Institute *for* Policy Integrity

new york university school of law

The Future of U.S. Climate Policy: Coal, Carbon Markets, and the Clean Air Act

October 28, 0214

CLE Materials: Keynote Address by Sheldon Whitehouse United States Senator for Rhode Island

- 155 Cong. Rec. S9791-9792
  Floor speech of Sen. Whitehouse
  Sept. 24, 2009

- 160 Cong. Rec. S3413-3415
  Floor speech of Sen. Whitehouse
  June 4, 2014

- 160 Cong. Rec S3991
  Colloquy between Sens. Whitehouse & Manchin
  June 25, 2014

- American Electric Power v. Connecticut (October 2011 Supreme Court case)

classified and awarded the right way, with less bureaucratic redtape.

This will make the system more efficient, and it will increase the impact this program can have on people's lives.

More than 250 AIDS organizations have already expressed support for these changes, and for the reauthorization of this program.

It is time to stand with them.

It is time to stand with all the people who need treatment.

Let us send a strong message to those who are counting on us to keep the money flowing:

We will not abandon you in your time of need.

If this Senate fails to act by September 30, the aid will stop.

These successful programs—which enjoy broad, bipartisan support—will simply cease to exist.

We cannot let that happen on our watch.

I ask my colleagues to join with me in updating and reauthorizing the Ryan White Act.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

INTERIOR APPROPRIATIONS

Mr. REID. Mr. President, first of all, we have a unanimous consent agreement that has taken a lot of work. I appreciate the work of the two managers, Senator FEINSTEIN and Senator ALEXANDER. It is not easy, but this is an important piece of legislation. I think it is good for the body.

I heard my friend—I will be real quick; I know we are in a hurry—commenting on the dinner we had last night. I think that was such a timely, fortuitous event we had with Senators getting together to, in effect, cut the ribbon on this wonderful picture out there, 147 years old.

I did not know much about Henry Clay other than he is a famous man but a great compromiser. He said everything legislatively you need to develop a consensus. Legislation is the art of compromise. This is a smaller piece; it is not Henry Clay stuff, but it is good stuff. I appreciate the two managers following in the footsteps of Henry Clay and we were able to work this out.

I ask unanimous consent that the following be the only first-degree amendments and an Ensign motion to recommit, other than the pending amendments, remaining in order to H.R. 2996, Interior appropriations; and that no second-degree amendments be in order to any of the listed amendments prior to a vote in relation to the amendment, except as noted with respect to Coburn amendment No. 2511; that a managers' amendment also be in order that has been cleared by the managers and the leaders, and that if that amendment is offered, then the vote on adoption of the amendment occur immediately; and that if agreed to, then the motion to reconsider be considered made and laid upon the table:

Carper No. 2456, pending, to be withdrawn once a managers' amendment has been agreed to; Collins No. 2498, pending; Isakson No. 2504, as modified, pending; Vitter No. 2549; Ensign motion to recommit; Coburn amendment Nos. 2482, 2463, 2480, 2523, 2466, 2483, 2468, and 2511, with a Feinstein second-degree amendment in order to No. 2511; Feingold No. 2522, to be withdrawn upon the adoption of the managers' amendment; Reid No. 2531; Bingaman No. 2493, with a modification; further, that during the consideration of the bill, Senators Murkowski and Thune each be provided up to 30 minutes, and Senator BOXER for up to 60 minutes for debate only; that upon disposition of all amendments and the motion to recommit, the substitute amendment, as amended, be agreed to, the motion to reconsider be considered made and laid upon the table; that the bill, as amended, be read a third time, and the Senate then proceed to vote on passage of the bill; that upon passage, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate, and that the subcommittee plus Senators Inouye and Bond be appointed as conferees; further, that if a point of order is raised against the substitute amendment, then it be in order for another substitute amendment to be offered minus the offending provisions but including any amendments which had been agreed to prior to the point of order; that no further amendments be in order; that the new substitute amendment be agreed to, and the motion to reconsider be considered made and laid upon the table; and that the remaining provisions beyond adoption of the substitute amendment remain in effect; that if there is a sequence of votes, then after the first vote, the succeeding votes be limited to 10 minutes each and that there be 2 minutes of debate prior to each vote, equally divided and controlled in the usual form; that once this agreement is entered, the cloture motions be withdrawn.

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2996, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2996) making appropriations for the Department of the Interior, Environment, and related agencies for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Carper amendment No. 2456, to require the Administrator of the Environmental Protection Agency to conduct a study on black carbon emissions.

Collins amendment No. 2498, to provide that no funds may be used for the administrative expenses of any official identified by the President to serve in a position without express statutory authorization and which is responsible for the interagency development or coordination of any rule, regulation, or policy unless the President certifies to Congress that such official will respond to all reasonable requests to testify before, or provide information to, any congressional committee with jurisdiction over such matters, and such official submits certain reports biannually to Congress.

Isakson modified amendment No. 2504, to encourage the participation of the Smithsonian Institution in activities preserving the papers and teachings of Dr. Martin Luther King, Jr., under the Civil Rights History Project Act of 2009.

AMENDMENTS NOS. 2492, 2501, 2505, 2509, 2518, 2519, 2522, 2534, AS MODIFIED; 2491, AS MODIFIED; 2495, 2507, 2493, AS MODIFIED, EN BLOC

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, as part of the unanimous consent agreement entered into this morning by the leader, a managers' package of amendments to the Interior bill is in order.

I would like to proceed to that business now because of yesterday's filing deadline for all first-degree amendments. Each of these amendments which constitute the managers' package have been filed at the desk.

Therefore, I ask unanimous consent that the pending amendment be set aside, and that the following amendments be called up and considered en bloc, and where modifications are noted, that those modifications be agreed to: Bingaman amendment No. 2492; Risch amendment No. 2501; Carper amendment No. 2505; Roberts amendment No. 2509; Feinstein amendment No. 2518; Feinstein amendment No. 2519; Feingold amendment No. 2522; Whitehouse amendment No. 2534, as modified; Bingaman amendment No. 2491, as modified; Schumer/Durbin amendment No. 2495; Tester/Crapo amendment No. 2507; and, Bingaman amendment No. 2493, as modified.

Let me make one note with respect to Carper amendment No. 2505. The amendment being included in the managers' package is very similar to pending Carper amendment No. 2456. But the version we are adopting now is the version that has been agreed to by both

sides. At the proper time, then, I believe we will be in a position to withdraw the pending Carper amendment No. 2456.

In order to comply with Senate rule XLIV, which requires Members to certify that they have no financial interest in congressionally designated spending items, I also ask unanimous consent to have printed in the RECORD financial disclosure letters associated with amendments Nos. 2501 and 2518.

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

U.S. SENATE,
Washington, DC, September 16, 2009.

Hon. DANIEL K. INOUYE,
Chairman, Senate Committee on Appropriations, U.S. Capitol, Washington, DC.

Hon. THAD COCHRAN,
Ranking Member, Senate Committee on Appropriations, U.S. Capitol, Washington, DC.

Hon. DIANNE FEINSTEIN,
Chairman, Appropriations Subcommittee on Interior, Environment, and Related Agencies, Dirksen Senate Office Building, Washington, DC.

Hon. LAMAR ALEXANDER,
Ranking Member, Appropriations Subcommittee on Interior, Environment, and Related Agencies, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMEN AND RANKING MEMBERS: I am writing to request your assistance in making a technical correction to the below projects in House Report 107–272, House Report 108–10, and House Report 108–401 so that the funds referenced may be made available to the City of Thomasville, Alabama. The awards in question are:

$2,500,000 STAG award to the Southwest AL/Rural Municipal Water System in FY02; $1,000,000 STAG award to the Southeast Alabama Regional Water Authority in FY02; $450,000 STAG award to the Southwest Alabama Regional Water Authority in FY03; $450,000 STAG award to the Southwest Alabama Regional Water Supply District in FY04.

I certify that neither I nor my immediate family has a pecuniary interest in the congressionally directed spending item(s) that I have requested for Fiscal Year 2010, consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate.

Very Truly Yours,

JEFF SESSIONS,
United States Senator.

Hon. DIANE FEINSTEIN,
Chairwoman, Subcommittee on Interior, Environment, and Related Agencies, Dirksen Senate Office Building, Washington, DC.

DEAR MADAM CHAIRMAN: I am writing to seek your assistance in a technical correction for the City of Thomasville in the Fiscal Year 2010 Interior, Environment, and Related Agencies Appropriations bill.

The City of Thomasville is constructing a water treatment facility. The project began under the auspices of the Southwest Regional Water Authority and was composed of the City of Thomasville and the City of Jackson. Therefore, funds were appropriated in 2002, 2003, and 2004 under this name.

2002—AL Regional Water Authority for AAL/Rural Municipal Water System, $2.425M; 2002—Southeast Alabama Regional Water Authority, $970,000; 2003—Southwest Alabama Regional Water Authority, $433,700; 2004—Southwest Alabama Regional Water Supply District, $433,900.

Since that time, the City of Jackson has withdrawn from the authority and the City of Thomasville remains the only active partner. To meet eligibility qualifications of USDA/Rural Development and EPA to proceed with the development of the Thomasville water supply project, we were told that the earmarks from 2002–2004 would need to be amendment and replaced with the name ''City of Thomasville.''

Finally, I certify that neither I nor my immediate family has a pecuniary interest, consistent with the requirements of Paragraph 9 of Rule XLIV of the Standing Rules of the Senate, in any congressionally directed spending item I requested that is contained in the Fiscal Year 2010 Interior, Environment, and Related Agencies Appropriations bill or accompanying report. I further certify that I have posted a description of the items requested on my official website, along with the accompanying justification.

I greatly appreciate your assistance in this matter. As always, please do not hesitate to contact me or Laura Friedel in my office should you or your staff have any questions.

Sincerely,

RICHARD SHELBY.

U.S. SENATE,
Washington, DC, September 17, 2009.

Hon. DIANNE FEINSTEIN
Chairman, Subcommittee on Interior, Environment, and Related Agencies, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN FEINSTEIN: I am writing to request your support for the enclosed amendment to the Fiscal Year 2010 Interior, Environment, and Related Agencies Appropriations bill.

Furthermore, I certify that neither I nor my immediate family has a pecuniary interest consistent with the requirements of Paragraph 9 of Rule XLIV of the Standing Rules of the Senate, in this or any other congressionally directed spending item I requested that is contained in the Fiscal Year 2010 Interior, Environment, and Related Agencies Appropriations bill or accompanying report. I further certify that I have posted a description of the amendment requested on my official website, along with the accompanying justification.

Thank you for your consideration of my request, As always, please do not hesitate to contact me or Laura Friedel in my office should you or your staff have any questions.

Sincerely,

RICHARD SHELBY.

Enclosure.

AMENDMENT

(Purpose: To provide for the use of certain funds for water system upgrades in Fayette County, Alabama)

On page 190, line 10, insert before the period at the end the following: '': *Provided further*, That, notwithstanding House Report 108–401, the amount of $2,000,000 made available to the Tom Bevill Reservoir Management Area Authority for construction of a drinking water reservoir in Fayette County, Alabama, shall be made available to Fayette County, Alabama, for water system upgrades''.

U.S. SENATE,
Washington, DC, September 16, 2009.

Hon. DANIEL K. INOUYE,
Committee on Appropriations, U.S. Senate, Washington, DC.

Hon. DIANNE FEINSTEIN,
Subcommittee on Interior, Committee on Appropriations, U.S. Senate, Washington, DC.

Hon. THAD COCHRAN,
Committee on Appropriations, U.S. Senate, Washington, DC.

Hon. LAMAR ALEXANDER,
Subcommittee on Interior, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMEN AND RANKING MEMBERS, I am offering three amendments regarding congressionally directed spending items on the Senate floor to the Fiscal Year 2010 Interior, Environment, and Related Agencies Appropriations Bill.

Consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate, I certify that neither I nor my immediate family has a pecuniary interest in the congressionally directed spending items that I have requested for Fiscal Year 2010. I further certify that I have posted a description of the items requested on my official website, along with the accompanying justification.

Project Title: Lake County, California, for wastewater system improvements

Recipient: Lake County, CA
Location: 230 A Main Street, Lakeport, CA 95453
Amount Requested: $500,000

Lake County is upgrading the Kelseyville wastewater system to eliminate effluent and high nutrient pollution from entering Clear Lake. The facility, which is located on the south shore of Clear Lake, is under cease and desist orders to meet clean water standards, and requires expansion overflows into Clear Lake. This important project will improve sanitation and water quality for County residents by limiting sewage overflow.

Project Title: Tahoe Basin Vessel Inspection Station

Recipient: U.S. Fish and Wildlife Service
Location: Lake Tahoe, California and Nevada
Amount Requested: $800,000

The requested funding will be used for study, construction, staffing, and other expenses necessary to conduct water vessel inspection and decontamination at stations located away from boat and vessel ramps at Lake Tahoe and Echo Lake and Fallen Leaf Lake in California. The Tahoe Basin is under threat of Quagga and zebra mussel infestations because of its high-use by recreational boaters. An infestation could have devastating impacts on the regional economy, including recreation, tourism, property values, and other infrastructure equaling approximately $22 million a year. If introduced, Quagga and zebra mussels could destroy the region's fisheries, alter the food web and ecosystem, jeopardize the public drinking supply, and ruin the shoreline and public access points. An infestation would also jeopardize more than $1.43 billion that has already been invested in environmental restoration and water clarity improvements in Lake Tahoe, including $424 million from the Federal government.

Project Title: Inland Empire Alternative Water Supply

Recipient: City of San Bernardino Municipal Water Department
Location: 300 North ''D'' Street, San Bernardino, CA 92418
Amount Requested: Technical Correction

The Rialto-Colton Basin is seriously contaminated by perchlorate, and the cities and water districts in the area have had to abandon wells or install wellhead treatment

equipment to use their groundwater. Local water providers have found a temporary source of 20,000–30,000 acre-feet in the Bunker Hill Basin, within the incorporated limits of the City of San Bernardino, which will use this water source in the long-term. I secured $500,000 in the Fiscal Year 2009 Omnibus Appropriations Act, but the San Bernardino Municipal Water Department has been unable to access these funds and this technical correction will clarify that the city is the recipient of this funding.

Thank you for your consideration of my requests. If you have any questions, please do not hesitate to contact me, or have your staff contact Ryan Hunt in my office.

Sincerely,

DIANNE FEINSTEIN,
United States Senator.

U.S. SENATE,
Washington, DC, September 16, 2009.

Hon. DANIEL K. INOUYE,
Chairman, Senate Committee on Appropriations, The Capitol, Washington, DC.
Hon. DIANNE FEINSTEIN,
Chairman, Subcommittee on Interior, Environment, and Related Agencies, Senate Committee on Appropriations, Washington, DC.
Hon. THAD COCHRAN,
Ranking Member, Senate Committee on Appropriations, The Capitol, Washington, DC.
Hon. LAMAR ALEXANDER,
Ranking Member, Subcommittee on Interior, Environment, and Related Agencies, Senate Committee on Appropriations, Washington, DC.

DEAR CHAIRMAN INOUYE AND RANKING MEMBER COCHRAN, CHAIRMAN FEINSTEIN AND RANKING MEMBER ALEXANDER: As the Fiscal Year 2010 Interior, Environment, and Related Agencies Appropriations bill moves to the floor, I respectfully request your consideration of the technical corrections for projects from previous bills listed in this letter. These technical corrections are also listed on my website. I look forward to working with you through enactment of this bill.

I certify that neither I nor my immediate family has a pecuniary interest in any of the congressionally directed spending item(s) that I have requested, consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate. I further certify that I have posted a description of the items requested on my official website, along with the accompanying justification.

