if they are accepting Medicaid patients, they are accepting very few of them.

The population of our dentists in general is getting older, and we are losing more of them to retirement than we are seeing graduates of dental school. Even the dentists who are graduating are often not migrating to the areas where we need them the most. Many dentists are involved in making our teeth white and shiny and our smiles very beautiful, but meanwhile in those communities there are people who are seeing the teeth in their mouth rot away, there are kids who have dental problems, and they are not getting the treatment they need.

I hope that tomorrow at the hearing we are going to bring forth some great panelists. We will be talking about the issue. I intend, as soon as we can, to introduce comprehensive legislation to make sure every person in this country has access to affordable and decent-quality dental care.

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

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

The assistant bill clerk proceeded to call the roll.

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

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

Mr. SANDERS. Mr. President, we are debating the Transportation bill, so let me say a few words about transportation.

I think everybody in this country—or at least anybody who gets into an automobile and drives around—understands that we have a major infrastructural crisis in this country and that it is becoming more dire each passing year.

The American Society of Civil Engineers has reported that we should be investing $2.2 trillion over the next 5 years simply to get our roads, bridges, transit, and aviation to a passable condition. This is more than eight times the annual rate of spending proposed in the bill under consideration.

The first point I think we should acknowledge is that the legislation before us, which I support and which is significantly a step forward, is a very modest proposal going nowhere near as far as we should be going.

Clearly, I see when I go home to Vermont, and I am sure you see when you go home to Pennsylvania, the very apparent infrastructural needs we as a nation face. In my State of Vermont, just under one-third of Vermont's bridges are structurally deficient or functionally obsolete. About one-third of Vermont's bridges are structurally deficient or functionally obsolete. Thirty-six percent of our Federal aid roads are in need of major repairs. In fact, a recent national report ranked Vermont's rural roads as the worst in the Nation, and that was before the very terrible storm we experienced, Tropical Storm Irene, which caused hundreds of millions of additional dollars of damage to our roads.

I think the point here is not a complicated point. I was a mayor for 8 years, and I had to deal with the roads and the water system in the city of Burlington, and I think I speak for every mayor in the world when I tell you that infrastructure does not get better all by itself. I think we can all agree that if you do nothing, if you do not invest in repairs, it is just not going to get better. In fact, it will get worse.

It is really dumb that we as a nation end up spending a lot more money than we should in repairing our roads and bridges and water systems because we don't adequately fund maintenance. If you keep up good repair, it will end up costing you less money. If you ignore them and they deteriorate and you need to massively rebuild them, it ends up being a much more expensive proposition.

So as a nation what we should be doing is properly maintaining our infrastructure, investing a certain sum every single year. And I should tell you that compared to the rest of the world, we do not do a particularly good job of that. Right now, the United States invests just 2.4 percent of our GDP on infrastructure. Europe invests twice that amount, and China invests almost four times our rate. Roughly 9 percent of their GDP goes to infrastructure. So in terms of our own needs, we are falling behind. Internationally, other countries are doing a lot better than we are.

Equally important is that we are in the midst of the worst economic downturn since the Great Depression. If you look at those people who have given up looking for work, those people who are working part time or want to work full time, real unemployment in this country is not just the official 8.2 percent, it is closer to 15 percent. And what economists tell us is that if we are serious about creating jobs, investing in infrastructure is probably the best way to do that. It is the easiest way to create meaningful, decent-paying jobs. For every $1 billion of Federal funds spent, we can create or maintain nearly 35,000 jobs. Given the economic crisis we face, that is exactly what we should be doing.

In addition to preserving more than 1.8 million jobs, the legislation we are dealing with today, which is being presented by Senators BOXER and INHOFE, will create up to 1 million new jobs by expanding the TIFIA Program—a measure championed by Chairperson BOXER. This is an extremely important issue. It is important for our productivity because when you have a crumbling infrastructure, productivity suffers. It is important in terms of international competition. It is important in terms of job creation. It is important in order to provide a basic need for millions of Americans.

People do not want to drive on roads which are falling apart, that have huge potholes. People want to make sure when they go over a bridge, that bridge will not collapse. People want to make sure we have a strong rail system, not a rail system which, in fact, is far behind those of Europe, Japan, and China.

This bill, while modest in terms of our needs, is a step forward. It is a bipartisan bill. I hope we can get to it and pass it as quickly as possible because the infrastructure needs of this country are great, and they must be addressed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Colorado.

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

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

MORNING BUSINESS

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

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

SENATE YOUTH PROGRAM

Mr. REID. Mr. President, I rise today to honor the achievements of the U.S. Senate Youth Program, USSYP, an organization that has molded some of our Nation's brightest students to become the next generation of public servants.

This year marks 50 years of a commitment to educate and nurture talented young leaders interested in serving their communities. The USSYP hails from a strong family that valued bipartisanship and democratic lawmaking. William Randolph Hearst's sons, George R. Hearst and Randolph A. Hearst, envisioned this program and brought it to life with the collaboration of then-Senators Tom Kuchel, R–CA, Mike Mansfield, D–MT, Everett Dirksen, R–Ill., and Hubert Humphrey, D–MN.

The USSYP was created by S. Res. 324 in 1962 ''to increase young Americans' understanding of the interrelationships of the three branches of government, the caliber and responsibilities of federally elected and appointed officials, and the vital importance of democratic decision making not only for America but for people around the world.''

I would also like to commend the State departments of education across the country that select the outstanding students each year and the Department of Defense, which provides competitively selected military officers from every service branch to serve as guides and mentors to the students during the program. The Hearst Foundations have continued to administer and fund the program since inception, including college scholarships for each student given with the encouragement

to continue their studies in history and government.

This year, 104 impressive student delegates were selected because of their outstanding leadership abilities and volunteer work by the chief educational officer from each State to travel to Washington and serve as young ''senators'' from their respective States for 1 week. They will keep a busy schedule attending meetings and briefings with Senators and congressional staff, the President, a Justice of the Supreme Court, leaders of Cabinet agencies, an ambassador to the United States, and top members of the national media.

The USSYP has a proud roster of more than 5,000 alumni of the program who continue to use the skills they learned from their experience as delegates and many of whom have become public servants.

I am proud to serve as an honorary cochair of the program, and I send my best wishes to each of the students selected to represent their States during Washington Week. I especially send my sincere congratulations to the two Nevada delegates, Daniel Waqar of Las Vegas and Benjamin Link of Eureka.

ADDITIONAL STATEMENTS

REMEMBERING JUDGE ROGER J. MINER

● Mrs. GILLIBRAND. Mr. President, today I wish to honor a truly brilliant and dedicated jurist who served New York and the Nation as a public servant his entire life. On Saturday, February 18, 2012, I was heartbroken to learn that my mentor and friend, Judge Roger J. Miner, a U.S. Court of Appeals judge for the Second Circuit, passed away of natural causes in his home in Hudson, NY.

I was extremely fortunate to have had the privilege to work with Judge Miner as a law clerk, when he served in the Northern District of New York. I cherished his confidence and support in all my endeavors and I feel blessed to have been able to call him a personal friend and mentor. He not only taught me clear legal analysis, but also inspired me with his integrity, fairness, and great love of public service. I will always remember his generosity, kindness and great intellect that taught me so much.

Born in Hudson, Judge Miner received his bachelor's degree from State University of New York at Albany and his law degree from New York Law School with honors in 1956, where he served as managing editor of the Law Review.

Judge Miner was admitted to practice in New York and in the U.S. Court of Military Appeals in 1956. Serving on active military duty from 1956 to 1959, Judge Miner was awarded the Commendation Ribbon with Medal Pendant for his work on the revision of the Manual for Courts-Martial. He was admitted to the Bar of the Republic of Korea in 1958. Judge Miner later was honorably discharged in October 1964 with the rank of captain in the Judge Advocate General's Corps, in the U.S. Army Reserve.

Judge Miner wrote Ohio State Law Journal Volume 67 in 2006 where he describes his defense of a person he believes to be the last civilian tried by court martial. The trial was conducted in Korea in 1958 during Judge Miner's service as an officer in the Judge Advocate General's Corps of the U.S. Army. Although a challenge to the jurisdiction of the court martial was rejected and the civilian defendant's conviction was set aside for another reason at trial—the Supreme Court ultimately decided that courts-martial have no jurisdiction over civilians. This development also led to the passage of the Military Extraterritorial Jurisdiction Act to allow for prosecution in U.S. District Courts of civilians employed by or accompanying the Armed Forces overseas.

After leaving active duty, he returned to Hudson, NY, to practice law with his father, and served as the city's corporation counsel from 1961 to 1964.

Judge Miner served as an assistant district attorney of Columbia County, and soon after became district attorney of Columbia County until 1975. The following year, he was elected as justice of the New York State Supreme Court, Third Judicial District, where he served for five years.

Judge Miner was nominated in 1981 by President Ronald Reagan to the U.S. District Court for the Northern District of New York. In 1985, President Reagan promoted Judge Miner to the U.S. Court of Appeals for the Second Circuit, where he served for nearly three decades.

Judge Miner was one of three finalists considered to fill a seat on the U.S. Supreme Court in the late 1980s, but ultimately was not nominated because he openly supported a woman's right to choose. As his wife Jacqueline has recalled she urged him to lie and say he was opposed to choice. He said, ''My reputation is too big a price to pay for a seat on the U.S. Supreme Court.'' This is an example of one of the many courageous choices he made throughout his life, where he put his integrity and what was right ahead of personal ambition or political expediency.

Judge Miner was an adjunct professor for his alma mater, New York Law School, and for Albany Law School. He also served as a member of the board of trustees of the Practicing Law Institute. He held honorary degrees from New York Law School, Albany Law School, and Syracuse University.