Line 96 of the list of STAG Infrastructure Grants/Congressional Priorities in the Explanatory Statement for Title II of Division F of Public Law 110–161 is revised to read ''The City of Prescott for wastewater treatment plant construction project, $170,800; and The City of Wichita for storm water technology pilot project, $129,200.''

Line 108 of the list of STAG Infrastructure Grants/Congressional Priorities in the Explanatory Statement for Title II of Division E of Public Law 111–8 is revised to read ''City of Manhattan for water mainline extension project, $185,000.''

Line 111 of the list of STAG Infrastructure Grants/Congressional Priorities in the Explanatory Statement for Title II of Division E of Public Law 111–8 is revised to read ''City of Manhattan for Konza water main extension project, $290,000.''

Sincerely,

SAM BROWNBACK,
United States Senator.

Hon. DANIEL INOUYE,
Chairman, Senate Appropriations Committee.
Hon. THAD COCHRAN,
Vice Chairman, Senate Appropriations Committee.
Hon. DIANNE FEINSTEIN,
Chairman, Subcommittee on Interior, Environment, and Related Agencies, Appropriations.
Hon. LAMAR ALEXANDER,
Ranking Member, Subcommittee on Interior, Environment, and Related Agencies, Appropriations.

DEAR CHAIRMAN INOUYE, VICE CHAIRMAN COCHRAN, CHAIRMAN FEINSTEIN AND RANKING MEMBER ALEXANDER: I write to respectfully request a technical correction to my requests for congressionally directed appropriations in the Fiscal Year 2010 Interior and Environment Appropriations Bill. I have attached the legislative language for my amendment, which would provide for the use of certain funds for certain water projects to be carried out by the cities of Prescott, Wichita, and Manhattan. I know that this year's budget situation is extremely tight, and I appreciate your consideration of these requests.

In addition, I certify that neither I nor my immediate family has a pecuniary interest in the congressionally directed spending items that I have requested, consistent with the requirements of paragraph 9 of rule XLIV of the Standing Rules of the Senate. I further certify that I have posted a description of the items requested on my official website, along with the accompanying justification.

Again, I thank you for your consideration of these requests. Should you have an questions, please do no hesitate to contact my Legislative Director Mike Seyfert.

With every best wish,

Sincerely,

PAT ROBERTS.

AMENDMENT

(Purpose: To provide for the use of certain funds for certain water projects to be carried out by the cities of Prescott, Wichita, and Manhattan)

On page 190, line 10, insert before the period at the end the following: '': *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1844), from funds made available by that Act for the State and Tribal Assistance Grants program, $170,800 shall be made available to the city of Prescott for a wastewater treatment plant construction project and $129,200 shall be made available to the city of Wichita for a storm water technology pilot project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 524), the amount of $185,000 made available to the city of Manhattan for the sewer mainline extension project (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) shall be made available to the city of Manhattan for a water mainline extension project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 524), the amount of $290,000 made available to the Riley County Board of Commissioners for the Konza Sewer Main Extension project (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) shall be made available to the city of Manhattan for the Konza Water Main Extension project''.

U.S. SENATE,
Washington, DC, September 16, 2009.

Hon. ROBERT C. BYRD, *Chairman,*
Hon. THAD COCHRAN, *Ranking Member,*
Senate Committee on Appropriations, U.S. Capitol, Washington, DC.
Hon. DIANNE FEINSTEIN, *Chairman,*
Hon. LAMAR ALEXANDER, *Ranking Member,*
Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMEN AND RANKING MEMBERS, Please find enclosed amendments I will offer to the FY 2010 Interior appropriations bill making technical changes to previously enacted provisions. All changes are a result of requests by the U.S. Environmental Protection Agency for clarification on the specific funds recipient, and none involve appropriation of additional funds.

I certify that neither I nor my immediate family has a pecuniary interest in these items, consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate.

Thank you in advance for your attention to this matter.

Sincerely,

CHRISTOPHER S. BOND.

AMENDMENT

(Purpose: To provide for the use of certain funds for Johnson County, Missouri for a drinking water and wastewater infrastructure project)

On page 190, line 10, insert before the period at the end the following: *Providing further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of $1,300,000 made available to the City of Warrensburg, Missouri for a drinking water and wastewater infrastructure project (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) shall be made available to Johnson County, Missouri for that project''.

AMENDMENT

(Purpose: To provide for the use of certain funds for the Gravois Arm Sewer District for a wastewater infrastructure project)

On page 190, line 10, insert before the period at the end the following: '': *Providing further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of $1,000,000 made available to the City of Gravois Mills for wastewater infrastructure (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) shall be made available to the Gravois Arm Sewer District for that project''.

AMENDMENT

(Purpose: To provide for the use of certain funds for PWSD #1 of McDonald County, Missouri for a wastewater infrastructure project)

On page 190, line 10, insert before the period at the end the following: '': *Providing further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of $500,000 made available to McDonald County, Missouri for a

wastewater infrastructure expansion project (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) shall be made available to PWSD #1 of McDonald County, Missouri for that project''.

U.S. SENATE,
Washington, DC, September 17, 2009.

Hon. ROBERT C. BYRD, *Chairman,*
Hon. THAD COCHRAN, *Ranking Member,*
Senate Committee on Appropriations, U.S. Capitol, Washington, DC.
Hon. DIANNE FEINSTEIN, *Chairman,*
Hon. LAMAR ALEXANDER, *Ranking Member,*
Senate Appropriations Subcommittee on Interior, Environment and Related Agencies, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMEN AND RANKING MEMBERS, Please find enclosed an amendment I will offer to the FY 2010 Interior appropriations bill making a technical change to a previously enacted provision. The change retains the drinking water infrastructure purpose of the project, does not increase the amount of funds appropriated and does not change the funding recipient.

I certify that neither I nor my immediate family has a pecuniary interest in this item, consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate.

Thank you in advance for your attention to this matter.

Sincerely,

CHRISTOPHER S. BOND.

AMENDMENT

(Purpose: To provide for the use of certain funds for the Pemiscot Consolidated Public Water Supply District #1 for a drinking water source protection infrastructure project)

On page 190, line 10, insert before the period at the end the following: '': *Providing further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 110–161 (121 Stat. 1844), the amount of $150,000 made available to the City of Hayti, Pemiscot Consolidated Public Water Supply District #1 for a water storage tank (as described in the section entitled 'STAG Infrastructure Grants/Congressionally Priorities' on page 1264 of the joint explanatory statement) shall be made available to Pemiscot Consolidated Public Water Supply District #1 for a drinking water source protection infrastructure project''.

U.S. SENATE,
Washington, DC, September 16, 2009.

Senator DIANNE FEINSTEIN,
Chairman, Subcommittee on Interior, Environment, and Related Agencies, Senate Committee on Appropriations, Washington, DC.
Senator LAMAR ALEXANDER,
Ranking Member, Subcommittee on Interior, Environment, and Related Agencies, Senate Committee on Appropriations, Washington, DC.

DEAR CHAIRMAN FEINSTEIN AND RANKING MEMBER ALEXANDER: I am writing to request your assistance in making a technical correction to the Joint Explanatory Statement accompanying the Interior portion of the Omnibus Appropriations Act for Fiscal Year 2009. The Joint Explanatory Statement mistakenly directs $400,000 from the Environmental Protection Agency's (EPA) State and Tribal Assistance Grants (STAG) account to the City of Lake Norden in South Dakota for wastewater infrastructure improvements. I request your assistance in correcting this description to reflect the fact that the Lake Norden project involves drinking water infrastructure.

I certify that neither I nor my immediate family has a pecuniary interest, consistent with the requirements of Paragraph 9 of Rule XLIV of the Standing Rules of the Senate, in any congressionally directed spending item that I requested from the Committee on Appropriations for Fiscal Year 2009.

Thank you for consideration of this request, and please contact me if you require any additional information.

Sincerely,

TIM JOHNSON,
United States Senate.

U.S. SENATE,
Washington, DC, September 24, 2009.

Hon. DIANNE FEINSTEIN,
Chairman, Appropriations Subcommittee on the Interior, Environment and Related Agencies, Washington, DC.
Hon. LAMAR ALEXANDER,
Ranking Member, Appropriations Subcommittee on The Interior, Environment and Related Agencies, Washington, DC.

DEAR CHAIRMAN FEINSTEIN AND RANKING MEMBER ALEXANDER: I certify that neither I nor my immediate family has a pecuniary interest in any of the congressionally directed spending items that I have requested, including Senate Amendment # 2501, consistent with the requirements of paragraph 9 of Rule XLIV of the Standing Rules of the Senate for the FY 2010 Department of Interior, Environment, and Related Agencies Appropriations bill.

Sincerely,

JAMES E. RISCH,
United States Senator.

Mrs. FEINSTEIN. Mr. President, all of these amendments have been cleared on both sides, and I believe we are in a position to voice vote the package.

Before voting, through, I would yield to my distinguished ranking member for any comments he may wish to make.

Mr. ALEXANDER. Mr. President, I concur with the remarks of the distinguished chairman of the subcommittee. I believe these are good amendments. We are able to clear them with the relevant members and their staffs. I support their adoption.

Beyond that, I would like to say to the chairman, I appreciate her willingness to accommodate the amendments and the positions of a large number of Republican Senators who have important issues that we will have a chance to vote on, and for including us in the process. I thank her for that, and we look forward to the rest of the day and concluding work on the bill.

Mrs. FEINSTEIN. I ask for a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the managers' package of amendments en bloc.

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 2492

(Purpose: To provide funds for the Collaborative Forest Landscape Restoration Fund, with an offset)

On page 197, line 11, strike ''$2,586,637,000'' and insert ''$2,576,637,000''.

On page 198, line 10, strike ''$350,285,000'' and insert ''$340,285,000''.

On page 200, between lines 13 and 14, insert the following:

COLLABORATIVE FOREST LANDSCAPE RESTORATION FUND

For expenses authorized by section 4003(f) of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7303(f)), $10,000,000, to remain available until expended.

AMENDMENT NO. 2501

(Purpose: To provide for the use of certain funds for the Upper Snake/South Fork River Area of Critical Concern)

On page 122, line 11, insert before the period at the end the following: '': *Provided*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of $2,000,000 made available for the Henry's Lake ACEC in the State of Idaho (as described in the table entitled ''Congressionally Designated Spending'' contained in section 430 of that joint explanatory statement) shall be made available for the Upper Snake/South Fork River ACEC/SRMA in the State of Idaho''.

AMENDMENT NO. 2505

(Purpose: To require the Administrator of the Environmental Protection Agency to conduct a study on black carbon emissions)

On page 192, between lines 6 and 7, insert the following:

GENERAL PROVISIONS, ENVIRONMENTAL PROTECTION AGENCY

BLACK CARBON

SEC. 201. (a) Not later than 18 months after the date of enactment of this Act, the Administrator, in consultation with other Federal agencies, may carry out and submit to Congress the results of a study to define black carbon, assess the impacts of black carbon on global and regional climate, and identify the most cost-effective ways to reduce black carbon emissions—

(1) to improve global and domestic public health; and

(2) to mitigate the climate impacts of black carbon.

(b) In carrying out the study, the Administrator shall—

(1) identify global and domestic black carbon sources, the quantities of emissions from those sources, and cost-effective mitigation technologies and strategies;

(2) evaluate the public health, climate, and economic impacts of black carbon;

(3) identify current and practicable future opportunities to provide financial, technical, and related assistance to reduce domestic and international black carbon emissions; and

(4) identify opportunities for future research and development to reduce black carbon emissions and protect public health in the United States and internationally.

(c) Of the amounts made available under this title under the heading ''ENVIRONMENTAL PROGRAMS AND MANAGEMENT'' for operations and administration, up to $2,000,000 shall be—

(1) transferred to the account used to fund the Office of Air Quality Planning and Standards of the Environmental Protection Agency; and

(2) used by the Administrator to carry out this section.

AMENDMENT NO. 2509

(Purpose: To encourage the Administrator of the Environmental Protection Agency to reassess the cost-effectiveness of the buyout and relocation of residents of certain properties in Treece, Kansas)

At the end of title IV, add the following:

BUYOUT AND RELOCATION

SEC. 4____. (a) As soon as practicable after the date of enactment of this Act, the Administrator of the Environmental Protection Agency (referred to in this section as the ''Administrator'') is encouraged to consider

all appropriate criteria, including cost-effectiveness, relating to the buyout and relocation of residents of properties in Treece, Kansas, that are subject to risk relating to, and that may endanger the health of occupants as a result of risks posed by, chat (as defined in section 278.1(b) of title 40, Code of Federal Regulations (as in effect on the date of enactment of this Act)).

(b) For the purpose of the remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) that includes permanent relocation of residents of Treece, Kansas, any such relocation shall not be subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(c) Nothing in this section shall in any way affect, impede, or change the relocation or remediation activities pursuant to the Record of Decision Operable Unit 4, Chat Piles, Other Mine and Mill Waste, and Smelter Waste, Tar Creek Superfund Site, Ottawa County, Oklahoma (OKD980629844) issued by the Environmental Protection Agency Region 6 on February 20, 2008, or any other previous Record of Decision at the Tar Creek, Oklahoma, National Priority List Site, by any Federal agency or through any funding by any Federal agency.

AMENDMENT NO. 2518

(Purpose: To make technical corrections to certain State and tribal assistance grants)

On page 190, line 10, insert before the period at the end the following: ": *Provided further*, That, notwithstanding House Report 107–272, the amount of $1,000,000 made available to the Southeast Alabama Regional Water Authority for a water facility project and the amount of $2,500,000 made available to the Alabama Regional Water Authority for the Southwest Alabama Rural/Municipal Water System may, at the discretion of the Administrator, be made available to the city of Thomasville for those projects: *Provided further*, That, notwithstanding House Report 108–10, the amount of $450,000 made available to the Southwest Alabama Regional Water Authority for water infrastructure improvements may, at the discretion of the Administrator, be made available to the city of Thomasville for that project: *Provided further*, That, notwithstanding House Report 108–401, the amount of $450,000 made available to the Southwest Alabama Regional Water supply District for regional water supply distribution in Thomasville, Alabama, may, at the discretion of the Administrator, be made available to the city of Thomasville for that project: *Provided further*, That, notwithstanding House Report 108–401, the amount of $2,000,000 made available to the Tom Bevill Reservoir Management Area Authority for construction of a drinking water reservoir in Fayette County, Alabama, may, at the discretion of the Administrator, be made available to Fayette County, Alabama, for water system upgrades: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of $500,000 made available to the San Bernardino Municipal Water District for the Inland Empire alternative water supply project (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to the city of San Bernardino municipal water department for that project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Consolidated Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 1844), from funds made available by that Act for the State and Tribal Assistance Grants program, $170,800 may, at the discretion of the Administrator, be made available to the city of Prescott for a wastewater treatment plant construction project and $129,200 may, at the discretion of the Administrator, be made available to the city of Wichita for a storm water technology pilot project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 524), the amount of $185,000 made available to the city of Manhattan for the sewer mainline extension project (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to the city of Manhattan for a water mainline extension project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying the Omnibus Appropriations Act, 2009 (Public Law 111–8; 123 Stat. 524), the amount of $290,000 made available to the Riley County Board of Commissioners for the Konza Sewer Main Extension project (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to the city of Manhattan for the Konza Water Main Extension project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of $1,300,000 made available to the City of Warrensburg, Missouri for a drinking water and wastewater infrastructure project (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to Johnson County, Missouri for that project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of $ 1,000,000 made available to the City of Gravois Mills for wastewater infrastructure (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to the Gravois Arm Sewer District for that project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of $500,000 made available to McDonald County, Missouri for a wastewater infrastructure expansion project (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to PWSD #1 of McDonald County, Missouri for that project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 110–161 (121 Stat. 1844), the amount of $150,000 made available to the City of Hayti, Pemiscot Consolidated Public Water Supply District 1 for a Water Storage Tank (as described in the section entitled 'STAG Infrastructure Grants/Congressional Priorities' on page 1264 of the joint explanatory statement) may, at the discretion of the Administrator, be made available to Pemiscot Consolidated Public Water Supply District 1 for a drinking water source protection infrastructure project: *Provided further*, That, notwithstanding the joint explanatory statement of the Committee on Appropriations of the House of Representatives accompanying Public Law 111–8 (123 Stat. 524), the amount of $400,000 made available to the City of Lake Norden, South Dakota, for wastewater infrastructure improvements (as described in the table entitled 'Congressionally Designated Spending' contained in section 430 of that joint explanatory statement) may, at the discretion of the Administrator, be made available to the City of Lake Norden, South Dakota, for drinking water infrastructure improvements''.

AMENDMENT NO. 2519

(Purpose: To extend a special use permit for Drake's Estero at Point Reyes National Seashore, California)

On page 179, strike line 7 and all that follows through page 180, line 9, and insert the following:

SEC. 120. Prior to the expiration on November 30, 2012 of the Drake's Bay Oyster Company's Reservation of Use and Occupancy and associated special use permit (''existing authorization'') within Drake's Estero at Point Reyes National Seashore, notwithstanding any other provision of law, the Secretary of the Interior is authorized to issue a special use permit with the same terms and conditions as the existing authorization, except as provided herein, for a period of 10 years from November 30, 2012: *Provided*, That such extended authorization is subject to annual payments to the United States based on the fair market value of the use of the Federal property for the duration of such renewal. The Secretary shall take into consideration recommendations of the National Academy of Sciences Report pertaining to shellfish mariculture in Point Reyes National Seashore before modifying any terms and conditions of the extended authorization.

AMENDMENT NO. 2522

(Purpose: To clarify the authority of the Secretary of Agriculture regarding the coordination of biobased product activities)

On page 240, between lines 13 and 14, insert the following:

SEC. 4____. Section 404(c) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(c)) is amended—

(1) in paragraph (1), by striking ''Agricultural Research Service'' and inserting ''Department of Agriculture''; and

(2) by adding at the end the following:

''(3) AUTHORITY OF SECRETARY.—To carry out a cooperative agreement with a private entity under paragraph (1), the Secretary may rent to the private entity equipment, the title of which is held by the Federal Government.''.

AMENDMENT NO. 2534, AS MODIFIED

At the appropriate place, insert the following:

SEC. . (a) It is the sense of the Senate that the Senate—

(1) Supports the National Vehicle Mercury Switch Recovery Program as an effective way to reduce mercury pollution from electric arc furnaces used by the steel industry to melt scrap metal from old vehicles; and

(2)Urges the founders of the Program to secure private sector financial support so that the successful efforts of the Program to reduce mercury pollution may continue.

AMENDMENT NO. 2491, AS MODIFIED

On page 240, between lines 13 and 14, insert the following:

SEC. 423. NATIONAL FOREST FOUNDATION.

Section 403(a) of the National Forest Foundation Act (16 U.S.C. 583j-1(a)) is amended, in the first sentence, by striking ''fifteen Directors'' and inserting ''not more than 30 Directors''.

AMENDMENT NO. 2495

(Purpose: To support the Pest and Disease Revolving Loan Fund)

On page 193, line 13, insert before '': *Provided*'' the following: ''and of which $2,000,000 may be made available to the Pest and Disease Revolving Loan Fund established by section 10205(b) of the Food, Conservation, and Energy Act of 2008 (16 U.S.C. 2104a(b))''.

AMENDMENT NO. 2507

(Purpose: To limit the increase in cabin user fees, with an offset)

On page 193, line 9, strike ''$1,556,329,000'' and insert ''$1,552,429,000''.

On page 193, line 20, insert before the period at the end the following: '': *Provided further*, that $282,617,000 shall be made available for recreation, heritage, and wilderness''.

On page 240, between lines 13 and 14, insert the following:

SEC. 423. CABIN USER FEES.

Notwithstanding any other provision of law, none of the funds made available by this Act shall be used to increase the amount of cabin user fees under section 608 of the Cabin User Fee Fairness Act of 2000 (16 U.S.C. 6207) to an amount beyond the amount levied on December 31, 2009.

AMENDMENT NO. 2493, AS MODIFIED

On page 159, line 25, strike ''$979,637,000'' and insert ''$904,637,000''.

On page 197, line 11, strike ''$2,576,637,000'' and insert ''$1,817,637,000''.

On page 240, between lines 13 and 14, insert the following:

SEC. 423. FLAME FUND FOR EMERGENCY WILDFIRE SUPPRESSION ACTIVITIES.

(a) DEFINITIONS.—In this section:

(1) FEDERAL LAND.—The term ''Federal land'' means—

(A) public land, as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702);

(B) units of the National Park System;

(C) refuges of the National Wildlife Refuge System;

(D) land held in trust by the United States for the benefit of Indian tribes or members of an Indian tribe; and

(E) land in the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(2) FLAME FUND.—The term ''Flame Fund'' means the Federal Land Assistance, Management, and Enhancement Fund established by subsection (b).

(3) SECRETARIES.—The term ''Secretaries'' means the Secretary of the Interior and the Secretary of Agriculture, acting jointly.

(4) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) the Secretary of the Interior, with respect to Federal land described in subparagraphs (A), (B), (C), and (D) of paragraph (1); and

(B) the Secretary of Agriculture, with respect to National Forest System land.

(b) ESTABLISHMENT OF FLAME FUND.—There is established in the Treasury of the United States a fund to be known as the ''Federal Land Assistance, Management, and Enhancement Fund'', consisting of—

(1) such amounts as are appropriated to the Flame Fund; and

(2) such amounts as are transferred to the Flame Fund under subsection (d).

(c) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated to the Flame Fund such amounts as are necessary to carry out this section.

(B) CONGRESSIONAL INTENT.—It is the intent of Congress that the amounts appropriated to the Flame Fund for each fiscal year should be not less than the combined average amount expended by each Secretary concerned for emergency wildfire suppression activities over the 5 fiscal years preceding the fiscal year for which amounts are appropriated.

(C) AVAILABILITY.—Amounts appropriated to the Flame Fund shall remain available until expended.

(2) APPROPRIATION.—There is appropriated to the Flame Fund, out of funds of the Treasury not otherwise appropriated, $834,000,000.

(3) SENSE OF CONGRESS ON DESIGNATION OF FLAME FUND APPROPRIATIONS AS EMERGENCY REQUIREMENT.—It is the sense of Congress that further amounts appropriated to the Flame Fund should be designated as amounts necessary to meet emergency needs.

(4) NOTICE OF INSUFFICIENT FUNDS.—The Secretaries shall notify the congressional committees described in subsection (h)(2) if the Secretaries estimate that only 60 days worth of funding remains in the Flame Fund.

(d) TRANSFER OF EXCESS WILDFIRE SUPPRESSION AMOUNTS INTO FLAME FUND.—At the end of each fiscal year, the Secretary concerned shall transfer to the Flame Fund amounts that—

(1) are appropriated to the Secretary concerned for wildfire suppression activities for the fiscal year; but

(2) are not obligated for wildfire suppression activities before the end of the fiscal year.

(e) USE OF FLAME FUND.—

(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), amounts in the Flame Fund shall be available to the Secretary concerned to pay the costs of emergency wildfire suppression activities that are separate from amounts annually appropriated to the Secretary concerned for routine wildfire suppression activities.

(2) DECLARATION REQUIRED.—

(A) IN GENERAL.—Amounts in the Flame Fund shall be made available to the Secretary concerned only after the Secretaries issue a declaration that a wildfire suppression activity is eligible for funding from the Flame Fund.

(B) DECLARATION CRITERIA.—A declaration by the Secretaries under subparagraph (A) may be issued only if—

(i) in the case of an individual wildfire incident—

(I) the fire covers 300 or more acres; and

(II) the Secretaries determine that the fire has required an emergency Federal response based on the significant complexity, severity, or threat posed by the fire to human life, property, or resources; or

(ii) the cumulative costs of wildfire suppression activities for the Secretary concerned have exceeded the amounts appropriated to the Secretary concerned for those activities (not including funds deposited in the Flame Fund).

(3) TRANSFER OF AMOUNTS TO SECRETARY CONCERNED.—After issuance of a declaration under paragraph (2) and on request of the Secretary concerned, the Secretary of the Treasury shall transfer from the Flame Fund to the Secretary concerned such amounts as the Secretaries determine are necessary for wildfire suppression activities associated with the declaration.

(4) STATE, PRIVATE, AND TRIBAL LAND.—Use of the Flame Fund for emergency wildfire suppression activities on State land, private land, and tribal land shall be consistent with any existing agreements in which the Secretary concerned has agreed to assume responsibility for wildfire suppression activities on the land.

(f) TREATMENT OF ANTICIPATED AND PREDICTED ACTIVITIES.—

(1) IN GENERAL.—Subject to subsection (e)(2)(B)(ii), the Secretary concerned shall continue to fund routine wildfire suppression activities within the appropriate agency budget for each fiscal year.

(2) CONGRESSIONAL INTENT.—It is the intent of Congress that funding made available through the Flame Fund be used—

(A) to supplement the funding otherwise appropriated to the Secretary concerned; and

(B) only for purposes in, and instances consistent with, this section.

(g) PROHIBITION ON OTHER TRANSFERS.—Any amounts in the Flame Fund and any amounts appropriated for the purpose of wildfire suppression on Federal land shall be obligated before the Secretary concerned may transfer funds from non-fire accounts for wildfire suppression.

(h) ACCOUNTING AND REPORTS.—

(1) ACCOUNTING AND REPORTING SYSTEM.—The Secretaries shall establish an accounting and reporting system for the Flame Fund that is compatible with existing National Fire Plan reporting procedures.

(2) ANNUAL REPORT.—Annually, the Secretaries shall submit to the Committee on Natural Resources, the Committee on Agriculture, and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources, the Committee on Indian Affairs, and the Committee on Appropriations of the Senate and make available to the public a report that—

(A) describes the use of amounts from the Flame Fund; and

(B) includes any recommendations that the Secretaries may have to improve the administrative control and oversight of the Flame Fund.

(3) ESTIMATES OF WILDFIRE SUPPRESSION COSTS TO IMPROVE BUDGETING AND FUNDING.—

(A) IN GENERAL.—Consistent with the schedule provided in subparagraph (C), the Secretaries shall submit to the committees described in paragraph (2) an estimate of anticipated wildfire suppression costs for the applicable fiscal year and the subsequent fiscal year.

(B) PEER REVIEW.—The methodology for developing the estimates under subparagraph (A) shall be subject to periodic peer review to ensure compliance with subparagraph (D).

(C) SCHEDULE.—The Secretaries shall submit an estimate under subparagraph (A) during—

(i) the first week of February of each year;

(ii) the first week of April of each year;

(iii) the first week of July of each year; and

(iv) if a bill making appropriations for the Department of the Interior and the Forest Service for the following fiscal year has not been enacted by September 1, the first week of September of each year.

(D) REQUIREMENTS.—An estimate of anticipated wildfire suppression costs shall be developed using the best available—

(i) climate, weather, and other relevant data; and

(ii) models and other analytic tools.

(i) TERMINATION OF AUTHORITY.—The authority under this section shall terminate at the end of the third fiscal year in which no appropriations to or withdrawals from the Flame Fund have been made for a period of 3 consecutive fiscal years.

SEC. 424. COHESIVE WILDFIRE MANAGEMENT STRATEGY.

(a) STRATEGY REQUIRED.—Not later than 1 year after the date of enactment of this Act,

the Secretary of the Interior and the Secretary of Agriculture, acting jointly, shall submit to Congress a report that contains a cohesive wildfire management strategy, consistent with the recommendations described in recent reports of the Government Accountability Office regarding management strategies.

(b) ELEMENTS OF STRATEGY.—The strategy required by subsection (a) shall provide for—

(1) the identification of the most cost-effective means for allocating fire management budget resources;

(2) the reinvestment in non-fire programs by the Secretary of the Interior and the Secretary of Agriculture;

(3) employing the appropriate management response to wildfires;

(4) assessing the level of risk to communities;

(5) the allocation of hazardous fuels reduction funds based on the priority of hazardous fuels reduction projects;

(6) assessing the impacts of climate change on the frequency and severity of wildfire; and

(7) studying the effects of invasive species on wildfire risk.

(c) REVISION.—At least once during each 5-year period beginning on the date of the submission of the cohesive wildfire management strategy under subsection (a), the Secretaries shall revise the strategy submitted under that subsection to address any changes affecting the strategy, including changes with respect to landscape, vegetation, climate, and weather.

AMENDMENTS NOS. 2456 AND 2522 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, amendments Nos. 2456 and 2522 are withdrawn.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2522

The PRESIDING OFFICER. For the clarification of the Senate, amendment 2522 was not withdrawn. It was part of the managers' package.

The majority leader.

HEALTH CARE DEBATE

Mr. REID. Mr. President, this past April, as the health care debate was getting underway, I sent my Republican counterpart, Senator MCCONNELL, a letter outlining our priorities for the debate. I wrote, of course, that Democrats are committed to lowering health care costs, expanding access, and improving the quality of care. I said that we look forward to a dialog about how to prevent diseases, reduce health disparities, and encourage both early detection and effective treatments that save lives. But in that letter of 5 months ago, I also said that in order to help struggling Americans, we cannot drown in distractions and distortions. I made clear that bipartisanship depended on Republicans demonstrating a sincere interest in legislating. It depends on their joining us to offer concrete and constructive proposals, even if we disagree on the content of those ideas. It depends on us working together in our common interests rather than against each other and against the interests of the American people.

I stand by that assessment as strongly today as I did this spring. It is painfully clear to everyone who has seen this debate's disturbing turns and dishonest tactics that more than ever, we now need people willing to work together in good faith. If we have learned anything from the recent rhetoric, both in our respective States and here in the Senate, it is that we need honest debate. It is regrettable that we have seen far too little of that lately.

Today, I want to talk about one area of the debate that has seen particularly reckless rumors and scare tactics—what health insurance reform will mean to seniors.

A Republican Congresswoman recently claimed that our plan to improve health care would ''put seniors in a position of being put to death by their government.'' That was wrong when it was said, and it is wrong now. A Republican Senator made a similar statement to mislead his constituents. He actually accused Democrats of proposing a plan that would kill Americans. Others pretend our reforms will cut benefits when, in fact, the only thing they cut is waste. Is this any way to have an honest debate? I don't think so. Is this what our constituents sent us here to do? I don't think so. Some of our friends on the other side may not want to let reality get in the way of a good sound bite, but I think it is crucial that we get the facts straight.

The fact is, ever since a Democratic Congress and Democratic President created Medicare, Democrats have spent the past 40 years protecting seniors.

I know a little bit about Medicare. My first elective job in Nevada was on a countywide hospital board. It was then called the Southern Nevada Memorial Hospital. It is now called the University Medical Center. When I started my job, 40 percent of seniors who came into that hospital had no insurance. We had an aggressive plan to go after their fathers, mothers, brothers, sisters, whoever signed for them. That is no longer the case with Medicare. Virtually every senior who comes into that institution and all institutions has insurance to cover their hospitalizations. It is called Medicare. By the time I left that job, Medicare had come into existence.