Judge Miner is survived by his wonderful wife of 36 years Jacqueline, four sons, Larry, Ronald, Ralph, and Mark; his brother Lance, six grandchildren, a nephew and a niece, and his extended family. My thoughts and prayers are with his family.

Mr. President, I ask all members of this esteemed body to join me as we honor the life and legacy of Judge Roger J. Miner. Our country has lost a great leader, and a fine jurist who will be deeply missed in New York and across the Nation.●

RECOGNIZING ARKANSAS CHILDREN'S HOSPITAL CENTENNIAL

● Mr. PRYOR. Mr. President, it is my distinct honor and privilege to recognize the work of Arkansas Children's Hospital, ACH, on the occasion of its centennial celebration. Founded in 1912, ACH has been at the forefront of pediatric medicine in Arkansas and across the Nation for the last century. Friends and supporters of ACH will gather on March 5, 2012, to celebrate 100 years of ACH history and care to the children of Arkansas, and I join with them in congratulating Arkansas Children's Hospital on its 100th birthday.

Designed originally to serve as an orphanage for the underprivileged children in Arkansas, the Arkansas Children's Home Society was established on March 2, 1912, with a mission to provide and care for the neediest children in Arkansas. Dr. Orlando P. Christian became the first superintendent of the society and soon laid out a vision to build a children's hospital. Kicking off a fundraising campaign for the new hospital in 1919, Dr. Christian stirred attendees with a moving speech and concluded by asking, ''The question is no longer what shall we do, but how and when shall we begin our task?''

It took only 7 years for this goal to become a reality when the hospital opened on March 9, 1926, with only two beds but a fully equipped operating room. In the years following, Arkansas Children's Home and Hospital, as it was then known, would face various challenges and triumphs as it continued to add new facilities and services in support of its mission. When Dr. Christian retired in 1933, Mrs. Ruth Olive Beall became the new superintendent. Her 27-year tenure brought the facility through the difficulties of the Great Depression and World War II and saw the institution formally become Arkansas Children's Hospital.

The Burn Center opened in 1953 and continues to be the only center of its kind in the State, treating over 2,000 adults and children every year. The Heart Center at ACH is one of the premier centers in the country. In 2011, doctors at the Heart Center performed an astonishing total of 31 heart transplants, bringing new life and hope to dozens of children and families. In an effort to expand medical care across the State, ACH added a helicopter to its transport services in 1985. Now, more than 1,200 children each year are brought safely to ACH through the Angel One transport helicopters. This addition had a significant impact on the State's infant mortality rate and continues to provide children across the State expanded access to the excellent medical care at Arkansas Children's Hospital. As they like to say,

''Arkansas Children's Hospital and Angel One are dedicated to providing Care, Love and Hope . . . at 180 miles per hour.''

With each passing year, ACH continues to reinvent itself and add vital services necessary for the care of its patients. This summer, the new South Wing will give ACH its largest expansion to date, with a brandnew ER, NICU, Cardiovascular Intensive Care Unit, and multiple new clinic spaces. This wing will bring ACH to a total of 370 patient rooms. For a facility that started with only two beds, Dr. Christian would be proud of the century of progress made at Arkansas Children's Hospital.

Mr. President, when the original orphanage was established in 1912, it had a simple mission: to provide and care for the neediest children in Arkansas. A century later, Arkansas Children's Hospital continues to hold fast to that mission and provide world-class care to every child, without regard to the family's ability to pay. I am proud of the work ACH and its staff does for the children in Arkansas and across our Nation. My State is truly blessed to have such great care, and I am excited to see the ways this institution will continue to expand in the years to come. I ask my colleagues to join me today in congratulating Arkansas Children's Hospital on 100 years of service in Arkansas and in wishing ACH another 100 years of success.●

PRESIDENTIAL POLICY DIRECTIVE ESTABLISHING PROCEDURES TO IMPLEMENT SECTION 1022 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012—PM 42

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 to the Committee on Armed Services:

To the Congress of the United States:

Attached is the text of a Presidential Policy Directive establishing procedures to implement section 1022 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81) (the ''Act''), which I hereby submit to the Congress, as required under section 1022(c)(1) of the Act. The Directive also includes a written certification that it is in the national security interests of the United States to waive the requirements of section 1022(a)(1) of the Act with respect to certain categories of individuals, which I hereby submit to the Congress in accordance with section 1022(a)(4) of the Act.

BARACK OBAMA.

THE WHITE HOUSE, *February 28, 2012*.

MESSAGE FROM THE HOUSE

At 11:09 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 347) to correct and simplify the drafting of section 1752 (relating to restricted buildings or grounds) of title 18, United States Code.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 1173. An act to repeal the CLASS program.

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–5083. A communication from the Manager of the BioPreferred Program, Office of Procurement and Property Management, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Redesignation of the BioPreferred Program'' (RIN0503–AA41) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5084. A communication from the Secretary of the Commission, Division of Enforcement, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Business Conduct Standards for Swap Dealers and Major Swap Participants With Counterparties'' (RIN3038–AC25) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5085. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pyroxasulfone; Pesticide Tolerances'' (FRL No. 9334–2) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5086. A communication from the Assistant Secretary, Bureau of Political-Military Affairs, Department of State, transmitting, pursuant to law, an addendum to a certification, transmittal number: DDTC 12–018, of the proposed sale or export of defense articles and/or defense services to a Middle East country regarding any possible affects such a sale might have relating to Israel's Qualitative Military Edge over military threats to Israel; to the Committee on Armed Services.

EC–5087. A communication from the Assistant Secretary of Defense (Homeland Defense and Americas' Security Affairs), transmitting, pursuant to law, a report entitled ''Mitigation of Power Outage Risks for Department of Defense Facilities and Activities''; to the Committee on Armed Services.

EC–5088. A communication from the Secretary of the Army, transmitting, pursuant to law, a report entitled ''Army Fisher House Program Fiscal Year 2011 Annual Report to Congress''; to the Committee on Armed Services.

EC–5089. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a report relative to the modernization priority assessments provided by the Chiefs of the Reserve and National Guard components; to the Committee on Armed Services.

EC–5090. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General Richard P. Zahner, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–5091. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting the report of two (2) officers authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–5092. A communication from the Acting Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a report relative to a proposed change to the Fiscal Year 2010 National Guard and Reserve Equipment Appropriation (NGREA) procurement; to the Committee on Armed Services.

EC–5093. 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; Extension of the Department of Defense Mentor-Protege Pilot Program'' ((RIN0750–AH59) (DFARS Case 2012–D024)) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Armed Services.

EC–5094. 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; Extension of the Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans'' ((RIN0750–AH60) (DFARS Case 2012–D026)) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Armed Services.

EC–5095. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM 100 Cask System, Revision 8'' (RIN3150–AJ05) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5096. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Thermal Overload Protection for Electric Motors on Motor Operated Valves'' (Regulatory Guide 1.106, Revision 2) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5097. A communication from the Chief of the Listing Branch, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Endangered Status and Designations of Critical Habitat for Spikedace and Loach Minnow'' (RIN1018–AX17) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Environment and Public Works.

EC–5098. A communication from the Chief of the Listing Branch, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Rayed Bean and Snuffbox Mussels Throughout Their Ranges'' (RIN1018–AV96) received during adjournment

of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Environment and Public Works.

EC–5099. A communication from the Chief of the Listing Branch, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Reissuance of Interim Special Rule for the Polar Bear'' (RIN1018–AY34) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Environment and Public Works.

EC–5100. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Marine Mammals; Subsistence Taking of Northern Fur Seals; Harvest Estimates'' (RIN0648–BB09) received in the Office of the President of the Senate on February 17, 2012; to the Committee on Environment and Public Works.

EC–5101. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the construction of navigation improvements for the Sabine-Neches Waterway (SNWW) channel in Southeast Texas and Southwest Louisiana; to the Committee on Environment and Public Works.

EC–5102. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Arkansas; Regional Haze State Implementation Plan; Interstate Transport State Implementation Plan to Address Pollution Affecting Visibility and Regional Haze'' (FRL No. 9637–4) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5103. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of Air Quality Implementation Plans; California; San Joaquin Valley; Attainment Plan for 1997 8-hour Ozone Standards'' (FRL No. 9624–5) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5104. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of Air Quality Implementation Plans; California; South Coast; Attainment Plan for 1997 8-hour Ozone Standards'' (FRL No. 9624–6) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5105. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, and Virginia; Determinations of Attainment of the 1997 8-Hour Ozone National Ambient Air Quality Standard for the Washington, DC–MD–VA 8-Hour Ozone Moderate Nonattainment Area'' (FRL No. 9634–6) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5106. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Transportation Conformity Rule: MOVES Regional Grace Period Extension'' (FRL No. 9636–5) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5107. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Idaho: Final Approval of State Underground Storage Tank Program'' (FRL No. 9640–1) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5108. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Tennessee: Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule Revision'' (FRL No. 9635–6) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5109. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Nevada, Nevada Division of Environmental Protection'' (FRL No. 9635–7) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5110. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Antelope Valley Air Quality Management District and San Joaquin Valley Unified Air Pollution Control District'' (FRL No. 9634–3) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5111. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Tennessee: Prevention of Significant Deterioration; Greenhouse Gases-Automatic Rescission Provisions'' (FRL No. 9636–8) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5112. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Missouri'' (FRL No. 9634–8) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5113. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Marine Sanitation Devices (MSDs): Regulation to Establish a No Discharge Zone (NDZ) for California State Marine Waters'' (FRL No. 9633–9) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5114. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; New York; Motor Vehicle Enhanced Inspection and Maintenance Program'' (FRL No. 9635–4) received during adjournment of the Senate in the Office of the President of the Senate on February 23, 2012; to the Committee on Environment and Public Works.