The fact is, ever since Republicans opposed the creation of Medicare, they have spent the past 40 years on the wrong side of history when it comes to helping seniors. They were wrong then, and they are wrong now.

I don't carry much in my wallet. I have three credit cards. I have a few dollars. One thing I always carry with me is something I think is pretty important. I have carried this for years. You can see how wilted it is. I have done it for many years because I want to be able to quote accurately what I am talking about here. Republicans have hated Medicare from the very beginning, and they still hate it.

I was there fighting the fight, one of twelve voting against Medicare because we knew it wouldn't work in 1965.

Robert Dole, former leader of the Republicans in the Senate, candidate for President on the Republican ticket, that is what he said.

Now, we didn't get rid of it in round one because we don't think it is politically smart, but we believe Medicare is going to wither on the vine.

Newt Gingrich. I am not making this up. This is what they said.

Dick Armey, majority leader a few years ago in the House of Representatives:

Medicare has no place in a free world.

When I say that since Democrats created Medicare, we have spent 40 years protecting America's seniors, the fact is, ever since the Republicans opposed the creation of Medicare, they have spent the past 40 years on the wrong side of history when it comes to helping seniors. They were wrong then. They are wrong now. They conveniently ignore facts such as that in 1965, only half the Nation's seniors had health insurance. Today, virtually every senior has health insurance. It is called Medicare. Is it a perfect program? Of course, it is not. But it is a pretty good program. Seniors' life expectancy has gone up and the number of seniors living in poverty has gone down. Those on Medicare universally like it.

People complain about this program. Do you know what the overhead is on this program? It is less than 3 percent. It is one of the most effective programs in the history of the country. But that hasn't stopped Republicans from bragging about trying to kill Medicare. It hasn't stopped them from looking out for insurance companies instead of their constituents. And in the past 10 years, it hasn't stopped Republicans from voting against protecting and strengthening Medicare 59 times. Look at this. These are the votes by year. Just last year, these are the votes. I hope this year's reform will not be No. 60 because this bill will also protect and strengthen Medicare.

There will be an opportunity for Democrats and Republicans to offer amendments to whatever bill comes out of the Finance Committee and out of the HELP Committee, and they will be melded together. What our legislation does is lower the cost of medicine. It provides a free yearly checkup, makes preventive care for seniors free. It will give doctors who treat seniors a raise, and it will cut waste from Medicare. For seniors, health insurance reform will mean all of that.

Rather than having a serious and real debate about a serious and real crisis, some would prefer to deploy tactics to frighten the American people. But what really frightens them is that under the status quo, they live just one

illness, one accident, one pink slip away from losing everything they have.

This is no time to let partisanship get the best of us. This is no time to obsess over rumors or oppose ideas simply because they were proposed by people who sit on a different side of this Chamber. This is no time to instill unfounded fears or incite hope that our Nation's leaders fail.

This is the time to get serious about making it easy for American citizens to afford and live healthy lives. When it comes to Republicans' attacks on Medicare, the messenger has no credibility and the message is nothing more than an excuse. At the end of the day, the other side's insistence on spreading fear above all else is what will truly hurt seniors and all Americans.

Our opponents' claims this time around are as disingenuous as they have been and phony at worst—disingenuous because they have a long track record of standing in the way of giving America's seniors what they need, phony because they completely and willfully misrepresent what the bills we are considering will actually do for seniors. Our bill will lower the cost of medicine, provide a free yearly checkup, make preventive care free, give doctors who treat seniors a raise, and cut waste from Medicare. That is what it is all about.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the majority leader, Mr. President, because a lot has been said in this health care debate that needs to be clarified. I have been on the floor—how many times—when the Republican leadership has come to the floor and told us that if we are not careful in health care reform, we will end up with a government-run health insurance program. They have warned us: Be careful. Government run health insurance, it is socialism, too much government. I am waiting for the first Republican Senator to come to the floor and say: So we should abolish Medicare; we ought to get rid of Medicaid, which is for the poorest people, and we ought to get rid of veterans health care, another government program, and the Children's Health Insurance Program that makes health insurance affordable all across the United States. If one follows the Republican logic, they are all government health insurance programs.

Traditionally, the Republican Party has not embraced the concept. Let's be honest about it. They have a different view. They would like government to step aside and let the market work its will. Have you noticed what the market is working? The market is working its will in health insurance, and we are seeing private, for-profit health insurance companies making a fortune, denying one out of five people the coverage they thought they had, raising their costs every single year. That is the reality of the private market.

When it comes to Medicare, a program created under President Lyndon Johnson more than 40 years ago, 45 million Americans have the peace of mind to know they have basic health insurance protection. Do you know who these people are? They are folks who worked their whole lives, paid money out of their paychecks to be part of Medicare so that they would have not only the peace of mind but quality health care in their retirement years. It is not just the peace of mind of having access to good health care, it is the peace of mind of knowing that all the money you worked for your entire life to save, the money you wanted to live on in comfort after retirement would not disappear because of medical bills. Medicare gives people peace of mind and protects their assets so they can live independently, comfortably, in the kind of style most of us dream of for all Americans who have worked so hard for many years.

We hear the other side tell us how bad those government health insurance programs are. The administrative costs of Medicare are dramatically lower than the cost of private health insurance. It is obvious. Medicare is a not-for-profit entity. It is managed at a cost of about 3 percent. Do you know what happens with health insurance companies? They load up with costs for profit. They load up with costs for advertising and marketing.

They load up with people who get on the telephone to say: No—no to your doctor. You know what I am talking about. When the doctor says: I think the best thing for you is this procedure, and you are under private health insurance, that last stop in that medical decision is not at the hospital or in the doctor's office; the last stop is a long-distance phone call to some clerk sitting out in Omaha, NE, with a manual in front of him or her, and the first words at the top of the page say: Say no. Raise questions. Tell them you will get back to them.

Am I making this up? I am not. I have example after example from my home State of Illinois, from people I have met during the course of my service in the Senate and the House, and people I met this last summer who will verify that.

So when the Republicans come to the floor to criticize us and say they are the guardians of Medicare, it does not square with their traditional position of opposing Medicare, with their efforts to cut Medicare over the years and the fact that when we talk about Medicare and its future, they are nowhere to be found.

This is a critical health care debate we are facing. I admit the President has stuck his neck out a mile. It takes some courage to do it because he knows it is a controversial issue. President Obama said to us in a joint session of Congress: If this were easy somebody would have done it a long time ago. But he is going to take this on, and he said to us publicly and privately he will spend every penny of political capital he has to get it done. It means that much to him and to our Nation.

So for seniors this is a critical debate. A lot of seniors are being misled by things that are downright awful. I saw the videotape. This Republican Congresswoman went to the floor of the U.S. House of Representatives and said that: Oh, these Democrats want to create death panels. Sarah Palin said that those death panels would take the life of one of her children or something. That is an outrageous statement and not true.

Do you know what they are talking about? They are talking about an amendment offered by a Georgia Senator—a Republican Georgia Senator—JOHNNY ISAKSON—a reasonable amendment. Do you know what it said? Under our health care reform, people should be allowed to go to a doctor and, in privacy and in confidence, sit down and say the words that need to be said—words like: Listen, I don't want to be hooked up to some machine. When the time comes, I want to go peacefully. I don't want extraordinary things done for me. That is my wish and, doctor, I want you to know that wish. I am going to tell my family, but I want you to know.

Is that an important conversation? Any one of us—and so many of us fit in this category, who have been through one of those situations with a parent, a member of our family, or someone we love—wants to know what they want.

So Senator ISAKSON proposed that amendment. It was a thoughtful, reasonable amendment that we brought into this debate. What happened to it? You know what happened: death panels. Oh, they are going in there. They are going to mandate that they pull the plug on Granny. That is sad. It is unfortunate. It shows a lack of maturity and judgment by those who are making those charges. And we have heard them from the halls of Congress and outside. What we are talking about here is health care reform this country needs but health care reform that will actually benefit Medicare beneficiaries.

As shown on this chart, this is basically what we hope to do for seniors when it comes to health insurance reform.

First, we want to lower the cost of medicine. Ask seniors about Medicare's prescription drug plan, and they will tell you: Well, it is good, but if you have a lot of drugs and they are very expensive—somehow or other Congress dreamed up something called the ''doughnut hole.'' What it basically means is, for some period of time each year, those seniors who need drug protection the most are on their own. They have to start spending out of their pocket. We close the doughnut hole, lowering the cost of medicine for seniors under Medicare.

We provide for that free yearly checkup that can make all the difference in the world. A senior who gets to go in and check up with the doctor regularly is one who is likely going to

spot something before it becomes serious where it can be treated successfully. That makes good sense. Seniors across America will appreciate that. That is part of our plan.

Preventive care is free. We are talking about mammograms, colonoscopies, blood tests for prostate cancer. These things will be free under the health care reform we are talking about for senior citizens and for virtually everyone in America.

Giving doctors who treat seniors compensation for the care they are providing. We want doctors who are professional enough to include Medicare patients in their practice to be compensated fairly.

Finally, cut waste from Medicare. I want to say a word about this. I got on this ''Meet The Press'' program. I get on there once in a while on Sunday mornings. I think they put me on because I am free. But for whatever reason, I was on there, and I was in debate with Newt Gingrich. You know Newt Gingrich, former Republican Speaker of the House of Representatives, the spokesman for many parts of his party today.

I said: It bothers me when people say health care reform is going to cut Medicare. Let me tell you what we have in mind. A few years ago, the private insurance companies came to us and said: We can do a better job at a lower cost in providing Medicare benefits. Well, some people were skeptical.

They said: Let us prove it. The government is doing this all wrong. Let the private health insurance companies do it. We will show you, and we will call it Medicare Advantage.

Off they went providing these Medicare Advantage programs that were to match the benefits under Medicare. The jury came in a few years later, and, do you know what, many of these plans cost up to 14 percent more than Medicare. They did not save us money. It ended up these private health insurance companies not only did not make their point about being cheaper, they cost the taxpayers more money than we should have paid out. They did not provide additional benefits for Medicare recipients that they needed.

They want us to continue to subsidize these private health insurance companies that have failed in their offer to beat Medicare at its own game. So when we say, and the President says, we want to cut the subsidy to health insurance companies under Medicare, that is what he and we are talking about. If they did not keep their end of the bargain to provide medical care at the same cost or less cost than Medicare, why should we continue to subsidize them? I do not think we should.

I said that on the show, and the next person to speak was former Speaker Newt Gingrich, who said: Well, that proves our point. DURBIN wants to cut Medicare.

Well, fortunately for me, Dr. Howard Dean, the former Governor of Vermont, was on the panel, and he corrected him. He said: Mr. Gingrich, he didn't say cut Medicare. He said cut the subsidy to the health insurance companies that are taking advantage of Medicare to profiteer, take that extra money and provide the kind of care we need for seniors, and make sure, in the process, we save the Medicare Program.

Untouched, our Medicare Program is going to suffer from the same thing everybody else suffers from in America: the escalating cost of health care. We have to do something. We have to keep our promise, not only to the seniors today, but to the many who will come after them, that Medicare will be there when they need it, that when they reach the age of 65, they will have the peace of mind of knowing they can still go to their doctor, still go to their hospital, get quality care, and not have a catastrophic illness that wipes out their savings.

This is a debate which is worth getting into. I hope those who follow it understand this party on this side of the aisle fought to create Medicare, fought to protect Medicare, and now is fighting to save Medicare. Do not let those who come before us, misleading us about what we are trying to achieve here, mislead the American people.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I am not so sure, given what is happening in the country these days, it would be very easy to enact the Medicare Program, had we not done so previously. The Medicare Program was enacted at a time when one-half of the senior citizens in this country had no health care—none. That is not surprising because the fact is, insurance companies do not go running after elderly people to say: Can we provide health insurance coverage to you? We know you are in your seventies or eighties, and we know you are probably going to need coverage for various things in the years ahead. We would like to provide that coverage.

In the mid-1960s, this country and the Congress said: People in their elderly years should not have to lay their head on their pillow at night and wonder whether tomorrow might be the day when they become ill, have a disease, have an accident, and go to a hospital with no health insurance to cover their needs.

This Congress did something very important, and, as is usually the case, when it created Medicare, there were plenty of people saying: Don't do it. It won't work. It is socialism. It shouldn't happen. But it did happen.

There is a health care bill being written in the Finance Committee now. I am not part of a gang of two or a gang of six or a gang of eight. I am part of a gang of 99 Senators, as of today, who will consider the bill they come up with. I do not know what it will look like, and I wish to see all of it before I make a judgment about its merits, but I will say this: Even as it is being written, we hear of efforts to cold call into homes of senior citizens to tell them that what is happening is an attempt to injure and take away services from Medicare for senior citizens. It is not true. It is false.

It is hard to make the case, it seems to me, but some are trying, that if you try to reduce the cost of Medicare by getting rid of waste and fraud and abuse, somehow that results in less health care services for senior citizens, yet that is exactly what is being represented by some.

I have watched very carefully and been very concerned about the issue of waste and fraud and abuse in Medicare.

There should be aggressive oversight, with respect to those who are providing Medicare benefits to senior citizens. There is too much fraud. My hope is—and my understanding from what is being written with respect to preventing fraud—it is going to be a new day. If you want to sign up as a provider and get reimbursement from Medicare for helping senior citizens, you better be providing the service. All too often that has not been the case.

So when we decide we are going to try to cut waste and fraud and abuse in a very serious and relentless and aggressive way, we have people who say: Aha, what they are going to do will harm senior citizens. It is not going to harm senior citizens in the delivery of health care to those who are entitled to it if we take on the waste and the fraud and the abuse and start putting the crooks in jail. That is not going to hurt senior citizens. That is going to help America's elderly.

Let me describe what I am talking about. In 2007, the Department of Justice randomly visited 1,600 durable medical equipment suppliers that bill Medicare for services. They found that one-third of the businesses did not exist. Think of that. They randomly visited 1,600 durable medical equipment suppliers that provide services to beneficiaries, we are told—they are billing the government for it—and they found out that one-third of them did not exist. They were mailboxes to collect fraudulent checks. They billed Medicare, combined, $237 million in 2007.

Putting those people in jail and stopping that kind of fraud does not injure Medicare. It strengthens it. It does not hurt senior citizens.

A man named Mr. Alcides Garcia was sentenced to 8 years in prison. Here is a picture of him, so we can give him a little credit for what he did. He was sentenced to 8 years in prison after his medical equipment company made millions in false Medicare claims.

Mr. Thomas Fiore, as shown in this picture, was indicted with 10 others on racketeering charges in south Florida for identity theft and Medicare fraud and much more.

In April of this year, just months ago, officials in Oregon wrapped up a lengthy fraud case. Again, to give credit where credit's due, this is a man

named Richard Vanderschuere. He faked disability. His wife Karen and son Richard, Jr. claimed to be full-time care providers. His mother claimed to be a weekend backup assistant. The so-called caretakers received payments for providing home health care while he received Social Security disability benefits. His mother was employed. By the way, this person's mother was employed as a fraud investigator for a State agency in the State of Oregon at the time. Here is his wife, to make sure she gets proper credit. We don't want to leave out the kid because they were all involved in this—trying to fleece the American taxpayers and defraud the American Government.

My point is very simple. My point is that when we take on waste, fraud, and abuse—and this is a new day; this is not part of the lost decade when we had a whole lot of people fleecing this program—when we do that, when we cut down on the waste, fraud and abuse and reduce the costs of Medicare, it is not about reducing Medicare for senior citizens.

I was in a little ice cream shop about 6 weeks ago in a little town in North Dakota. Two elderly women came up to me and said: BYRON, please don't let them take my Medicare benefits away. I understand that is what they are going to try to do.

I said: Well, they are not going to do that, but who told you that?

They said: We got telephone calls from some organization that said you have to be aware they are trying to take your Medicare Program away.

I said: Well, that is not true.

They said: Well, we got the telephone calls.

I said: You might have gotten the calls, but it is not true. It is false.

But what is happening around here—again, I don't know what the health care plan will be that comes out of the Finance Committee, but I will guarantee this: Whatever it is, it would not have a ghost of a chance of passing this Chamber if it begins to harm Medicare Programs for the elderly in this country. This is a very important program. We are the ones who created Medicare. We believe it is important. Those naysayers, those people who have always opposed everything—and there are plenty of them, by the way—they are the ones who are saying: If you cut waste, fraud, and abuse, you are going to cut X billions of dollars of costs; therefore, you are cutting health care for senior citizens. That is false. I think it ought to stop. We have groups out there that are making cold calls into homes trying to scare senior citizens.

The fact is Medicare is a very important program. It has enriched the lives of the elderly in this country. Would we want to go back to a time when half the senior citizens reached the point in their lives where they were finished with their work life, didn't have much in assets, and then sat around thinking: Oh, my God, I hope I don't get sick because I don't have health care, and I can't find an insurance company that wants to cover me because they know what I know; that when you get older, sometimes you have those health issues that are most acute.

In North Dakota, I recently met a 111-year-old woman named Mary—111 years old. She is acutely aware of everything; she can visit with you about everything. She described to me when the barn burned down in 1904 when she was 6 years old. This is a wonderful, remarkable woman. She is certainly the oldest person in my State and I assume one of the oldest people in our country. But think of what she has experienced in 111 years. Unbelievable things: the automobile, the airplane, walking on the Moon, you name it. But then think of this: In the middle of all this, after she was well into her sixties, Medicare was provided to say to America's senior citizens: You don't have to be frightened anymore. We are going to provide health care coverage in your older years.

Now 99 percent of the senior citizens in this country have health care. They are our parents, our grandparents, those who raised us, those who loved us, those who cared about us. This country then provided a program called Medicare which said: You don't have to be afraid in your older years. You are going to be able to get health care. That is what Medicare is about. Is it perfect? No, it is not perfect. Is there waste, fraud, and abuse? Yes, there is, and we are determined to shut it down. It will be shut down with the right kinds of programs to prevent fraud. And if you try to cheat the Medicare Program, we are going to aggressively prosecute.

Again, I wish to make sure everybody understands, when we hear people say: If you reduce the cost of Medicare by getting rid of waste, fraud, and abuse you are hurting senior citizens and you are trying to cut senior citizens' benefits, that is false and it ought to stop. It is going on right now and it ought to stop. Organizations doing cold calls into homes of senior citizens ought to stop. And it is parroted by politicians and others who think it is an interesting message to scare senior citizens and it ought to stop.

Let me finish as I started. I don't know what kind of health care bill is going to come to the Senate, and I want to see it before I evaluate it. It is important. It is important to everybody. But I do know this: The Medicare Program is something that has very substantial support in this Chamber. I don't believe there is anything being written in any one of the committees in the Senate that would begin to diminish or in any other way weaken Medicare coverage for America's senior citizens. If that was the case, it wouldn't have a ghost of a chance of getting through this Senate.

I yield the floor.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent to modify the previously agreed to list of amendments to be considered in order to include my amendment No. 2530 and to set aside the pending amendment so mine may be called up.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. On behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

Ms. MURKOWSKI. Mr. President, I believe it is truly unfortunate that we are not allowed to consider this amendment. The amendment I was hoping to be able to bring up and consider is one that would prohibit the use of funds that has the effect of making carbon dioxide a pollutant subject to regulation under the Clean Air Act for any source other than a mobile source.

It is unfortunate that the majority will not allow us to consider this amendment. The problem it seeks to address is significant. I don't believe it is going to go away if we choose to ignore it. As disappointed as I am, this amendment has clearly received considerable attention, so I wish to take this time this afternoon to fully explain its intent, my efforts to ensure its bipartisan nature, as well as the reasons I believe it is so incredibly important for the Senate to be given an opportunity to vote in favor of its adoption, if not now, then at some other point.

In writing this amendment over this past week, I have listened to the concerns of many of my colleagues and the concerns of the environmental community, as well as the concerns expressed by the administration. My colleagues don't have to take my word for this. Look at the text of the amendment and see how it reflects—I think it so reflects—very seriously the comments and the criticisms from those who have weighed in. All I ask, at this time, is that for the next few minutes, my colleagues and my critics return the favor and listen to what I have to say.

For context, let's start back at the beginning. Back in April of 2007, the Supreme Court declared, in the case of Massachusetts v. EPA, that carbon dioxide is a pollutant that can be regulated under the Clean Air Act. The Court held that the EPA must regulate emissions from mobile sources—meaning vehicles—if the Agency determined that carbon dioxide posed a threat to public health and welfare.

In the wake of that decision, EPA began to lay the groundwork for Federal regulation of greenhouse gas emissions. Through its proposed ''endangerment finding,'' the Agency has sought to confirm that greenhouse gas emissions are, indeed, a threat to the public health and welfare. That proposal is now under review and most expect that it will be finalized in the very near future.

The EPA has also released its draft rule to regulate mobile source emissions as required by the Supreme Court, and this will be accomplished

through a dual standard that includes increased vehicle fuel economy and reduced tailpipe emissions.

I am not putting the brakes on that proposal, despite some assertions to the contrary, but I am deeply concerned about the reach it may ultimately have. Under the ''Prevention of Significant Deterioration'' provisions within the Clean Air Act, anything found to be a pollutant under one section will be subject to regulation under all other sections of the statute.

So what exactly does this mean in plain English? The EPA's decision to regulate carbon dioxide legally covers not only mobile sources but also stationary sources. We tend to think of powerplants when we think of stationary sources, but also we think of office buildings, hospitals, schools, and apartment buildings. If you follow along those lines, you get the right idea. Very clearly, stationary sources must reduce emissions in order to bring our Nation to its climate goals, but forcing them to do so through the Clean Air Act would be one of the least efficient and most damaging ways to pursue that goal. It would be rife with unintended consequences and, I believe, potentially devastating for our economy.

Under the Clean Air Act, any stationary source that emits more than 250 tons of pollutants each year is subject to regulation. Unlike other pollutants, pretty much every form of economic activity generates some level of carbon dioxide emissions. So these add up relatively quickly. In fact, the U.S. Chamber of Commerce has looked at this very closely. They believe that more than 1.2 million buildings that have never before been regulated under the Clean Air Act would come under this regulation if Congress does not intervene and if EPA moves forward.

The 250-ton threshold would encompass more than just our major emitters. Caught in the same net would be dry cleaners, restaurants, the local Barnes & Noble bookstore. Realistically, we are probably talking about any facility that is heated or cooled by conventional means that is more than 65,000 square feet in size.

I think there are some very grave concerns about the path the EPA would lead us down. I think they are apparent. I think others are seeing this as well and are expressing their concerns. Just this week, I received letters from over 11 different agricultural groups, including the American Farm Bureau Federation. I have received letters from the American Council of Engineering Companies; NFIB, the National Federation of Independent Businesses; the National Association of Manufacturers and the U.S. Chamber of Commerce.

I ask unanimous consent that the letters from these organizations be printed in the RECORD.

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

NATIONAL FEDERATION OF INDEPENDENCE BUSINESS,
Washington, DC, September 23, 2009.

Senator LISA MURKOWSKI,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR MURKOWSKI, On behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, I am writing to support your amendment to the Fiscal Year 2010 Interior/Environment Appropriations bill to prohibit the Environmental Protection Agency for one year from using federal funds to regulate stationary sources of carbon dioxide (CO2).

As you know, the EPA proposed that six greenhouse gasses (GHGs), including CO2, endanger public health and welfare. These findings would trigger stringent new regulations under the Clean Air Act (CAA) that would disproportionately affect small entities that are not major polluters and least able to handle or even understand new restrictions. Regulation of GHGs under the CAA will create new burdens such as federal permitting requirements, restrictions on fuel choices and energy use, and requirements for installation of new energy efficient equipment.

Small business routinely cites unreasonable government regulations as a top problem, ranking number six on the 2008 NFIB Small Business Problems and Priorities publication. Regulatory costs are significant and small businesses pay disproportionately more than larger businesses. According to the 2001 NFIB study on Coping with Regulation, small businesses cite many reasons for being frustrated by government regulations, including dealing with the extra paperwork, understanding what is needed to be in compliance, and the dollars spent to comply with government regulations.

The cost of regulation for small business has risen by 10 percent, to $7,647 per employee per year (according to the Small Business Administration's Office of Advocacy). This means that for the average member at NFIB with ten employees, the cost of regulation now exceeds $75,000 annually. Adding more regulatory costs would be a serious blow to already overburdened small business owners, who according to the September 2009 NFIB Small Business Economic Trends survey, are still suffering from weak sales and profits numbers.

NFIB supports the Murkowski amendment because it would delay for one year the use of federal funds by the EPA to regulate stationary sources of CO2. As the 111th Congress continues, I look forward to working with you to address energy issues in a way that is not disruptive to the small business community.

Sincerely,

SUSAN ECKERLY,
Senior Vice President, Public Policy.

SEPTEMBER 23, 2009.

U.S. Senate.

DEAR SENATOR: The undersigned agricultural organizations urge your support for an amendment to be offered by Senator Murkowski that would prevent unintended and unwanted consequences from regulation by the Environmental Protection Agency (EPA) of greenhouse gases under the Clean Air Act.

The Supreme Court, in Massachusetts v. EPA, held that EPA was not precluded from regulating greenhouse gases under section 202(a) of the Clean Air Act, which addresses new motor vehicle emission standards. This amendment would not affect the rulemaking since the rulemaking is still pending.

We do not believe it is sound policy for the EPA to extend this pending regulation beyond motor vehicles into activities like the production of crops, livestock and poultry. We urge your support for the Murkowski amendment.

Sincerely,

American Farm Bureau Federation®, American Soybean Association, National Association of Wheat Growers, National Barley Growers Association, National Cattlemen's Beef Association, National Cotton Council, National Council of Farmer Cooperatives, Public Lands Council, United Egg Producers, US Dry Pea and Lentil Council, USA Rice Federation.

NATIONAL ASSOCIATION OF MANUFACTURERS,
Washington, DC, September 23, 2009.

U.S. Senate,
Washington, DC.

DEAR SENATOR: The National Association of Manufacturers (NAM), the nation's largest industrial trade association representing small and large manufacturers in every industrial sector and in all 50 states, urges, you to support the Murkowski Amendment to H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010.

At a time when our economy is attempting to recover from the most severe recession since the 1930s, Environmental Protection Agency (EPA) regulations, with no guidance from Congress, will establish disincentives for the long-term investments that would be necessary to grow jobs and expedite economic recovery. The Murkowski Amendment seeks to ensure a healthy and productive discussion in Congress on harmonizing our nation's energy, environmental and economic needs before the EPA starts regulating carbon dioxide (CO2) emissions from stationary sources, including manufacturing facilities.

Manufacturers support a comprehensive, federal climate policy within a framework that will cause no economic harm while granting sufficient time to deploy low-carbon technologies, such as carbon capture and sequestration, renewable energy and a renewed and large-scale deployment of nuclear power plants.

Prior to the onset of the financial crisis in 2008, energy inflation and price volatility were major contributors to a loss of approximately 3.7 million high-wage manufacturing jobs. As you may know, manufacturers use one-third of our nation's energy. Because of the impact a federal climate policy will have on the nation's energy future, this is an issue that must be debated by Congress without preemption from a federal agency.

Supporting the Murkowski Amendment does not convey opposition to climate change policy; it merely allows Congress to do its job. We concur with the sentiment in a Washington Post September 21 editorial, ''Regulating Carbon.'' It noted that the EPA ''is preparing to regulate carbon under the Clean Air Act,'' which ''is breathtakingly unsuited to the great task of battling global warming. . . . Yet if Congress does not act, it's likely that the EPA will. It won't be pretty.''

The NAM's Key Vote Advisory Committee has indicated that votes on the Murkowski Amendment, including potential procedural motions, may be considered for designation as Key Manufacturing Votes in the 111th Congress. Thank you for your consideration.

Sincerely,

JAY TIMMONS.

AMERICAN COUNCIL OF ENGINEERING COMPANIES,
Washington, DC, September 23, 2009.

Hon. LISA MURKOWSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR MURKOWSKI: The American Council of Engineering Companies (ACEC) is

pleased to support your amendment to the FY 2010 Interior Appropriations bill disallowing for one year the U.S. Environmental Protection Agency (EPA) from regulating under the Clean Air Act greenhouse gas (GHG) emissions from stationary sources. Without taking an overall position on comprehensive climate change legislation, we agree that Clean Air Act regulation of GHGs for stationary sources is not the appropriate way to manage carbon emissions.

ACEC is the business association of America's engineering industry, representing more than 5,000 independent engineering companies throughout the United States engaged in the development of America's infrastructure. ACEC member firms represent the broad spectrum of the industry, from very large firms to small, family-owned businesses.

We think it is wise public policy to delay for one year potentially premature EPA regulatory actions under the Clean Air Act before the Congress decides on its course of action. The breadth of the issues in a comprehensive climate change-energy bill requires thoughtful debate with ample time to negotiate differences between senators from all regions of the country, which has just begun in the Senate and should not be hindered by concerns that EPA could be developing a regulatory program for stationary sources that may be entirely inappropriate for GHG emissions. Even the EPA Administrator has indicated that she would prefer that the Congress work its will on a climate change bill rather than ceding authority to EPA.

It is also important to note that your amendment does not permanently take away any authority from EPA, but simply asks for a one-year delay in stationary source regulations. Given that the House-passed climate change bill makes it clear that stationary sources are subject only to the provisions of the legislation and not to Clean Air Act regulations, your amendment is eminently reasonable as the debate continues.

At the same time, we are hopeful that the amendment can be carefully tailored to limit EPA's GHG regulatory authority under the Clean Air Act to only mobile sources. We thank you for the opportunity to express our views. If you have any questions or would like to discuss our comments, please feel free to contact me or our environment and energy director, Diane S. Shea.

Sincerely,

DAVID A. RAYMOND,
President and CEO.

CHAMBER OF COMMERCE
OF THE UNITED STATES OF AMERICA,
Washington, DC, September 23, 2009.

TO THE MEMBERS OF THE UNITED STATES SENATE: The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector and region, strongly supports an amendment expected to be offered by Sen. Murkowski and strongly opposes an amendment expected to be offered by Sen. Feinstein to the FY2010 Interior, Environment and Related Agencies Appropriations Act, both related to greenhouse gas emissions. The Murkowski amendment would ensure that should the U.S. Environmental Protection Agency seek to regulate greenhouse gases under the Clean Air Act absent specific authorization from Congress, that EPA limit such regulation to mobile sources. This was the issue decided by the U.S. Supreme Court in Massachusetts v. EPA. The Feinstein amendment would seek to ''tailor'' a small subset of EPA regulations, but in a manner far less comprehensive than the Murkowski amendment.

The House has approved climate change legislation, and the Senate may take up the matter this Congress. It would be inappropriate for EPA to usurp ongoing congressional action on a major policy decision and regulate the very same sources (and the very same emissions) that would be covered by greenhouse gas legislation. Yet that is precisely what would happen if EPA were allowed to proceed.

Since the Massachusetts v. EPA decision, EPA has issued regulations implementing a federal greenhouse gas registry, has proposed ''endangerment'' for the motor vehicle sector, and has proposed a rule to regulate motor vehicle greenhouse gas emissions.