EC–5115. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Hawaii State Implementation Plan'' (FRL No. 9634–1) received during adjournment of the Senate in the Office of the President of the Senate on February 21 , 2012; to the Committee on Environment and Public Works.

EC–5116. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Designation of Hazardous Substances; Designation, Reportable Quantities, and Notification'' (FRL No . 9635–9) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Environment and Public Works.

EC–5117. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to Federal Implementation Plans To Reduce Interstate Transport of Fine Particulate Matter and Ozone'' (FRL No. 9631–8) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Environment and Public Works.

EC–5118. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone: Part II'' (FRL No. 9632–8) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Environment and Public Works.

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 Mrs. MURRAY (for herself and Ms. MIKULSKI):

S. 2135. A bill to amend the Child Care and Development Block Grant Act of 1990 to authorize a national toll-free hotline and website, to develop and disseminate child care consumer education information for parents and to help parents access child care in their community, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU (for herself and Ms. SNOWE):

S. 2136. A bill to increase the maximum amount of leverage permitted under title III of the Small Business Investment Act of 1958, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mrs. BOXER:

S. 2137. A bill to prohibit the issuance of a waiver for commissioning or enlistment in

the Armed Forces for any individual convicted of a felony sexual offense; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 381. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate; considered and agreed to.

ADDITIONAL COSPONSORS

S. 20

At the request of Mr. HATCH, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 20, a bill to protect American job creation by striking the job-killing Federal employer mandate.

S. 25

At the request of Mrs. SHAHEEN, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 25, a bill to phase out the Federal sugar program, and for other purposes.

S. 91

At the request of Mr. WICKER, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 91, a bill to implement equal protection under the 14th article of amendment to the Constitution for the right to life of each born and unborn human person.

S. 277

At the request of Mr. BURR, the name of the Senator from Massachusetts (Mr. BROWN) 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. 414

At the request of Mr. DURBIN, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 414, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 418

At the request of Mr. HARKIN, the names of the Senator from Wyoming (Mr. BARRASSO) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 418, a bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol.

S. 1002

At the request of Mr. SCHUMER, the names of the Senator from Utah (Mr. LEE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1002, a bill to prohibit theft of medical products, and for other purposes.

S. 1214

At the request of Mrs. GILLIBRAND, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1214, a bill to amend title 10, United States Code, regarding restrictions on the use of Department of Defense funds and facilities for abortions.

S. 1251

At the request of Mr. CARPER, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1251, a bill to amend title XVIII and XIX of the Social Security Act to curb waste, fraud, and abuse in the Medicare and Medicaid programs.

S. 1297

At the request of Mr. BURR, the name of the Senator from Pennsylvania (Mr. TOOMEY) was added as a cosponsor of S. 1297, a bill to preserve State and institutional authority relating to State authorization and the definition of credit hour.

S. 1460

At the request of Mr. BAUCUS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1460, a bill to grant the congressional gold medal, collectively, to the First Special Service Force, in recognition of its superior service during World War II.

S. 1512

At the request of Mr. CARDIN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1512, a bill to amend the Internal Revenue Code of 1986 and the Small Business Act to expand the availability of employee stock ownership plans in S corporations, and for other purposes.

S. 1755

At the request of Mr. TESTER, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1755, a bill to amend title 38, United States Code, to provide for coverage under the beneficiary travel program of the Department of Veterans Affairs of certain disabled veterans for travel for certain special disabilities rehabilitation, and for other purposes.

S. 1843

At the request of Mr. ISAKSON, the name of the Senator from Pennsylvania (Mr. TOOMEY) was added as a cosponsor of S. 1843, a bill to amend the National Labor Relations Act to provide for appropriate designation of collective bargaining units.

S. 1925

At the request of Mr. LEAHY, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 1925, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1935

At the request of Mrs. HAGAN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1935, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the 75th anniversary of the establishment of the March of Dimes Foundation.

S. 1990

At the request of Mr. COBURN, his name was added as a cosponsor of S. 1990, a bill to require the Transportation Security Administration to comply with the Uniformed Services Employment and Reemployment Rights Act.

S. 2065

At the request of Mr. KYL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 2065, a bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to modify the discretionary spending limits to take into account savings resulting from the reduction in the number of Federal employees and extending the pay freeze for Federal employees.

S. 2099

At the request of Mr. JOHNSON of South Dakota, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 2099, a bill to amend the Federal Deposit Insurance Act with respect to information provided to the Bureau of Consumer Financial Protection.

S.J. RES. 19

At the request of Mr. HATCH, the name of the Senator from Kansas (Mr. MORAN) was added as a cosponsor of S.J. Res. 19, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S. RES. 310

At the request of Ms. MIKULSKI, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. Res. 310, a resolution designating 2012 as the ''Year of the Girl'' and Congratulating Girl Scouts of the USA on its 100th anniversary.

S. RES. 380

At the request of Mr. GRAHAM, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. Res. 380, a resolution to express the sense of the Senate regarding the importance of preventing the Government of Iran from acquiring nuclear weapons capability.

AMENDMENT NO. 1549

At the request of Mr. CARDIN, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of amendment No. 1549 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1613

At the request of Mr. BEGICH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 1613 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1666

At the request of Mr. CARPER, the name of the Senator from Oregon (Mr.

MERKLEY) was added as a cosponsor of amendment No. 1666 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1736

At the request of Mr. PORTMAN, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Indiana (Mr. COATS) were added as cosponsors of amendment No. 1736 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 381—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. REID of Nevada (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 381

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol and Senate Office Buildings (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting the Senate Photographic Studio to photograph the United States Senate in actual session on Tuesday, March 20, 2012, at the hour of 2:15 p.m.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefore, which arrangements shall provide for a minimum of disruption to Senate proceedings.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1742. Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1743. Mr. BLUNT submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1744. Mr. KOHL (for himself, Mr. LEAHY, Mr. GRASSLEY, Mr. SCHUMER, Mr. BLUMENTHAL, Mr. BROWN of Ohio, Mr. FRANKEN, and Mr. MANCHIN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1745. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1746. Mr. LEVIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1747. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1748. Mr. HOEVEN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1749. Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1750. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1742. Mr. PORTMAN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, add the following:

SEC. 15____. NONHIGHWAY USES IN REST AREAS.

(a) IN GENERAL.—A State may permit any nonhighway use in any rest area along any highway (as defined in section 101 of title 23, United States Code), including any commercial activity that does not impair the highway or interfere with the full use and safety of the highway.

(b) PRIVATE PARTIES.—A State may permit any private party to carry out a nonhighway use described in subsection (a).

(c) REVENUES GENERATED BY NONHIGHWAY USES.—A State may use any revenues generated by a nonhighway use described in subsection (a) to carry out any project (as defined in section 101 of title 23, United States Code).

SA 1743. Mr. BLUNT submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 813, strike line 1 and all that follows through page 816, line 23.

SA 1744. Mr. KOHL (for himself, Mr. LEAHY, Mr. GRASSLEY, Mr. SCHUMER, Mr. BLUMENTHAL, Mr. BROWN of Ohio, Mr. FRANKEN, and Mr. MANCHIN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NO OIL PRODUCING AND EXPORTING CARTELS ACT OF 2012.

(a) SHORT TITLE.—This section may be cited as the ''No Oil Producing and Exporting Cartels Act of 2012'' or ''NOPEC''.

(b) SHERMAN ACT.—The Sherman Act (15 U.S.C. 1 et seq.) is amended by adding after section 7 the following:

''SEC. 7A. OIL PRODUCING CARTELS.

''(a) IN GENERAL.—It shall be illegal and a violation of this Act for any foreign state, or any instrumentality or agent of any foreign state, to act collectively or in combination with any other foreign state, any instrumentality or agent of any other foreign state, or any other person, whether by cartel or any other association or form of cooperation or joint action—

''(1) to limit the production or distribution of oil, natural gas, or any other petroleum product;

''(2) to set or maintain the price of oil, natural gas, or any petroleum product; or

''(3) to otherwise take any action in restraint of trade for oil, natural gas, or any petroleum product;

when such action, combination, or collective action has a direct, substantial, and reasonably foreseeable effect on the market, supply, price, or distribution of oil, natural gas, or other petroleum product in the United States.

''(b) SOVEREIGN IMMUNITY.—A foreign state engaged in conduct in violation of subsection (a) shall not be immune under the doctrine of sovereign immunity from the jurisdiction or judgments of the courts of the United States in any action brought to enforce this section.

''(c) INAPPLICABILITY OF ACT OF STATE DOCTRINE.—No court of the United States shall decline, based on the act of state doctrine, to make a determination on the merits in an action brought under this section.

''(d) ENFORCEMENT.—

''(1) IN GENERAL.—The Attorney General of the United States may bring an action to enforce this section in any district court of the United States as provided under the antitrust laws.

''(2) NO PRIVATE RIGHT OF ACTION.—No private right of action is authorized under this section.''.

(c) SOVEREIGN IMMUNITY.—Section 1605(a) of title 28, United States Code, is amended—

(1) in paragraph (6), by striking ''or'' after the semicolon;

(2) in paragraph (7), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(8) in which the action is brought under section 7A of the Sherman Act.''.

SA 1745. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Strike titles II and III of division D and insert the following:

TITLE II—REVENUE PROVISIONS

SEC. 40201. TRANSFER FROM LEAKING UNDERGROUND STORAGE TANK TRUST FUND TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (c) of section 9508 of the Internal Revenue Code of 1986 is amended—

(1) by striking ''Amounts'' and inserting:

''(1) IN GENERAL.—Except as provided in paragraph (2), amounts'', and

(2) by adding at the end the following new paragraph:

''(2) TRANSFER TO HIGHWAY TRUST FUND.—Out of amounts in the Leaking Underground Storage Tank Trust Fund there is hereby appropriated $3,000,000,000 to be transferred under section 9503(f)(3) to the Highway Trust Fund.''.

(b) TRANSFER TO HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Subsection (f) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

''(3) INCREASE IN FUND BALANCE.—There is hereby transferred to the Highway Trust Fund amounts appropriated from the Leaking Underground Storage Tank Trust Fund under section 9508(c)(2).''.

(2) CONFORMING AMENDMENTS.—Paragraph (4) of section 9503(f) of such Code is amended—

(A) by inserting ''or transferred'' after ''appropriated'', and

(B) by striking ''APPROPRIATED'' in the heading thereof.

SEC. 40202. PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE TRANSFERRED TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Subsection (b) of section 9503 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (2) the following new paragraph:

''(3) PORTION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to one-third of the taxes received in the Treasury under—

''(A) section 4041(d) (relating to additional taxes on motor fuels),

''(B) section 4081 (relating to tax on gasoline, diesel fuel, and kerosene) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section, and

''(C) section 4042 (relating to tax on fuel used in commercial transportation on inland waterways) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rate under such section.

For purposes of this paragraph, there shall not be taken into account the taxes imposed by sections 4041 and 4081 on diesel fuel sold for use or used as fuel in a diesel-powered boat.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraphs (1), (2), and (3) of section 9508(b) of the Internal Revenue Code of 1986 are each amended by inserting ''two-thirds of the'' before ''taxes''.

(2) Paragraph (4) of section 9503(b) of such Code is amended by striking subparagraphs (A) and (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes received after the date of the enactment of this Act.

SEC. 40203. INTERNAL REVENUE SERVICE LEVIES AND THRIFT SAVINGS PLAN ACCOUNTS.

Section 8437(e)(3) of title 5, United States Code, is amended by inserting '', the enforcement of a Federal tax levy as provided in section 6331 of the Internal Revenue Code of 1986,'' after ''(42 U.S.C. 659)''.

SEC. 40204. RESCISSION OF FUNDS FOR THE ADVANCED TECHNOLOGY VEHICLES MANUFACTURING INCENTIVE PROGRAM.

Effective on the date of enactment of this Act, there are rescinded all unobligated balances of the amounts made available for the advanced technology vehicles manufacturing incentive program established under section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013).

SEC. 40205. RESCISSION OF UNSPENT FEDERAL FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated funds on the date of enactment of this Act, there are rescinded such amounts as are equal to the difference between—

(1) the amounts necessary to carry out this Act; and

(2) the total amount of offsets provided by this title (other than this section) and division E.

(b) IMPLEMENTATION.—

(1) IN GENERAL.—The Director of the Office of Management and Budget shall determine and identify—

(A) from which appropriation accounts the rescission under subsection (a) shall be made; and

(B) the amount of such rescission that shall be made to each account identified under subparagraph (A).

(2) REPORT.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit a report to the Secretary of the Treasury and Congress of the accounts and amounts determined and identified for rescission under paragraph (1).

(c) EXCEPTION.—This section shall not apply to the unobligated funds of the Department of Defense, the Department of Homeland Security, or the Department of Veterans Affairs.

SEC. 40206. DEPOSIT IN HIGHWAY TRUST FUND.

There shall be deposited in the Highway Trust Fund–

(1) any amounts rescinded under this title; and

(2) any amounts collected by the United States under this title or division E (including an amendment made by this title or division E).

DIVISION E—ENERGY DEVELOPMENT

TITLE I—EXPANDING OFFSHORE ENERGY DEVELOPMENT

SEC. 51001. OUTER CONTINENTAL SHELF LEASING PROGRAM.

Section 18(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(a)) is amended by adding at the end the following:

''(5)(A) In each oil and gas leasing program under this section, the Secretary shall make available for leasing and conduct lease sales including—

''(i) at least 50 percent of the available unleased acreage within each outer Continental Shelf planning area considered to have the largest undiscovered, technically recoverable oil and gas resources (on a total btu basis) based upon the most recent national geologic assessment of the outer Continental Shelf, with an emphasis on offering the most geologically prospective parts of the planning area; and

''(ii) any State subdivision of an outer Continental Shelf planning area that the Governor of the State that represents that subdivision requests be made available for leasing.

''(B) In this paragraph the term 'available unleased acreage' means that portion of the outer Continental Shelf that is not under lease at the time of a proposed lease sale, and that has not otherwise been made unavailable for leasing by law.

''(6)(A) In the 2012–2017 5-year oil and gas leasing program, the Secretary shall make available for leasing any outer Continental Shelf planning areas that—

''(i) are estimated to contain more than 2,500,000,000 barrels of oil; or

''(ii) are estimated to contain more than 7,500,000,000,000 cubic feet of natural gas.

''(B) To determine the planning areas described in subparagraph (A), the Secretary shall use the document entitled 'Minerals Management Service Assessment of Undiscovered Technically Recoverable Oil and Gas Resources of the Nation's Outer Continental Shelf, 2006'.''.

SEC. 51002. DOMESTIC OIL AND NATURAL GAS PRODUCTION GOAL.

Section 18(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1344(b)) is amended to read as follows:

''(b) DOMESTIC OIL AND NATURAL GAS PRODUCTION GOAL.—

''(1) IN GENERAL.—In developing a 5-year oil and gas leasing program, and subject to paragraph (2), the Secretary shall determine a domestic strategic production goal for the development of oil and natural gas as a result of that program. Such goal shall be—

''(A) the best estimate of the possible increase in domestic production of oil and natural gas from the outer Continental Shelf;

''(B) focused on meeting domestic demand for oil and natural gas and reducing the dependence of the United States on foreign energy; and

''(C) focused on the production increases achieved by the leasing program at the end of the 15-year period beginning on the effective date of the program.

''(2) 2012–2017 PROGRAM GOAL.—For purposes of the 2012–2017 5-year oil and gas leasing program, the production goal referred to in paragraph (1) shall be an increase by 2027 of—

''(A) no less than 3,000,000 barrels in the amount of oil produced per day; and

''(B) no less than 10,000,000,000 cubic feet in the amount of natural gas produced per day.

''(3) REPORTING.—The Secretary shall report annually, beginning at the end of the 5-year period for which the program applies, to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the progress of the program in meeting the production goal. The Secretary shall identify in the report projections for production and any problems with leasing, permitting, or production that will prevent meeting the goal.''.

TITLE II—CONDUCTING PROMPT OFFSHORE LEASE SALES

SEC. 52001. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 216 IN THE CENTRAL GULF OF MEXICO.

(a) IN GENERAL.—The Secretary of the Interior shall conduct offshore oil and gas Lease Sale 216 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable, but not later than 4 months after the date of enactment of this Act.

(b) ENVIRONMENTAL REVIEW.—For the purposes of that lease sale, the Environmental Impact Statement for the 2007–2012 5 Year OUTER CONTINENTAL SHELF Plan and the Multi-Sale Environmental Impact Statement are deemed to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 52002. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 220 ON THE OUTER CONTINENTAL SHELF OFFSHORE VIRGINIA.

(a) IN GENERAL.—Notwithstanding the inclusion of Lease Sale 220 in the fiscal years 2012 through fiscal year 2017 5 Year Outer Continental Shelf Oil and Gas Leasing Program, the Secretary shall conduct offshore oil and gas Lease Sale 220 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable, but not later than one year after the date of enactment of this Act.

(b) PROHIBITION ON CONFLICTS WITH MILITARY OPERATIONS.—No person may engage in any exploration, development, or production of oil or natural gas off the coast of Virginia that would conflict with any military operation, as determined in accordance with the Memorandum of Agreement between the Department of Defense and the Department of the Interior on Mutual Concerns on the Outer Continental Shelf signed July 20, 1983, and any revision or replacement for that agreement that is agreed to by the Secretary of Defense and the Secretary of the Interior after that date but before the date of issuance of the lease under which such exploration, development, or production is conducted.

SEC. 52003. REQUIREMENT TO CONDUCT PROPOSED OIL AND GAS LEASE SALE 222 IN THE CENTRAL GULF OF MEXICO.

(a) IN GENERAL.—The Secretary shall conduct offshore oil and gas Lease Sale 222 under section 8 of the Outer Continental Shelf Lands Act (33 U.S.C. 1337) as soon as practicable, but not later than September 1, 2012.

(b) ENVIRONMENTAL REVIEW.—For the purposes of that lease sale, the Environmental Impact Statement for the 2007–2012 5 Year OUTER CONTINENTAL SHELF Plan and the Multi-Sale Environmental Impact Statement are deemed to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

SEC. 52004. ADDITIONAL LEASES.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended by adding at the end the following:

''(i) ADDITIONAL LEASE SALES.—In addition to lease sales in accordance with a leasing program in effect under this section, the Secretary may hold lease sales for areas identified by the Secretary to have the greatest potential for new oil and gas development as a result of local support, new seismic findings, or nomination by interested persons.''.

SEC. 52005. DEFINITIONS.

In this title:

(1) The term ''Environmental Impact Statement for the 2007–2012 5 Year OUTER CONTINENTAL SHELF Plan'' means the Final Environmental Impact Statement for Outer Continental Shelf Oil and Gas Leasing Program: 2007–2012 (April 2007) prepared by the Secretary.