EPA is also likely to issue and enforce as early as spring 2010 a suite of regulations applying to stationary sources, New Source Performance Standards for equipment, Prevention of Significant Deterioration construction permits, and Title V operating permits.

EPA asserts it can use the Clean Air Act to ''tailor'' its rules to large industrial sources, despite the Act's clear language. The Chamber disagrees, believing only Congress can determine the scope of the Clean Air Act. As raised repeatedly in correspondence from the Chamber, EPA could cripple the economy if it opens greenhouse gas regulation beyond mobile sources. EPA should remain within the bounds of the Massachusetts v. EPA decision, which dealt with mobile, not stationary, sources.

The Murkowski amendment would allow EPA to move forward with its greenhouse gas registry and to take public comment on its motor vehicle rule, but it would hold in abeyance EPA's efforts to regulate stationary sources while Congress considers greenhouse gas legislation and the Obama administration negotiates an international accord. If enacted, the Murkowski amendment would allow Congress to consider meaningful and pragmatic greenhouse gas legislation free from any EPA-imposed threat of a regulatory cascade.

The Chamber opposes the Feinstein amendment, which would only exempt farms and other small stationary sources from Clean Air Act Title V regulation. While the Chamber has long argued that the Clean Air Act is a poor tool to address greenhouse gas emissions because it would trigger regulation of smaller sources, like farms, hospitals and small businesses, it would be unwise policy for Congress to react to an attempt by EPA to assert jurisdiction over greenhouse gas emissions from stationary sources with piecemeal, temporary, and wholly incomplete fixes.

The Chamber reiterates its call for Congress to approve bipartisan, comprehensive greenhouse gas legislation in a manner that adequately addresses environmental, energy security, economic, and international aspects of the issue. The Murkowski amendment would facilitate a bipartisan, sensible framework for greenhouse gas legislation and ensure that EPA does not exceed the Court's Massachusetts v. EPA decision.

Sincerely,

R. BRUCE JOSTEN,
Executive Vice President,
Government Affairs.

Ms. MURKOWSKI. To its credit, the EPA realized that regulations at the 250-ton level are simply not feasible. So to try and resolve this issue, the Agency is apparently considering what they are calling a tailoring proposal. This would lift the Clean Air Act's regulatory threshold to 25,000 tons. That is a hundredfold increase.

I shared the Agency's concern about a 250-ton carbon dioxide limit, but this 250-ton proposal moving up to a 25,000-ton proposal, this tailoring issue, is simply not going to hold. It has no legal basis. I think we expect it would be swiftly rejected by the courts. The EPA cannot constitutionally legislate a major change in the Clean Air Act. Ultimately, once this has all played out, the Agency's carbon dioxide regulations would remain in effect, but the threshold would be triggered at a level 100 times lower than the Agency had planned.

That brings us to the tremendous consequences we can expect as a result. There is widespread agreement that the regulation of carbon dioxide emissions under the Clean Air Act would be absolutely unworkable and, at the same time, economically devastating. In the words of a long-term Democrat over in the House, it will create a ''glorious mess.'' Another observed it could result in ''one of the largest and most bureaucratic nightmares that the U.S. economy and Americans have ever seen.''

Just this week, the editors of the Washington Post argued that the Clean Air Act is ''breathtakingly unsuited to the great task of battling global warming.'' The Wall Street Journal's editors cast it as ''reckless endangerment.'' They went on to assert that the regulation would be like putting ''a gun to the head of Congress'' to ''play cap and trade roulette with the U.S. economy.''

That may sound over the top, but even some members of the environmental community have agreed with the metaphor, as one clean air advocate affirmed this by saying this regulation is ''the legal equivalent of a .44 magnum.''

This regulation is a train that could wreck our fragile economy. It is our own creation, and it is barreling toward us at full speed. I recently saw an ironic motivational poster that said: ''Government—if you think the problems we create are bad, wait until you see our solutions.'' It is fair to say that this issue, the regulation of carbon dioxide under the Clean Air Act, is one of the many examples of why that poster was created and, sadly, it occasionally rings true.

Today, however, the Senate can choose another course for the debate over energy and climate policy. The Clean Air Act is one of our worst options to regulate carbon dioxide emissions, but it is not our only option for that cause.

Those of us in Congress can and should step up and pass workable, intellectually honest climate legislation—whether it is a system of cap and trade, a carbon tax, or something else that removes the Clean Air Act from the equation. Nearly every participant in this debate, from elected officials to businesses and the environmental community, has stated their preference for legislation over regulation.

That is where my amendment comes in. For exactly 1 year, it would limit the EPA's ability to regulate carbon dioxide emissions to just the mobile

sources that were the subject of the 2007 Massachusetts v. EPA lawsuit. This is nothing more than a temporary timeout that will give us the breathing room in an already heated debate. It will give us the time we need to develop a sensible, effective policy that achieves the same result at a much lower cost.

Anyone who takes the time to read my amendment will see I have gone to great lengths here to ensure it does not lead to any unintended or adverse consequences. It has been drafted and redrafted to limit one action by the EPA for 1 year, and nothing else. I have been responsive to bipartisan requests, even from Members who I knew would not be able to support this amendment, because I am committed to avoiding any overreach.

So the result we have is an amendment that will not interfere or conflict with any other regulation or action that EPA is obliged to complete. That goes for the preparatory work for the regulation of carbon dioxide emissions. It holds true for the rule to expand the renewable fuel standard, for construction permits, and for regulations to foster the development of clean coal technologies.

My amendment will not in any way impact EPA's authority relating to the reporting of greenhouse gas emissions, its ability to develop a voluntary carbon offset program, to issue permits for energy infrastructure on or near Federal land, permit carbon sequestration projects, or to move forward with very important work of both exploring for and producing the vast reserves of domestic energy on our Outer Continental Shelf.

All of these concerns have been raised over the past several days, before this amendment was even introduced. All of these concerns are explicitly addressed within it. Some of our Nation's leading Clean Air Act attorneys—among the best and brightest legal minds—have assisted us in its preparation. They agree it will do exactly as it says, and that leaves very little ground for the claims that have been made against it.

Given how devastating the EPA's regulation of carbon dioxide emissions could be, many casual viewers are probably left wondering why, exactly, my amendment has drawn such fierce opposition. Well, again, let me be clear. As much as anything else, the regulation of carbon dioxide under the Clean Air Act is being used as a thinly veiled threat to force the Senate to act on climate legislation, regardless of where we are in what remains an ongoing and incredibly important debate.

The possibility that our worst option to reduce emissions will move forward, despite its consequences, is supposed to somehow compel us to move faster. We are expected to push through a climate bill, perhaps regardless of its content, in order to stave off this regulation. If the House debate is any indication of how our own will proceed, we will be asked to rush to judgment, cut off debate on one of the greatest challenges of our time, and to pass a bill—any bill—that purports to reduce emissions.

In my mind, this situation has created a false dilemma, a proverbial Morton's Fork on Capitol Hill—meaning between a rock and a hard place. Right now, those of us in the Senate are clearly left with two bad choices—the EPA's endangerment regulation or the House's energy and climate bill—neither of which will end well for the American people. Making matters worse, we are told there isn't enough time to consider our options and develop a more viable path forward.

By voting ''yes'' on my amendment, we could easily change this unfortunate dynamic. But we will not halt or hinder progress on climate legislation, as some have suggested. Not one of the climate bills that has been introduced so far would take effect until 2012—2 full years after the limitation imposed by my amendment would expire.

If my amendment were to be accepted, the EPA will continue its work to regulate emissions from mobile sources. The agency and its employees will go about their business exactly as normal. They can even continue developing regulations for carbon dioxide emissions from stationary sources. For the next year, they simply cannot put those regulations into effect. One year after this bill is signed into law, that limitation would expire, and the EPA would have every authority to proceed if Congress has still not acted.

For those who have expressed concern that my amendment would become a long-term fixture in appropriations legislation, be assured that I will work with you to ensure that the climate debate not only proceeds but reaches a conclusion in the form of a responsible bill that a majority of us can support. As an elected representative of the State that has been hit hardest by climate change, I will work in good faith with all who want to address climate change in an effective way, while protecting our fragile economy from further harm.

To those who have claimed I am trying to put the brakes on climate legislation, I simply remind you of my longstanding support for renewable, nuclear, and alternative energies as part of the solution. There is a right way and there is a wrong way to moving forward in addressing climate change. EPA regulation of greenhouse gas emissions is simply the wrong way. We must reduce emissions, but it is unacceptable to do so at any cost and by any means. While Congress has not yet developed a workable bill, I will continue to work as hard as I can to make sure that, in fact, we do.

Unlike many Members of the Senate, I have also cosponsored cap-and-trade legislation. I cosponsored the Low Carbon Economy Act that was offered last Congress by Senator BINGAMAN and Senator SPECTER. This year, recognizing that our work is far from finished, Senator BINGAMAN and I worked together, very cooperatively and collaboratively, on another comprehensive measure—the American Clean Energy Leadership Act. We reported that bill from the Energy Committee more than 3 months ago. It would significantly reduce greenhouse gas emissions, without causing economic harm, and yet it is still waiting to be heard on the Senate floor.

The 23 members of the Energy Committee produced a bipartisan energy bill in the first 6 months of Congress. I have every reason to believe that the full Senate can, over a time period twice as long, develop an effective climate policy that will further reduce greenhouse emissions, without disrupting our economy. But that will require us to base our decisions more than on vote counts and special requests. It will require us to set aside politics and focus on substance. It will force us to cross the aisle instead of closing ranks, and it will mean acting on behalf of the American people, in their best interests, rather than our own or our party's.

With regard to my amendment, the majority has again objected to calling it up. They have done everything they can to prevent a vote from occurring on the amendment, culminating in the objection that we not even have debate on the matter today. I want my colleagues to know, however, that this issue will not go away. Neither will my commitment to seeing it addressed head-on in a responsible and, if at all possible, bipartisan way.

I ask unanimous consent that Senators BARRASSO, JOHANNS, and CHAMBLISS be added as cosponsors to my amendment.

With that, I yield the floor.

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

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I know Senator BOXER, the chairman of the Environment and Public Works Committee, has an hour reserved to come and speak.

First, I will respond to the comments of the distinguished Senator from Alaska. I hope she will understand there are many of us who have viewed her amendment with substantial alarm, for reasons that I thought I might spend a few moments speaking about.

Essentially, as I understood the amendment, which was blocked from coming to the floor, it attempted to prohibit the EPA from using any funds to enforce the Clean Air Act to reduce greenhouse gas emissions from stationary sources.

The proponents have argued that their only goal was to protect small family-owned farms and businesses from overly burdensome regulations. Yet the amendment would have gone much further. In fact, it would actually exempt some of the Nation's largest commercial emitters from climate

change regulation, including huge industrial facilities, such as powerplants and refineries.

I am very pleased that this amendment is not before us today. The underlying rationale, as I understand it from the amendment, is groundless. EPA Administrator Lisa Jackson has made it clear that the agency will not use the Clean Air Act to regulate either small businesses or family-owned farms. I was prepared, should the amendment have come up, to put down a side-by-side amendment that would have clearly exempted any farm, as well as any business, that emits under 25,000 tons of carbon dioxide per year.

Let me point this out. Stationary industrial sources account for over half of the U.S. greenhouse gas emissions, according to EPA. These are the leading cause of climate change, and they must be reduced if we have any hope of containing the worst impact of climate change. The amendment would have hampered the administration's effort to tackle one of the biggest pieces of the emissions puzzle: large industrial facilities. It would have been a major setback.

Thirdly, the amendment would effectively overturn the Supreme Court's landmark decision in Massachusetts v. EPA. In that decision, the Court found that the Clean Air Act requires the EPA to determine whether the emissions of greenhouse gases may be reasonably anticipated to endanger public health or welfare and then comply with the Clean Air Act requirements designed to protect public health from dangerous pollution.

Upon completion of an endangerment finding, the Clean Air Act requires EPA to control greenhouse gases from both stationary and mobile sources.

Many argue—and I happen to agree—that regulating the largest greenhouse gas emitters through new legislation, establishing a cap-and-trade system, would be more efficient and less expensive than regulating these sources under the existing Clean Air Act.

But until Congress enacts climate change legislation, EPA has a legal obligation to follow the Clean Air Act. So if one does not want EPA to take action under the Clean Air Act, then this body should want to pass a cap-and-trade bill.

The chairman of the EPW Committee, Senator BOXER, has been working very hard to put together a bill which has an opportunity to pass this Senate.

The point is, if we do not want the Clean Air Act to prevail, then the cap-and-trade bill is the only way to go. That is a clear incentive for the Senate and the House to pass a bill.

EPA has released a draft endangerment finding which it is going to soon finalize. Yet the amendment would have blocked EPA from completing the endangerment finding and from complying with its legal obligations to protect public health. The repercussions would have been major. It means EPA would not be able to complete a joint rulemaking with the Department of Transportation to increase corporate average fuel economy, which we call CAFÉ, and create a tailpipe emissions standard for automobiles.

That would have been a major problem. It would block implementation of the 2007 fuel economy law which I authored with Senator SNOWE and which took us a long time to get passed and enacted.

By undermining the negotiated agreement between States and the Obama administration, the Murkowski amendment would also have likely resulted in States moving forward with their own tailpipe emissions standards which automakers have fought for years as too onerous. This would have stopped California and 14 other States and the District of Columbia from moving forward with implementing tailpipe emissions standards.

This amendment is vigorously opposed by the Alliance of Automobile Manufacturers, which includes General Motors, Ford, and Chrysler, the Association of International Automobile Manufacturers, and the United Auto Workers. To that end, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a letter from the Auto Alliance and the Association of International Automobile Manufacturers.

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

(See exhibit 1.)

Mrs. FEINSTEIN. Mr. President, finally, the amendment would send the wrong signal to the rest of the world about the Senate's intentions on climate change. It would suggest that we want to ignore the clear imperative to act, despite the efforts of the administration to motivate the international community in advance of the Copenhagen summit.

There is some concern also about small emitters. EPA is not planning to regulate small emitters. EPA Administrator Lisa Jackson has clearly stated on several occasions that the agency will not regulate small emitters. She said it in her confirmation hearings, she said it again at Senate budget hearings, and she reiterated that comment when she appeared before the Senate Interior Appropriations Subcommittee hearing on EPA's fiscal year 2010 budget just a few months ago.

In fact, Administrator Jackson has sent a draft deregulatory rule to the Office of Management and Budget for review which would establish clearly that all but the very largest sources of greenhouse gas will be preemptively exempted from the stationary source permitting requirements in the Clean Air Act.

She has no intention of regulating small sources that emit under 25,000 tons of carbon dioxide or any small farm.

Mr. President, 25,000 metric tons is a very high threshold. According to EPA, it is equivalent to the emissions from burning 131 trainloads of coal per year—these would be exempted—or burning 2.8 million gallons of gasoline annually.

The 25,000-ton threshold would exempt every small source, focusing only on 13,000 of the largest emitters in the United States.

Let me say that again. The 25,000-ton threshold which EPA intends to proceed with, and which my side-by-side amendment would have had as one of the two criteria, would exempt every small source, focusing only on the 13,000 largest emitters in the United States.

EPA intends to only regulate the largest facilities, and these facilities are, almost without exception, already regulated under the Clean Air Act for emissions of other pollutants such as soot, smog-forming nitrous oxides, or acid-rain-inducing sulfur dioxide.

Let me now explain why the Murkowski Amendment would impact the joint EPA-Department of Transportation rulemaking on automobile greenhouse gas emissions.

This rulemaking is of critical importance, and the regulation implementing this law was negotiated by the White House in cooperation with automakers, the States, and labor.