(2) The term ''Multi-Sale Environmental Impact Statement'' means the Environmental Impact Statement for Proposed Western Gulf of Mexico OUTER CONTINENTAL SHELF Oil and Gas Lease Sales 204, 207, 210, 215, and 218, and Proposed Central Gulf of Mexico OUTER CONTINENTAL SHELF Oil and Gas Lease Sales 205, 206, 208, 213, 216, and 222 (September 2008) prepared by the Secretary.

(3) The term ''Secretary'' means the Secretary of the Interior.

TITLE III—LEASING IN NEW OFFSHORE AREAS

SEC. 53001. LEASING IN THE EASTERN GULF OF MEXICO.

Section 104 of division C of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 3003) is repealed.

SEC. 53002. LEASING OFFSHORE OF TERRITORIES OF THE UNITED STATES.

Section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended, by inserting after ''control'' the following: ''or lying within the United States' exclusive economic zone and the Continental Shelf adjacent to the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, or the other territories of the United States''.

TITLE IV—OUTER CONTINENTAL SHELF REVENUE SHARING

SEC. 54001. DISPOSITION OF OUTER CONTINENTAL SHELF REVENUES.

Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended—

(1) in the existing text—

(A) in the first sentence, by striking ''All rentals,'' and inserting the following:

''(c) DISPOSITION OF REVENUE UNDER OLD LEASES.—All rentals,''; and

(B) in subsection (c) (as designated by the amendment made by subparagraph (A) of this paragraph), by striking ''for the period from June 5, 1950, to date, and thereafter'' and inserting ''in the period beginning June 5, 1950, and ending on the date of enactment of the Moving Ahead for Progress in the 21st Century Act'';

(2) by adding after subsection (c) (as so designated) the following:

''(d) NEW LEASING REVENUES DEFINED.—In this section the term 'new leasing revenues' means amounts received by the United States as bonuses, rents, and royalties under leases for oil and gas, wind, tidal, or other energy exploration, development, and production that are awarded under this Act after the date of enactment of the Moving Ahead for Progress in the 21st Century Act.''; and

(3) by inserting before subsection (c) (as so designated) the following:

''(a) PAYMENT OF NEW LEASING REVENUES TO COASTAL STATES, GENERALLY.—

''(1) IN GENERAL.—Of the amount of new leasing revenues received by the United States each fiscal year that is described in paragraph (2), 37.5 percent shall be allocated and paid in accordance with subsection (b) to coastal States that are affected States with respect to the leases under which those revenues are received by the United States.

''(2) PHASE-IN.—The amount of new leasing revenues referred to in paragraph (1) is the sum determined by adding—

''(A) 35 percent of new leasing revenues received by the United States in the fiscal year under—

''(i) leases awarded under the first leasing program under section 18(a) that takes effect after the date of enactment of the Moving Ahead for Progress in the 21st Century Act; and

''(ii) other leases issued as a result of the enactment of that Act;

''(B) 70 percent of new leasing revenues received by the United States in the fiscal year under leases awarded under the second such leasing program; and

''(C) 100 percent of new leasing revenues received by the United States under leases awarded under the third such leasing program or any such leasing program taking effect thereafter.

''(b) ALLOCATION OF PAYMENTS TO COASTAL STATES.—

''(1) IN GENERAL.—The amount of new leasing revenues received by the United States with respect to a leased tract that are required to be paid to coastal States in accordance with this subsection each fiscal year shall be allocated among and paid to such States that are within 200 miles of the leased tract, in amounts that are inversely proportional to the respective distances between the point on the coastline of each such State that is closest to the geographic center of the lease tract, as determined by the Secretary.

''(2) MINIMUM AND MAXIMUM ALLOCATION.—The amount allocated to a coastal State under paragraph (1) each fiscal year with respect to a leased tract shall be—

''(A) in the case of a coastal State that is the nearest State to the geographic center of the leased tract, not less than 25 percent of the total amounts allocated with respect to the leased tract; and

''(B) in the case of any other coastal State, not less than 10 percent, and not more than 15 percent, of the total amounts allocated with respect to the leased tract.

''(3) ADMINISTRATION.—Amounts allocated to a coastal State under this subsection—

''(A) shall be available to the State without further appropriation;

''(B) shall remain available until expended; and

''(C) shall be in addition to any other amounts available to the State under this Act.

''(4) USE OF FUNDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a coastal State may use funds allocated and paid to it under this subsection for any purpose as determined by State law.

''(B) RESTRICTION ON USE FOR MATCHING.—Funds allocated and paid to a coastal State under this subsection may not be used as matching funds for any other Federal program.''.

TITLE V—COASTAL PLAIN

SEC. 55001. DEFINITIONS.

In this title:

(1) COASTAL PLAIN.—The term ''Coastal Plain'' means that area described in appendix I to part 37 of title 50, Code of Federal Regulations.

(2) PEER REVIEWED.—The term ''peer reviewed'' means reviewed—

(A) by individuals chosen by the National Academy of Sciences with no contractual relationship with or those who have an application for a grant or other funding pending with the Federal agency with leasing jurisdiction; or

(B) if individuals described in subparagraph (A) are not available, by the top individuals in the specified biological fields, as determined by the National Academy of Sciences.

(3) SECRETARY.—The term ''Secretary'', except as otherwise provided, means the Secretary of the Interior or the Secretary's designee.

SEC. 55002. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this title and acting through the Director of the Bureau of Land Management in consultation with the Director of the United States Fish and Wildlife Service, a competitive oil and gas leasing program that will result in the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer the provisions of this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment, including, in furtherance of this goal, by requiring the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this title in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL OF EXISTING RESTRICTION.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 1003.

(c) COMPLIANCE WITH REQUIREMENTS UNDER CERTAIN OTHER LAWS.—

(1) COMPATIBILITY.—For purposes of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the oil and gas leasing program and activities authorized by this section in the Coastal Plain are deemed to be compatible with the purposes for which the Arctic National Wildlife Refuge was established, and no further findings or decisions are required to implement this determination.

(2) ADEQUACY OF THE DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—The ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the requirements under the National Environmental Policy Act of 1969 that apply with respect to prelease activities under this title, including

actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this title before the conduct of the first lease sale.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—Before conducting the first lease sale under this title, the Secretary shall prepare an environmental impact statement under the National Environmental Policy Act of 1969 with respect to the actions authorized by this title that are not referred to in paragraph (2). Notwithstanding any other law, the Secretary is not required to identify nonleasing alternative courses of action or to analyze the environmental effects of such courses of action. The Secretary shall only identify a preferred action for such leasing and a single leasing alternative, and analyze the environmental effects and potential mitigation measures for those two alternatives. The identification of the preferred action and related analysis for the first lease sale under this title shall be completed within 18 months after the date of enactment of this Act. The Secretary shall only consider public comments that specifically address the Secretary's preferred action and that are filed within 20 days after publication of an environmental analysis. Notwithstanding any other law, compliance with this paragraph is deemed to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this title.

(d) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this title shall be considered to expand or limit State and local regulatory authority.

(e) SPECIAL AREAS.—

(1) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the city of Kaktovik, and the North Slope Borough, may designate up to a total of 45,000 acres of the Coastal Plain as a Special Area if the Secretary determines that the Special Area is of such unique character and interest so as to require special management and regulatory protection. The Secretary shall designate as such a Special Area the Sadlerochit Spring area, comprising approximately 4,000 acres.

(2) MANAGEMENT.—Each such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—The Secretary may exclude any Special Area from leasing. If the Secretary leases a Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(4) DIRECTIONAL DRILLING.—Notwithstanding the other provisions of this subsection, the Secretary may lease all or a portion of a Special Area under terms that permit the use of horizontal drilling technology from sites on leases tracts located outside the Special Area.

(f) LIMITATION ON CLOSED AREAS.—The Secretary's sole authority to close lands within the Coastal Plain to oil and gas leasing and to exploration, development, and production is that set forth in this title.

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary to carry out this title, including regulations relating to protection of the fish and wildlife, their habitat, subsistence resources, and environment of the Coastal Plain, by no later than 15 months after the date of enactment of this Act.

(2) REVISION OF REGULATIONS.—The Secretary shall, through a rule making conducted in accordance with section 553 of title 5, United States Code, periodically review and, if appropriate, revise the regulations issued under subsection (a) to reflect a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures.

SEC. 55003. LEASE SALES.

(a) IN GENERAL.—Lands may be leased under this title to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation and no later than 180 days after the date of enactment of this title, establish procedures for—

(1) receipt and consideration of sealed nominations for any area of the Coastal Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after such nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) LEASE SALE BIDS.—Lease sales under this title may be conducted through an Internet leasing program, if the Secretary determines that such a system will result in savings to the taxpayer, an increase in the number of bidders participating, and higher returns than oral bidding or a sealed bidding system.

(d) SALE ACREAGES AND SCHEDULE.—

(1) The Secretary shall offer for lease under this title those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1).

(2) The Secretary shall offer for lease under this title no less than 50,000 acres for lease within 22 months after the date of the enactment of this Act.

(3) The Secretary shall offer for lease under this title no less than an additional 50,000 acres at 6-, 12-, and 18-month intervals following offering under paragraph (2).

(4) The Secretary shall conduct four additional sales under the same terms and schedule no later than two years after the date of the last sale under paragraph (3), if sufficient interest in leasing exists to warrant, in the Secretary's judgment, the conduct of such sales.

(5) The Secretary shall evaluate the bids in each sale and issue leases resulting from such sales, within 90 days after the date of the completion of such sale.

SEC. 55004. GRANT OF LEASES BY THE SECRETARY.

(a) IN GENERAL.—The Secretary may grant to the highest responsible qualified bidder in a lease sale conducted under section 55003 any lands to be leased on the Coastal Plain upon payment by the such bidder of such bonus as may be accepted by the Secretary.

(b) SUBSEQUENT TRANSFERS.—No lease issued under this title may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary. Prior to any such approval the Secretary shall consult with, and give due consideration to the views of, the Attorney General.

SEC. 55005. LEASE TERMS AND CONDITIONS.

(a) IN GENERAL.—An oil or gas lease issued under this title shall—

(1) provide for the payment of a royalty of not less than 12½ percent in amount or value of the production removed or sold under the lease, as determined by the Secretary under the regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, portions of the Coastal Plain to exploratory drilling activities as necessary to protect caribou calving areas and other species of fish and wildlife based on a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures;

(3) require that the lessee of lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands that are adversely affected in connection with exploration, development, production, or transportation activities conducted under the lease and within the Coastal Plain by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, the reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for lands required to be reclaimed under this title shall be, as nearly as practicable, a condition capable of supporting the uses which the lands were capable of supporting prior to any exploration, development, or production activities, or upon application by the lessee, to a higher or better use as certified by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, their habitat, subsistence resources, and the environment as required pursuant to section 55002(a)(2);

(7) provide that the lessee, its agents, and its contractors use best efforts to provide a fair share, as determined by the level of obligation previously agreed to in the 1974 agreement implementing section 29 of the Federal Agreement and Grant of Right of Way for the Operation of the Trans-Alaska Pipeline, of employment and contracting for Alaska Natives and Alaska Native corporations from throughout the State;

(8) prohibit the export of oil produced under the lease; and

(9) contain such other provisions as the Secretary determines necessary to ensure compliance with this title and the regulations issued under this title.

SEC. 55006. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall, consistent with the requirements of section 55002, administer this title through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(1) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum amount of surface acreage covered by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 10,000 acres on the Coastal Plain for each 100,000 acres of area leased.

(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, subsistence resources, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the agency or agencies having jurisdiction over matters mitigated by the plan.

(c) REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.—Before implementing the leasing program authorized by this title, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken on the Coastal Plain under this title are conducted in a manner consistent with the purposes and environmental requirements of this title.

(d) COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this title shall require compliance with all applicable provisions of Federal and State environmental law, and shall also require the following:

(1) Standards at least as effective as the safety and environmental mitigation measures set forth in items 1 through 29 at pages 167 through 169 of the ''Final Legislative Environmental Impact Statement'' (April 1987) on the Coastal Plain.

(2) Seasonal limitations on exploration, development, and related activities, where necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration based on a preponderance of the best available scientific evidence that has been peer reviewed and obtained by following appropriate, documented scientific procedures, the results of which can be repeated using those same procedures.

(3) That exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 each year and that exploration activities shall be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods, except that such exploration activities may occur at other times if the Secretary finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain.

(4) Design safety and construction standards for all pipelines and any access and service roads, that—

(A) minimize, to the maximum extent possible, adverse effects upon the passage of migratory species such as caribou; and

(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges, and other structural devices.

(5) Prohibitions on general public access and use on all pipeline access and service roads.

(6) Stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this title, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment upon completion of oil and gas production operations, except that the Secretary may exempt from the requirements of this paragraph those facilities, structures, or equipment that the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and that are donated to the United States for that purpose.

(7) Appropriate prohibitions or restrictions on access by all modes of transportation.

(8) Appropriate prohibitions or restrictions on sand and gravel extraction.

(9) Consolidation of facility siting.

(10) Appropriate prohibitions or restrictions on use of explosives.

(11) Avoidance, to the extent practicable, of springs, streams, and river systems; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling.

(12) Avoidance or minimization of air traffic-related disturbance to fish and wildlife.

(13) Treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including an annual waste management report, a hazardous materials tracking system, and a prohibition on chlorinated solvents, in accordance with applicable Federal and State environmental law.

(14) Fuel storage and oil spill contingency planning.

(15) Research, monitoring, and reporting requirements.

(16) Field crew environmental briefings.

(17) Avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users.

(18) Compliance with applicable air and water quality standards.

(19) Appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited.

(20) Reasonable stipulations for protection of cultural and archeological resources.

(21) All other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

(e) CONSIDERATIONS.—In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider the following:

(1) The stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement.

(2) The environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 to 37.33 of title 50, Code of Federal Regulations.

(3) The land use stipulations for exploratory drilling on the KIC–ASRC private lands that are set forth in appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States.

(f) FACILITY CONSOLIDATION PLANNING.—

(1) IN GENERAL.—The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources.

(2) OBJECTIVES.—The plan shall have the following objectives:

(A) Avoiding unnecessary duplication of facilities and activities.

(B) Encouraging consolidation of common facilities and activities.

(C) Locating or confining facilities and activities to areas that will minimize impact on fish and wildlife, their habitat, and the environment.

(D) Utilizing existing facilities wherever practicable.

(E) Enhancing compatibility between wildlife values and development activities.

(g) ACCESS TO PUBLIC LANDS.—The Secretary shall—

(1) manage public lands in the Coastal Plain subject to of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public lands in the Coastal Plain for traditional uses.

SEC. 55007. EXPEDITED JUDICIAL REVIEW.

(a) FILING OF COMPLAINT.—

(1) DEADLINE.—Subject to paragraph (2), any complaint seeking judicial review—

(A) of any provision of this title shall be filed by not later than 1 year after the date of enactment of this Act; or

(B) of any action of the Secretary under this title shall be filed—

(i) except as provided in clause (ii), within the 90-day period beginning on the date of the action being challenged; or

(ii) in the case of a complaint based solely on grounds arising after such period, within 90 days after the complainant knew or reasonably should have known of the grounds for the complaint.

(2) VENUE.—Any complaint seeking judicial review of any provision of this title or any action of the Secretary under this title may be filed only in the United States Court of Appeals for the District of Columbia.

(3) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with this title and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this title shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) LIMITATION ON OTHER REVIEW.—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(c) LIMITATION ON ATTORNEYS' FEES AND COURT COSTS.—No person seeking judicial review of any action under this title shall receive payment from the Federal Government for their attorneys' fees and other court costs, including under any provision of law enacted by the Equal Access to Justice Act (5 U.S.C. 504 note).

SEC. 55008. TREATMENT OF REVENUES.

Notwithstanding any other provision of law, 50 percent of the amount of bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this title shall be deposited in the Treasury.

SEC. 55009. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall issue rights-of-way and easements across the Coastal Plain for the transportation of oil and gas produced under leases under this title—

(1) except as provided in paragraph (2), under section 28 of the Mineral Leasing Act (30 U.S.C. 185), without regard to title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.); and

(2) under title XI of the Alaska National Interest Lands Conservation Act (30 U.S.C. 3161 et seq.), for access authorized by sections 1110 and 1111 of that Act (16 U.S.C. 3170 and 3171).

(b) TERMS AND CONDITIONS.—The Secretary shall include in any right-of-way or easement issued under subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) REGULATIONS.—The Secretary shall include in regulations under section 55002(g) provisions granting rights-of-way and easements described in subsection (a) of this section.

SEC. 55010. CONVEYANCE.

In order to maximize Federal revenues by removing clouds on title to lands and clarifying land ownership patterns within the Coastal Plain, the Secretary, notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), shall convey—

(1) to the Kaktovik Inupiat Corporation the surface estate of the lands described in paragraph 1 of Public Land Order 6959, to the extent necessary to fulfill the Corporation's entitlement under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613) in accordance with the terms and conditions of the Agreement between the Department of the Interior, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation dated January 22, 1993; and

(2) to the Arctic Slope Regional Corporation the remaining subsurface estate to which it is entitled pursuant to the August 9, 1983, agreement between the Arctic Slope Regional Corporation and the United States of America.

TITLE VI—OIL SHALE AND TAR SANDS LEASING

SEC. 56001. EFFECTIVENESS OF OIL SHALE REGULATIONS, AMENDMENTS TO RESOURCE MANAGEMENT PLANS, AND RECORD OF DECISION.

(a) REGULATIONS.—Notwithstanding any other law or regulation to the contrary, the final regulations regarding oil shale management published by the Bureau of Land Management on November 18, 2008 (73 Fed. Reg. 69,414) are deemed to satisfy all legal and procedural requirements under any law, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act of 2005 (Public Law 109–58), and the Secretary of the Interior shall implement those regulations, including the oil shale and tar sands leasing program authorized by the regulations, without any other administrative action necessary.

(b) AMENDMENTS TO RESOURCE MANAGEMENT PLANS AND RECORD OF DECISION.—Notwithstanding any other law or regulation to the contrary, the November 17, 2008 U.S. Bureau of Land Management Approved Resource Management Plan Amendments/Record of Decision for Oil Shale and Tar Sands Resources to Address Land Use Allocations in Colorado, Utah, and Wyoming and Final Programmatic Environmental Impact Statement are deemed to satisfy all legal and procedural requirements under any law, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act of 2005 (Public Law 109–58), and the Secretary of the Interior shall implement the oil shale and tar sands leasing program authorized by the regulations referred to in subsection (a) in those areas covered by the resource management plans amended by such amendments, and covered by such record of decision, without any other administrative action necessary.

SEC. 56002. OIL SHALE AND TAR SANDS LEASING.

(a) ADDITIONAL RESEARCH AND DEVELOPMENT LEASE SALES.—The Secretary of the Interior shall hold a lease sale within 180 days after the date of enactment of this Act offering an additional 10 parcels for lease for research, development, and demonstration of oil shale or tar sands resources, under the terms offered in the solicitation of bids for such leases published on January 15, 2009 (74 Fed. Reg. 10).