But according to a letter I received from EPA Administrator Lisa Jackson last night, the impact of the Murkowski amendment ''would be to make it impossible for the EPA to promulgate the light-duty vehicle greenhouse-gas emissions standards that the agency proposed on September 15, 2009.''

She writes:

> Because of the way the Clean Air Act is written, promulgation of the proposed light-duty vehicle rule will automatically make carbon dioxide a pollutant subject to regulation under the Clean Air Act for stationary sources, as well as for light-duty vehicles. The only way that EPA could comply with the prohibition in Senator MURKOWSKI's amendment would be to not promulgate the light-duty vehicle standards.

These standards are something Senator SNOWE and I have worked on for at least 7 years now, beginning with the SUV loophole and ending with the bill that became law, would be totally undermined. By undermining the negotiated agreement between States, the amendment would also likely result in States moving forward with their own tailpipe emissions standards.

As I indicated before, in 2002 California enacted a landmark law to reduce tailpipe emissions standards by 30 percent for all new sedans, trucks, and SUVs by 2016.

I also stated that 14 other States—namely, Arizona, Connecticut, Florida, Maine, Maryland, Massachusetts, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, and the District of Columbia—have adopted or announced their intention to adopt California's greenhouse gas emissions controls.

The amendment would have been a major roadblock in efforts to improve fuel economy standards for vehicles.

I don't think we can bury our head in the sand when it comes to climate change.

I would like to conclude by reminding my colleagues that it makes no sense at this particular point in time to put on the floor a major amendment which well could have devastated both the EPA and any effort to get to cap-and-trade legislation when, in fact, the EPW Committee is struggling to write a comprehensive bill which has an opportunity to pass this body.

Again I say, if people do not want the Clean Air Act prevailing, then the only way you can do that is with a cap-and-trade bill. That is the way the committee of this body is proceeding. I believe it is the correct way.

I believe our Nation is in serious jeopardy, as is the rest of planet Earth, with global warming. I believe it is real. Just this week, the Journal Nature published a new paper that found rapid deterioration of the ice sheets on Greenland and Antarctica. Yesterday on this floor, I showed the deterioration in the Arctic. I showed the deterioration in Greenland. I showed the deterioration in the Chukchi Sea. I showed the deterioration off Barrow, AK. It is happening all over the world.

The Flat Earth Society cannot prevail. I think there is a real danger signal out there for planet Earth. We know we cannot reverse it. We know that greenhouse gases do not dissipate and go away after a period of time in the atmosphere. We now know these gases that began during the Industrial Revolution are still present in the atmosphere, and we know that the Earth is not immutable, that it can change. We look at other planets and we see that they have changed over the millennia. What we do here to protect our planet Earth for the next generations is so key and critical.

This discussion has to be joined in an appropriate way, and an appropriate way is when a cap-and-trade bill is produced by the Environment and Public Works Committee and the chairman of that committee is on this floor and the bill is open for amendments and there is a free flow of debate and discussion.

I believe the science is real. I pointed out yesterday we have a project in intelligence whereby the satellites are tracking deterioration in the ice shelves of the world. I hope to present more of that information when there is a bill on the Senate floor.

I ask unanimous consent to have printed in the RECORD Administrator Lisa Jackson's letter.

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, September 23, 2009.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: Thank you for your letter about Senator Lisa Murkowski's Amendment Number 2530 to H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act. As you noted in your letter, Senator Murkowski's amendment would prohibit the Environmental Protection Agency from using any funds made available under the Act to take any action that would have the effect of making carbon dioxide a pollutant subject to regulation under the Clean Air Act for any source other than a mobile source.

You asked me what the practical impact would be if Congress enacted Senator Murkowski's amendment. Perhaps the most striking impact would be to make it impossible for the Environmental Protection Agency to promulgate the light-duty vehicle greenhouse-gas emissions standards that the agency proposed on September 15, 2009. Because of the way the Clean Air Act is written, promulgation of the proposed light-duty vehicle rule will automatically make carbon dioxide a pollutant subject to regulation under the Clean Air Act for stationary sources, as well as for light-duty vehicles. The only way that EPA could comply with the prohibition in Senator Murkowski's amendment would be to not promulgate the light-duty vehicle standards.

As you know, promulgation of EPA's light-duty vehicle greenhouse-gas emissions standards is an essential part of the historic agreement that President Obama announced earlier this year with the nation's auto-makers, the State of California, the Department of Transportation, and EPA. That agreement attracted broad, bi-partisan support. The joint DOT–EPA standards are projected to save 1.8 billion barrels of oil over the life of the program, which is twice the amount of oil (crude oil and products) imported in 2008 from the Persian Gulf countries, according to the Department of Energy's Energy Information Administration Office. Additionally, the standards are projected to help save consumers more than $3,000 over the lifetime of a model year 2016 vehicle and reduce approximately 900 million metric tons of greenhouse gas emissions. Enactment of Senator Murkowski's amendment would pull the plug on those extraordinary accomplishments.

Sincerely,

LISA P. JACKSON,
Administrator.

EXHIBIT 1

SEPTEMBER 24, 2009.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINSTEIN: We are writing regarding Senator Murkowski's Amendment Number 2530 to H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act. As manufacturers, we are sympathetic to the thrust of Senator Murkowski's amendment that the Congress—and not simply EPA acting under the provisions of the current Clean Air Act—should determine how best to reduce U.S. greenhouse gas emissions economy-wide.

However, the amendment raises additional issues that must be considered where complicated and interconnected environmental and legal issues are at stake. We are concerned that due to the complex interactions among regulations under the various sections of the Clean Air Act, the amendment may impact significantly pending regulations in the mobile source sector—despite language in the amendment that would appear to leave the sector unaffected. In a letter to Senator Feinstein dated September 23, Administrator Jackson stated EPA's interpretation that the Murkowski amendment as filed would "make it impossible for the Environmental Protection Agency to promulgate the light-duty vehicle greenhouse-gas emissions standards that the agency proposed on September 15, 2009."

While the author of the amendment appears not to intend this outcome, we feel compelled to express our concerns. It is critical that the national program for regulating greenhouse gas emissions from autos be finalized early next year. Failure to do so would subject automakers to a patchwork of conflicting state and federal regulations.

Therefore, we respectfully oppose the adoption of the Murkowski amendment as written to H.R. 2996.

Sincerely,

DAVE MCCURDY,
President & CEO, Alliance of Automobile Manufacturers.

MICHAEL STANTON,
President & CEO, Association of International Automobile Manufacturers.

Mrs. FEINSTEIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, under the unanimous consent agreement, I apparently had 30 minutes. Can the Chair tell me if I have time remaining?

The PRESIDING OFFICER. The Senator from Alaska has 11 minutes remaining.

Ms. MURKOWSKI. Mr. President, I know the Senator from Oklahoma had wanted to make a couple comments, but I would like to take a couple extra minutes before I turn to him in response to my friend and colleague from California.

In many ways, she has made my point or supported the argument. I would agree that, in fact, in order to deal with this very timely issue, this very significant issue, we must act. I just do not believe that utilizing the regulation, moving a climate change regulation through the EPA, is the best instrument, the most effective instrument.

The people I represent back home are very concerned about this, as I have indicated, and are expecting their Congress to act. But they do not feel very comfortable with unelected bureaucrats in the Environmental Protection Agency telling them that, in fact, this is the road we are going to be going down, with no real appreciation or sensitivity to the environmental factors that we in this body assess as we are trying to advance policy. We need to be driving forward good, thoughtful, considered, reasonable policy on the issue of climate change.

I am not disagreeing we stop on this issue. I am simply suggesting we need to make sure it is Congress, it is through the legislative process that we advance these very important policy initiatives.

I do want to also make a comment about the concern that somehow or another my legislation would pull back on what the EPA is currently doing with mobile sources, the emissions from tailpipes. I don't think we could have drafted the amendment any more clear to ensure that it is specific as to the stationary sources.

Again, I urge my colleagues to make sure they are looking at the draft of

the amendment we have proposed and not some previous initiatives.

One final point before I turn to Senator INHOFE. The point has been made by my colleague from California that the Administrator for EPA has said it is not her intention to be regulating the small emitters—the farms, the small businesses. She has made those statements, and I appreciate that, but the problem we face is the Clean Air Act, which doesn't give her that flexibility to change the Clean Air Act. She is obligated to regulate those entities that emit in excess of 250 tons. These are our smaller emitters. So even though she may have suggested or stated this is not her intention to go down that road—she can perhaps move forward with this tailoring proposal, but as I stand before you, I can almost bet that will be challenged in court and it will not pass the test and we will be stuck with what we are all attempting to avoid, which is capturing the smaller businesses—the restaurants, the drycleaners, et cetera—into this net as we try to provide for the regulation of the major emitters.

I am sure we will have plenty of opportunity on this floor to continue this debate, but at this time, Mr. President, I yield the remainder of my time to my colleague from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I only want to be here to thank the Senator from Alaska and Senator THUNE for trying to bring to our attention the issue of the endangerment findings. I have been discussing the incoming economic train wreck that can result from these regulations since the case of Massachusetts v. EPA was decided back in 2007. The EPA's regulatory reach could go everywhere. It could go into schools, hospitals, assisted-living facilities, and just about any activity that meets the minimum thresholds of the Clean Air Act.

Despite the attempts to draft an exemption for small businesses by the senior Senator from California, this effort would be hollow at best. Upon issuance of mobile source regulations the EPA has proposed in its light-duty vehicle greenhouse gas emission standards, the farmers and small sources still retain the obligation under the Clean Air Act, and this obligation is enforceable through citizen suits which we have confirmed through environmental groups will follow. So we know that is going to happen.

I would have to say, as the ranking member on the Environment and Public Works Committee, the more we get into this, the more complications we find. In the process of coming up with some type of an endangerment finding, we find that the information science has been suppressed. We know of the case of Dr. Alan Carlin, who claims his assessment of the latest science on global warming wasn't considered in the endangerment proposal. So we have the endangerment proposal. And some people are not aware of how this process works; that ultimately, if the findings are there, that is when they reach into every life in America. However, this Dr. Carlin has been with the EPA for a long period of time, and he was upset that his information was intentionally suppressed.

Then we find out that information concerning the economics, such as we found through the U.S. Treasury's assessment when they were trying to say, during the consideration of, perhaps this modified bill that it would be the cost of a postage stamp a day, that in fact it would have been some $1,761 per family every year—we tried to relate that back to what kind of a tax increase this is. If you remember back in the year 1993, we had the Clinton-Gore tax increase—the largest tax increase in decades. It was the inheritance tax, marginal rates, capital gains, and every kind of tax imaginable. If you add all that up, that was a $32 billion tax increase. This would be almost 10 times that much.

So I think, as we progress along the lines of the endangerment finding, we know how it will be life changing for every element of our society. So I appreciate the efforts of both Senator MURKOWSKI and Senator THUNE to bring this issue of endangerment findings to the forefront. I am not sure it is the best idea to try to get a 1-year moratorium because in a way that might suppress some of the activity that is going on to expose how bad this is to the public.

Having said that, I appreciate being yielded a small amount of time, and I yield the floor.

AMENDMENT NO. 2549

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I stand to briefly discuss my amendment, No. 2549, which is about the so-called czar issue that has a number of Members on both sides of the aisle very concerned.

As I introduce this amendment, Mr. President, let me ask unanimous consent to add Senators GRASSLEY, BUNNING, ROBERTS, and BROWNBACK as coauthors of the amendment.

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

Mr. VITTER. Mr. President, at this point, I call up amendment No. 2549.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER], for himself and Mr. GRASSLEY, Mr. BUNNING, Mr. ROBERTS, and Mr. BROWNBACK, proposes an amendment numbered 2549.

Mr. VITTER. Mr. President, I ask unanimous consent that reading of the amendment be disposed with.

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

The amendment is as follows:

(Purpose: To ensure that the Assistant to the President for Energy and Climate Change (commonly known as the ''White House Climate Change Czar'') is not directing actions of departments and agencies funded by this Act)

At the appropriate place, insert the following:

FUNDING LIMITATION

SEC. ____. None of the funds made available by this Act may be obligated for the purpose of departments or agencies funded by this Act and lead by Senate-confirmed appointees implementing policies of the Assistant to the President for Energy and Climate Change (commonly known as the ''White House Climate Change Czar'').

Mr. VITTER. Mr. President, I did just waive reading of the amendment, but I am going to read it. It is very short and very to the point, and I think simply reading the language is the best way to introduce the concept.

The language is very clear:

None of the funds made available by this Act may be obligated for the purpose of departments or agencies funded by this Act and led by Senate-confirmed appointees implementing policies of the Assistant to the President for Energy and Climate Change (commonly known as the ''White House Climate Change Czar'').

That is the entire amendment, and the amendment is, again, very simple and straightforward. The point it is making is that we have Cabinet-level appointees. They come before the Senate for vetting and they come before the Senate for confirmation. After they are confirmed, they come before the House and Senate on a regular basis as part of our oversight responsibilities. This constitutional structure should not be superceded by these so-called czars which have grown enormously under this administration.

In making this argument, let me say that this argument has nothing to do with Carol Browner and her qualifications. It is not an attack on her. It is an attack, quite frankly, on the concept of these multitude of czars and the fact that they are an end run around the constitutional process by which top Cabinet and other officials of any administration are confirmed by the Senate and regularly come before the House and Senate as part of our oversight process.

We all know this particular administration has developed an unprecedented number of these so-called czars. We have seen a dramatic increase in this phenomenon. Politico wrote that President Obama ''is taking the notion of a powerful White House staff to new heights'' and that he is creating ''perhaps the most powerful staff in modern history.'' Specifically, the President has created 18 new czar positions, and I want to focus on those 18 positions.

This czar concept is obviously very general and somewhat undefined. What I am talking about are those 18 positions because none of those positions are established by statute. Congress has not authorized or established any of those positions, No. 1; No. 2, none of those individuals have come before the

Senate for confirmation; and No. 3, none of those positions preexisted this administration. As I said a while ago, this has raised concerns among a number of Senators and certainly among the American people.

As I began my remarks, I added as coauthors of this amendment Senators GRASSLEY, BUNNING, ROBERTS, and BROWNBACK. In addition, the distinguished Senator from Maine, Ms. COLLINS, who chairs the relevant authorization committee, has expressed grave concern about this same phenomenon and, in fact, has another amendment about this very issue. Unfortunately, that amendment is going to be struck down as legislating on an appropriations bill. But she has expressed concern. She spearheaded a letter signed by herself and Senator ALEXANDER and others which she sent to the President.

In addition, and this is very important, this has been a bipartisan concern. Going back to February of this year, the distinguished Senator from West Virginia, Mr. BYRD, wrote the administration expressing strong and grave concern about the constitutional implications of all of these czars. Again, the 18 I am talking about are not created by statute, have not been confirmed by the Senate, and never existed prior to this administration. Also, within the last 2 weeks, Senator FEINGOLD, in addition, has expressed strong and serious concern about exactly the same issue and has written to the administration.

The purpose of my amendment is to say quite simply that when we have an agency, when we have a department that is led by a Senate-confirmed appointee, we shouldn't have a so-called White House czar ordering that appointee or ordering that agency or that department to do things, particularly when that White House czar is not an office created by law through Congress, is not a Senate-confirmed position, and did not exist in any form or fashion prior to this administration.

In terms of my specific amendment, I have chosen to focus on the Assistant to the President for Energy and Climate Change, commonly known as the White House climate change czar, for one simple reason: First, she is among this 18 never created by statute, never confirmed by the Senate, never existing prior to this administration, and she is clearly in a very powerful position—apparently giving orders to Senate-confirmed appointees such as the head of EPA. Of course, the EPA is governed by this appropriations bill now on the floor, so that is why I chose to focus on this particular czar position.