(b) COMMERCIAL LEASE SALES.—No later than January 1, 2016, the Secretary of the Interior shall hold no less than 5 separate commercial lease sales in areas considered to have the most potential for oil shale or tar sands development, as determined by the Secretary, in areas nominated through public comment. Each lease sale shall be for an area of not less than 25,000 acres, and in multiple lease blocs.

(c) REDUCED PAYMENTS TO ENSURE PRODUCTION.—The Secretary of the Interior may temporarily reduce royalties, fees, rentals, bonus, or other payments for leases of Federal lands for the development and production of oil shale resources as necessary to incentivize and encourage development of such resources, if the Secretary determines that the royalties, fees, rentals, bonus bids, and other payments otherwise authorized by law are hindering production of such resources.

SA 1746. Mr. LEVIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE _____—STOP TAX HAVEN ABUSE

SEC. _____. AUTHORIZING SPECIAL MEASURES AGAINST FOREIGN JURISDICTIONS, FINANCIAL INSTITUTIONS, AND OTHERS THAT IMPEDE UNITED STATES TAX ENFORCEMENT.

Section 5318A of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or impede United States tax enforcement";

(2) in subsection (a), by striking the subsection heading and inserting the following:

''(a) SPECIAL MEASURES TO COUNTER MONEY LAUNDERING AND EFFORTS TO IMPEDE UNITED STATES TAX ENFORCEMENT.—'';

(3) in subsection (c), by striking the subsection heading and inserting the following:

''(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE IMPEDING UNITED STATES TAX ENFORCEMENT.—'';

(4) in subsection (a)(1), by inserting ''or is impeding United States tax enforcement'' after ''primary money laundering concern'';

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting ''in matters involving money laundering,'' before ''shall consult''; and

(ii) by striking ''and'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

''(B) in matters involving United States tax enforcement, shall consult with the Commissioner of the Internal Revenue, the Secretary of State, the Attorney General of the United States, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and'';

(6) in each of paragraphs (1)(A), (2), (3), and (4) of subsection (b), by inserting ''or to be impeding United States tax enforcement'' after ''primary money laundering concern'' each place that term appears;

(7) in subsection (b), by striking paragraph (5) and inserting the following:

''(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN PAYMENT CARDS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within or involving a jurisdiction outside of the United States to be of primary money laundering concern or to be impeding United States tax enforcement, the Secretary, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon—

''(A) the opening or maintaining in the United States of a correspondent account or payable-through account; or

''(B) the authorization, approval, or use in the United States of a credit card, charge card, debit card, or similar credit or debit financial instrument by any domestic financial institution, financial agency, or credit card company or association, for or on behalf of a foreign banking institution, if such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument, involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument.''; and

(8) in subsection (c)(1), by inserting ''or is impeding United States tax enforcement'' after ''primary money laundering concern'';

(9) in subsection (c)(2)(A)—

(A) in clause (ii), by striking ''bank secrecy or special regulatory advantages'' and inserting ''bank, tax, corporate, trust, or financial secrecy or regulatory advantages'';

(B) in clause (iii), by striking ''supervisory and counter-money'' and inserting ''supervisory, international tax enforcement, and counter-money'';

(C) in clause (v), by striking ''banking or secrecy'' and inserting ''banking, tax, or secrecy''; and

(D) in clause (vi), by inserting '', tax treaty, or tax information exchange agreement'' after ''treaty'';

(10) in subsection (c)(2)(B)—

(A) in clause (i), by inserting ''or tax evasion'' after ''money laundering''; and

(B) in clause (iii), by inserting '', tax evasion,'' after ''money laundering''; and

(11) in subsection (d), by inserting ''involving money laundering, and shall notify, in writing, the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any such action involving United States tax enforcement'' after ''such action''.

SA 1747. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, at the end, add the following:

SEC. 40313. TRANSFER OF ALL UNOBLIGATED FUNDS WITHIN THE ALTERNATIVE TECHNOLOGY VEHICLES MANUFACTURING (ATVM) LOAN GUARANTEE PROGRAM AT THE DEPARTMENT OF ENERGY INTO THE HIGHWAY TRUST FUND.

Subsection (f) of section 9503 of the Internal Revenue Code of 1986, as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) TRANSFER OF ALL UNOBLIGATED FUNDS WITHIN THE ALTERNATIVE TECHNOLOGY VEHICLES MANUFACTURING (ATVM) LOAN GUARANTEE PROGRAM AT THE DEPARTMENT OF ENERGY INTO THE HIGHWAY TRUST FUND.—All unobligated funds within the Alternative Technology Vehicles Manufacturing (ATVM) loan guarantee program established under section 136 of the Energy Independence and Security Act of 2007 (42 U.S.C. 17013) are rescinded on the date of the enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012 and out of money in the Treasury not otherwise appropriated, there are hereby appropriated to the Highway Trust Fund amounts equivalent to the amount of such rescission.''.

SEC. 40314. TRANSFER OF 1 PERCENT OF AMOUNTS ATTRIBUTABLE TO CUSTOMS DUTIES INTO THE HIGHWAY TRUST FUND.

Section 9503(b) of the Internal Revenue Code of 1986, as amended by this Act, is further amended by adding at the end the following:

''(9) ADDITIONAL CUSTOMS DUTIES.—In addition to the amounts appropriated pursuant to paragraph (8), there are hereby appropriated to the Highway Trust Fund amounts equivalent to 1 percent of amounts received in the Treasury that are attributable to duties collected on or after the date of the enactment of the Highway Investment, Job Creation, and Economic Growth Act of 2012, on articles classified under all subheadings of the Harmonized Tariff Schedule of the United States other than subheadings 8703.22.00 and 8703.24.00.''.

TITLE IV—REAL PROPERTY

SEC. 40401. EXPEDITED DISPOSAL OF EXCESS FEDERAL PROPERTY.

(a) IN GENERAL.—Chapter 5 of subtitle I of title 40, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

''§ 621. Definitions

''In this subchapter:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of General Services.

''(2) EXPEDITED DISPOSAL OF REAL PROPERTY.—The term 'expedited disposal of real property' means a sale of real property for cash that is conducted by public auction.

''(3) PROGRAM.—The term 'program' means the Federal Real Property Disposal Program established and carried out by the Administrator under this subchapter.

''§ 622. Federal Real Property Disposal Program

''(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish and carry out a program, to be known as the 'Federal Real Property Disposal Program', under which excess real property that is not meeting Federal Government needs may be disposed of through an expedited disposal of real property, in accordance with this subchapter.

''(b) CRITERIA FOR PROGRAM.—For purposes of this subchapter, the Administrator shall identify criteria for use in determining whether real property is not meeting Federal Government needs.

''(c) PROCEEDS REQUIREMENT.—For each fiscal year, beginning with fiscal year 2013, the Administrator shall dispose of real property generating proceeds of not less $3,000,000,000 under the program.

''§ 623. Selection of real properties

''(a) IN GENERAL.—The head of each executive agency shall recommend candidate disposition properties to the Administrator for participation in the program.

''(b) SELECTION.—After receiving recommendations for candidate disposition properties under subsection (a), the Administrator, consistent with the criteria established under section 622, shall—

''(1) select candidate properties for participation in the program; and

''(2) notify the recommending agency accordingly.

''§ 624. Expedited disposal requirements

''(a) FAIR MARKET VALUE REQUIREMENT.—

''(1) IN GENERAL.—Real property under the program may not be sold for less than the fair market value of the real property, as determined by the Administrator, in consultation with the head of the executive agency.

''(2) COSTS.—Costs associated with disposal may not exceed the fair market value of the property unless the Administrator approves incurring such costs.

''(b) MONETARY PROCEEDS REQUIREMENT.—

''(1) IN GENERAL.—Real property may be sold under the program only if the sale will generate monetary proceeds to the Federal Government, as provided in subsection (a).

''(2) PROHIBITION ON NONCASH TRANSACTIONS.—A disposal of real property under the program may not include any exchange, trade, transfer, acquisition of like-kind property, or other noncash transactions as part of the disposal.

''(c) LEASE BACK PROHIBITION.—Real property sold under the program may not be leased back to the Federal Government.

''(d) CONSTRUCTION.—Except as provided in subsection (e), nothing in this subchapter terminates or limits any authority that is otherwise available to agencies under other provisions of law to dispose of Federal real property.

''(e) EXPEDITED DISPOSAL OF REAL PROPERTY EXCEPTIONS.—Any expedited disposal of a real property conducted under this subchapter shall not be subject to—

''(1) subchapter IV;

''(2) sections 550 and 553;

''(3) section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411);

''(4) any other provision of law authorizing the no-cost conveyance of real property owned by the Federal Government; or

''(5) any congressional notification requirement other than that in section 545.

''§ 625. Asset Proceeds and Space Management Fund

''(a) IN GENERAL.—There is established within the Federal Buildings Fund established under section 592 an account to be known as the 'Asset Proceeds and Space Management Fund', to be administered by the Administrator.

''(b) AMOUNTS IN FUND.—Notwithstanding section 3307, the following amounts shall be deposited in the Asset Proceeds and Space Management Fund and are appropriated and shall remain available until expended for the following specified purposes:

''(1) APPROPRIATED AMOUNTS.—Such amounts as are provided in appropriations Acts, to remain available until expended, for—

''(A) expedited disposal of property described in this subchapter;

''(B) the consolidation, colocation, exchange, redevelopment, and reconfiguration of space; and

''(C) other actions.

''(2) GROSS PROCEEDS.—

''(A) IN GENERAL.—Gross proceeds shall be divided between the general fund of the Treasury and the Asset Proceeds and Space Management Fund within the Federal Buildings Fund as described in subparagraph (B).

''(B) DISTRIBUTION.—At the end of each fiscal year, the Director of the Office of Management and Budget, in consultation with the Administrator, shall determine how gross proceeds shall be distributed, through transfer, between the general fund and the Asset Proceeds and Space Management Fund, except that—

''(i) the general fund shall receive 100 percent of the gross proceeds for a fiscal year until the total amount of net proceeds under this subchapter for that fiscal year exceeds $50,000,000;

''(ii) the Asset Proceeds and Space Management Fund shall receive 10 percent of the gross proceeds for a fiscal year after application of clause (i); and

''(iii) the general fund shall receive the remainder of proceeds for a fiscal year after applying the reductions under clauses (i) and (ii).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of subtitle I of title 40, United States Code, is amended by inserting after the items relating to subchapter VI the following:

''SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

''621. Definitions.
''622. Federal Real Property Disposal Program.
''623. Selection of real properties.
''624. Expedited disposal requirements.
''625. Asset Proceeds and Space Management Fund.''.

(c) AMENDMENT TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980.—Section 120(h)(3)(C)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)(C)(i)) is amended—

(1) by striking '', with the concurrence of the Governor of the State in which the facility is located (in the case of real property at a Federal facility that is listed on the National Priorities List), or the Governor of the State in which the facility is located (in the case of real property at a Federal facility not listed on the National Priorities List)'';

(2) by adding ''and'' at the end of subclause (II);

(3) by striking subclause (III); and

(4) by redesignating subclause (IV) as subclause (III).

SEC. 40402. DOWNWARD CAP ADJUSTMENTS TO ENFORCE SALES OF FEDERAL CIVILIAN REAL PROPERTY.

Section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new subparagraph:

''(E) SALES OF FEDERAL CIVILIAN REAL PROPERTY.—

''(i) If—

''(I) the total cash proceeds from Sales of Federal civilian real property at the end of fiscal year 2013 are less than $2,000,000,000, then there shall be a downward adjustment in the discretionary category for fiscal year 2014 by the amount of such shortfall; and

''(II) for each of fiscal years 2014 through 2020, the total cash proceeds from sales of

Federal civilian real property are less than $7,000,000,000, then there shall be a downward adjustment in the discretionary category by the amount of such shortfall in the following fiscal year.

''(ii) If the discretionary spending limits set forth in subsection (c) have been revised pursuant to section 251A, adjustments made pursuant to clause (i) shall only be made to the revised non-security category set forth for each of fiscal years 2014 through 2021.

''(iii)(I) As used in this subparagraph, the term 'Federal civilian real property' refers to Federal real property assets, including Federal buildings as defined in section 3301 of title 40, United States Code, occupied and improved grounds, leased space, or other physical structures under the custody and control of any Federal agency.

''(II) Subclause (I) shall not be construed as including any of the following types of property:

''(aa) Properties that are excluded for reasons of national security by the Secretary of Defense.

''(bb) Properties that are excepted from the definition of 'property' under section 102(9) of title 40, United States.''.

SA 1748. Mr. HOEVEN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 469, after line 22, add the following:

SEC. 15___. RECYCLING AND USE OF FLY ASH.

(a) FINDINGS.—Congress finds that—

(1) concrete is a major transportation construction material in the United States;

(2) 25 percent of the Interstate System is paved in concrete;

(3) concrete has been used to construct 65 percent of the bridges in the United States;

(4) concrete represents approximately 15 percent of the total cost of constructing and maintaining the transportation infrastructure of the United States each year;

(5) more than 75 percent of that concrete, a quantity worth approximately $9,900,000,000, uses fly ash as a partial cement replacement blend;

(6) in some States, including California, Florida, Louisiana, New Mexico, Nevada, Texas, and Utah, fly ash is used for virtually all concrete projects;

(7) fly ash concrete has a number of very significant, well-documented benefits that make fly ash concrete a mixture of choice for many State and local transportation departments and transportation engineers; and

(8) the most prevalent use of fly ash is in transportation construction projects.

(b) USE OF FLY ASH.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue a statement encouraging the beneficial use of fly ash in transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

SA 1749. Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 792, line 5, strike the end quote and insert the following:

''(3) EXCEPTION.—

''(A) IN GENERAL.—The Secretary may not extend the deadline under paragraph (1) with respect to segments of track that the Secretary determines pose the greatest safety risk to the public and railroad employees, based upon the areas of track that have been identified in the entity's positive train control implementation plan under section 236.1011(a)(4) of title 49, Code of Federal Regulations.

''(B) FACTORS.—In determining whether segments of track pose the greatest safety risk to the public and railroad employees, the Secretary shall consider the following factors with respect to such segments:

''(i) Traffic volume, including tonnage and number of trains.

''(ii) The presence of mixed passenger and freight traffic, and the frequency, separation, and direction of travel of such traffic.

''(iii) The amount of poisonous inhalation hazards and other hazardous materials.

''(iv) The permissible operating speeds.

''(v) Any topographical features that increase operational risks.

''(vi) The presence of technologies that reduce the risks, such as automatic cab signal, automatic train stop, or automatic train control systems.

''(vii) Any special operating procedures that will be utilized by the carrier to reduce risks.''.

SA 1750. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 1730 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 791, strike lines 14 through 25 and insert the following:

''(1) IN GENERAL.—After completing the report under subsection (d), the Secretary may, upon application, extend, in 1 year increments ending on or before December 31, 2018, the implementation deadline for an entity providing rail freight transportation or regularly scheduled intercity or commuter rail passenger transportation if the Secretary determines that—

''(A) full implementation is infeasible due to circumstances beyond the control of the entity;

''(B) the entity has demonstrated good faith in implementing its positive train control implementation plan;

''(C) the entity has taken the actions to mitigate risks to successful implementation that were identified by the Secretary in the Secretary's 2012 report to Congress; and

''(D) the entity has presented a revised positive train control implementation plan describing how it will fully implement a positive train control system as soon as feasible, and not later than December 31, 2018.''.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public of an addition to a previously announced hearing before the Subcommittee on National Parks. The hearing will be held on Wednesday, March 7, 2012, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

In addition to the other measures previously announced, the Committee will also consider:

S. 2131, a bill to reauthorize the Rivers of Steel National Heritage Area, the Lackawanna Valley National Heritage Area, and the Delaware and Lehigh National Heritage Corridor; and

S. 2133, a bill to reauthorize the America's Agricultural Heritage Partnership in the State of Iowa.

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, 304 Dirksen Senate Office Building, Washington, DC 20510–6150, or by email to Jake__McCook@energy.senate.gov.

For further information, please contact David Brooks (202) 224–9863 or Jake McCook (202) 224–9313.

COMMITEE ON INDIAN AFFAIRS

Mr. AKAKA. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, March 15, 2012, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building to conduct a hearing entitled ''Indian Water Rights: Promoting the Negotiation and Implementation of Water Settlements in Indian Country.''

Those wishing additional information may contact the Indian Affairs Committee at (202) 224–2251.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on February 28, 2011, at 10 a.m. in room SH–216 of the Hart Senate Office Building.

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

COMMITTEE ON ARMED SERVICES

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 28, 2012, at 9:30 a.m.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 28, 2012, at 10 a.m., to conduct a hearing entitled ''State of the Housing Market: Removing Barriers to Economic Recovery, Part II.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on February 28, 2012, at 10 a.m., in room 366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on February 28, 2012, at 2 p.m., to hold a hearing entitled, ''National Security and Foreign Policy Priorities in the FY 2013 International Affairs Budget.''

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

COMMITTEE ON VETERANS' AFFAIRS

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session on February 28, 2012, to conduct a Joint hearing with the House Committee on Veterans' Affairs on the legislative presentation of the Disabled American Veterans. The Committee will meet in room 345 of the Cannon House Office Building beginning at 2:30 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 28, 2012, at 2:30 p.m.

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

SUBCOMMITTEE ON WATER AND WILDLIFE

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the Subcommittee on Water and Wildlife of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on February 28, 2012, at 10 a.m. in Dirksen 406 to conduct a hearing entitled, ''Local Government Perspectives on Water Infrastructure.''

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

PRIVILEGES OF THE FLOOR

Mrs. BOXER. Mr. President, I ask unanimous consent that the following staff of the Finance Committee be allowed the privilege of the floor for the duration of the debate on S. 1813: Harun Dogo, Avital Barnea, Elizabeth Snyder, Christopher Tausanovitch, Andrea Chapman, Amanda Bartmann, and Claire Green.

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

AUTHORIZING THE TAKING OF A CHAMBER PHOTOGRAPH

Mr. BENNET. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 381, which was 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. 381) authorizing the taking of a photograph in the Chamber of the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNET. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

The resolution (S. 381) was agreed to, as follows:

S. RES. 381

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol and Senate Office Buildings (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting the Senate Photographic Studio to photograph the United States Senate in actual session on Tuesday, March 20, 2012, at the hour of 2:15 p.m.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefore, which arrangements shall provide for a minimum of disruption to Senate proceedings.

ORDERS FOR WEDNESDAY, FEBRUARY 29, 2012

Mr. BENNET. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Wednesday, February 29, at 9:30 a.m., that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that the Senate be in a period of morning business for 1 hour with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half hour and the majority controlling the second half; and that following morning business, the Senate resume consideration of S. 1813, the surface transportation bill.

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

PROGRAM

Mr. BENNET. Mr. President, tomorrow we will continue to work on a process to complete action on the surface transportation bill.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BENNET. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 5:37 p.m., adjourned until Wednesday, February 29, 2012, at 9:30 a.m.