Clearly, this particular czar meets all of those criteria which give rise to my concerns. The President himself, when he appointed this czar, said, ''She will be indispensable in implementing an ambitious and complex energy policy.''

In addition, there have been several media reports about her dominant stature and dominant role in these sorts of considerations. The Wall Street Journal, for instance, on September 11 of this year, reported:

> Ms. Browner helped broker a fuel-standards deal between the administration and automakers earlier this year and has been a conspicuous presence in climate negotiations with Congress. Energy Secretary Steven Chu, meanwhile, has been largely tied up administering billions of dollars in stimulus projects. Ms. Browner, through a spokesman, declined to comment.

Also, Mary Nichols, the head of the California Air Resources Board, and Carol Browner were key in crafting a plan to impose the first-ever national carbon limits on cars and trucks.

On May 20, the New York Times reported the following:

> In an interview yesterday, Nichols said Browner quietly orchestrated private discussions from the White House with auto industry officials.

The obvious question this gives rise to is, What about the head of the Senate-confirmed Energy Department? What about the head of the EPA, Senate confirmed? Those folks seem to be shoved to the side, and this new super agency head, a super Cabinet Member seems to be playing a far more dominant role in key issues that are clearly under the purview of the Energy Department and the EPA. Again, this gives rise to serious constitutional concerns. A number of Senators, Republicans and Democrats, have expressed these concerns—Senator COLLINS, Senator BYRD, Senator FEINSTEIN, Senator ALEXANDER. So this is a germane limitation amendment that goes absolutely to the heart of the matter: Should these czars, positions never created by Congress or by statute, never confirmed by the Senate, never existing prior to this administration—should these czars have a role that is more significant than Senate-confirmed Cabinet Secretaries or agency heads?

Again, I have very carefully crafted an amendment to go specifically to this point. Let me read it word for word. It is not long.

> None of the funds made available by this Act may be obligated for the purpose of departments or agencies funded by this Act and led by Senate-confirmed appointees implementing policies of the Assistant to the President for Energy and Climate Change (commonly known as the ''White House Climate Change Czar'').

It does not say you cannot implement policies of the President of the United States. Obviously, the President is elected by the people and the President obviously ranks higher than the head of EPA or anyone else. But it does say the head of EPA, a Senate-confirmed position, should not be ranked below some so-called czar, a position never before created by Congress, never confirmed by the Senate, never existing prior to this administration.

I encourage all my colleagues to stand up for the rights and the proper constitutional role of the Senate. We play a vital role, particularly with regard to Presidential appointments because only the Senate has advice and consent powers. I urge my colleagues to stand up for that constitutional role, to preserve that vital constitutional role, and not to allow so-called White House czars to be an end-run around it and to minimize that role in a significant way.

This is a significant constitutional issue, it is a significant bipartisan issue, and I urge support of my amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I rise to oppose the amendment offered by the Senator from Louisiana. Over the past several weeks we have seen issues raised with increasing frequency and volume around the use of the word ''czar'' by the Obama administration.

I do believe it is unfair to suggest that the White House has a climate czar directing EPA's actions behind the scenes. I do not believe that is true. Effectively, the title ''czar,'' as we all know, does not exist. The current Assistant to the President for Energy and Climate is there to serve as an adviser to the President and to Administrator Jackson on energy and environmental issues. She also coordinates the work of multiple Cabinet level agencies on one of President Obama's key policy priorities—clean energy and jobs that are essential for long-term economic growth.

In a way, this is becoming quite political because it is not unusual for a President to have high-level staff members in the White House who help to coordinate policy issues that touch a number of Federal agencies. We have heard a lot about it. What we do not hear is that President Bush had 47 such advisers for other issues. We Democrats did not make a huge issue about it. So I have a hard time understanding, with all of the concern over climate change and the rapidity with which it is moving, that a Special Assistant to the President who was head of the EPA during the Clinton administration is somebody who is spurious. She is steeped in this. She can give the President good advice. He wants her to be an assistant. So I do not understand quite why she is being picked on.

I still believe the day-to-day work of protecting the environment is very much driven by Administrator Jackson and the EPA staff. I have met with the Administrator. I spoke with her on the phone this morning. I read into the RECORD a letter she wrote yesterday. She is very much hands-on. So I think all of the energy going into these attacks ought to be put into perspective, and that perspective is that the former President of the United States had 47 special assistants. We didn't make a big deal of it. So I do not understand why this one position is now taken and an amendment is there to eliminate it.

I urge a ''no'' vote on the Vitter amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I want to very briefly rebut some of the arguments of the distinguished Senator from California. First of all, in her last sentence she characterized the amendment as an amendment to eliminate the position. Of course it does not eliminate the position in any way.

She said earlier that Carol Browner does not tell EPA what to do. If that is the case, then this amendment will not have to change anything she does or how she operates and we should all come together to support the amendment to help allay concerns of the public. The amendment does not prohibit her from advising the President. The amendment does not prohibit her from coordinating multiagency meetings. The amendment is very clear, and it simply prohibits her from ordering around the EPA, which has its own Senate-confirmed head.

Again, I underscore the fact that this amendment is very carefully and narrowly written and does not prevent any of the legitimate advisory responsibilities that Senator FEINSTEIN has discussed.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Perhaps I can engage the Senator from Louisiana. Candidly, I do not understand the wording of the amendment. Let me read it. You have read it, and I appreciate that. It does not make sense to me. Here is how it reads.

None of the funds made available by this Act may be obligated for the purpose of departments or agencies funded by this Act—

So none of the funds may be obligated for the purpose of departments or agencies funded by this act—

and lead—

It says ''lead'' but led, I think that is a misspelling—

by Senate-confirmed appointees, implementing policies of the Assistant to the President for Energy and Climate Change.

I don't know what that means on its face.

Mr. VITTER. I would be happy to explain through the Chair what it means. The agency I have in mind, which is funded by this act and led by a Senate-confirmed position, is EPA. So it simply means that EPA cannot use any of its funds to implement orders, policies, from Carol Browner—the White House czar's policies. If the President wants to direct them, obviously the President outranks the head of EPA. But a White House czar, in a position not created by Congress, not confirmed by the Senate, never existing prior to this administration, should not be giving orders to a Senate-confirmed Cabinet Member.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, Carol Brown's title is not czar, it is Assistant to the President. The President has chosen to appoint an assistant to assist him in evaluating, I assume, various issues pertaining to climate change. It is a complicated subject. She has experience. She has been in government. She has served as head of a department. But the actual policies come over the signature of the Administrator of the EPA.

What you are saying is, essentially, then, the President cannot have any special assistant for the purpose of coordination, asking questions, informing, helping produce—it does not make sense to me. I think on its face it is not clear.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, to wrap up, my amendment says none of that. My amendment does not prevent this climate change czar from informing and assisting the President. My amendment does not prevent her from convening multiagency and multidepartment meetings. My amendment doesn't say any of that and doesn't prevent any of that. It simply prevents her from ordering the EPA, headed by a Senate-confirmed appointee, to do certain things.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. If I may, I would like to respond to that. Let me give an example. The CIA is headed by a Senate-confirmed Director, Leon Panetta. He carries on policies from the National Security Council led by General Jones, a nonconfirmed official. Does the Senator from Louisiana believe that the National Security Adviser to the President should not have any role in intelligence and national security matters? What is sauce for the goose is sauce for the gander.

Mr. VITTER. Through the Chair, my answer is no, I don't believe that. My amendment has nothing to do with that, and, by the way, that position is created by statute.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. If I may, I know the Senator from Missouri is waiting to speak because he has an important meeting to go to. But if I could take 2 minutes, I think the Senator from Louisiana is making a point that concerns not just him but a number of us in the Senate on both sides of the aisle. Maybe the best way to suggest that is this way.

No. 1, the focus should be on the 18 new czars appointed by this President who were not confirmed, never have existed before, and the number of them.

No. 2, it was not the Republican side of the aisle that raised these concerns first. Perhaps this would best express the concern that many of us have. It was offered by Senator BYRD, senior Member of the Senate, the constitutional conscience of the Senate, who in a letter on February 23 said—this was a letter to President Obama—

The rapid easy accumulation of power by White House staff can threaten the constitutional system of checks and balances. At the worst, White House staff have taken direction and control of problematic areas that are the statutory responsibility of Senate-confirmed officials.

That would be exactly the point in terms of an environment or energy czar and energy or environment Secretary.

As Presidential assistants and advisers,

Senator BYRD goes on to say—

these White House staffers are not accountable for their actions to Congress, to cabinet officials, and to virtually anyone but the President. They rarely testify before Congressional committees—

Et cetera.

Then, Senator COLLINS, on behalf of six Senators, wrote the President a very respectful letter focusing on the 18 new czars who had been appointed by the President simply asking what their authorities and duties are, how they are appointed, whether they are willing to testify, whether they would consult with us. Senator FEINGOLD, the Democratic chairman on the constitution subcommittee, has expressed his concern and indicated he might hold hearings.

I think Senator VITTER is selecting a single example of this unusual number of new czars and raising the question of the constitutional checks and balances that is the same issue that Senator BYRD and Senator FEINGOLD and many of the rest of us raised.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, through the Chair, I thank my colleague from South Dakota, Senator THUNE, for allowing me to speak for a minute. We agreed to do that rather than to offer amendments that I intended to propose to this bill. I want to make sure everybody understands a concern that Senator THUNE, many others, and I have; that is, the U.S. Environmental Protection Agency's potential efforts to push through back-door carbon regulations which they cannot achieve legislatively on the Senate floor.

EPA, over the next several years, may attempt to impose trillions of dollars in new energy taxes that will kill millions of jobs. Of course they will say that is not their intent. They want to control climate. But that will be the impact of regulations they could issue over the next few years to control carbon emissions.

Experts have told us the House-passed Waxman-Markey legislation would kill 2.4 million American jobs and impose new energy taxes on the American people. Even President Obama has previously confirmed that under his plan for carbon emission mandates, electricity prices will ''necessarily skyrocket.''

''Necessarily skyrocket''. Those are the President's words. In the EPW Committee, I presented information from the Missouri University Food and Agricultural Policy Research Institute which determined that the Waxman-Markey legislation would raise farm production for an average family-run

commercial production farmer who grows corn and soybeans by about $11,000 in 2020 and rising to over $30,000 by 2050.

In this time of suffering, when so many people are out of work and so many family budgets are stretched thin, I cannot, in good conscience, stand by and remain quiet when there is a potential that such new energy taxes would be imposed on American families, farmers, and workers. It is no wonder the Senate is pausing before we jump off the cliff.

Senators, especially from manufacturing and the coal-dependent heartland where I am from, know how much this bill will punish the Midwest, South, and Great Plains. This spring, EPA began the process to start limiting carbon emissions through regulations, and they will do it through expensive plant-by-plant command-and-control regulations, not a cap-and-trade system.

Some say we could limit this problem by not regulating small emitters. But that is no different than Waxman-Markey, which already exempts small emitters. Thus, similar to Waxman-Markey's national energy tax, regulations that exempt small emitters would still impose a national energy tax and kill millions of jobs. Every family will be hit by higher electricity prices when they go after the large electricity-producing companies.

They will face more money for heating, more money for gasoline, more money for diesel fuel—if you are on the farm—more money for almost everything they buy that is produced with energy, which is just about everything that is not in the IT world, although there will be costs there too.

Businesses will face large increases in backdoor costs put on them by higher prices they must pay, even if they fall below the threshold. These costs, the backdoor impact of these costs, will be felt on families, on workers who can lose their jobs.

That is why I proposed two amendments to prevent EPA from imposing backdoor carbon regulations when they result in lost American jobs or raise costs unacceptably for farmers. I was gratified when the Senate earlier passed a version of my jobs amendment during the budget debate. But the leaders on the majority side stripped the job protection out of the bill, leaving workers vulnerable again.

They again, during this debate, will not allow us to protect workers from job-killing carbon proposals, but we will continue to educate the American people on how much they will suffer under proposed carbon legislation and regulation.

I have to add one last word about my friends and majority colleagues, Senators KERRY and BOXER. There continue to be reports that their bill will not include, in writing, before anybody votes on it, crucial sections on how they would distribute their program carbon allowances.

This, regrettably, would hide, not only from us but from the American people, the true costs of the energy tax they propose to impose.

If my Senator friends from Massachusetts and California believe truly in what they are doing, they should not hide the provisions from us. They should give us the time and the American people the time they need to determine the bill's impact.

With millions of jobs on the line and trillions of dollars in tax increases at stake, the American people deserve no less. I call on my colleagues to stand for the suffering people of America who are burdened already by energy costs and could pay much more. I call on people who may be affected to let their Members of Congress know how they feel.

Nobody is going to put out a mandate saying we cannot encourage them to speak. Nobody, no czar is going to come down and say: You cannot express your opinion. I have expressed mine. I have found a lot of people—almost everybody I talk to who raised the subject in my State of Missouri agrees.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The Senator from California.

Mrs. FEINSTEIN. I move to table the Vitter amendment No. 2549. I ask for the yeas and nays.

Mr. President, I withdraw that request.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. THUNE. Mr. President, I wish to speak in support of an amendment that was offered earlier today, actually it was filed, I think it was attempted to be called up by Senator MURKOWSKI. The Democratic majority objected to getting a vote on that amendment, which, I think, suggests they do not want to have a vote on that amendment. Frankly, I can see why.

From what I hear about the whole debate on climate change and cap-and-trade legislation that has passed in the House, it will not be voted on in the Senate this year. The reason it will not be voted on is because there are a lot of people in this Chamber who, I think, do not want to have that vote because they know it is a bad vote for them to make.

Fear not, EPA has come to the rescue of people who want to see a lot of this stuff accomplished but do not want to have to make a tough political vote on it. So what we are now faced with is the Environmental Protection Agency deciding they are going to regulate carbon emissions under the Clean Air Act and moving forward with the regulations to do that.

The Murkowski amendment would essentially prevent funds from being used to do that. It weighs in favor of having Congress deal with this very complex, very weighty, very consequential, and very costly issue to the American people.

This legislation, as we all know, would increase energy prices, cost us jobs, be unfair to entire regions of the country, mine included, enlarge an already bloated bureaucracy in Washington, DC, and put our Nation at a certain economic disadvantage.

I have been skeptical of that controversial legislation that has passed the House, the cap-and-trade bill over there, for some time, for the reasons I have mentioned.

Additionally, I think it is fair to say there would be very little environmental benefit derived from that legislation, were it enacted, without binding, enforceable commitments by China, by India, and other developing countries that are now significant sources of carbon emissions.

I find it disappointing that in the middle of this important debate the administration wants to use the back door—issuing regulations to cap carbon dioxide under the Clean Air Act because they cannot get a Waxman-Markey type climate bill through the front door.

Instead, the relevant committees of this body and the Senate as a whole should be able to consider whether now is the right time for a new massive energy tax disguised as an EPA regulation.

During the previous administration, the EPA had published an Advanced Notice of Proposed Rulemaking that showed just how impractical it would be to regulate carbon dioxide and other greenhouse gases under the Clean Air Act.

These onerous regulations covered homes, schools, churches, hospitals, small businesses and potentially even small farms with livestock.

Under the Clean Air Act, the primary mechanism for regulating carbon emissions would be a fee placed on each ton of covered pollutant emitted above a certain threshold.

This fee, if applied to carbon emissions, is nothing more than a tax on energy that would have severe consequences as our economy struggles to recover from a long recession.

While the Bush administration regulations never made it past an initial draft, the Obama EPA is moving quickly to finalize an endangerment finding and regulate carbon dioxide emissions.

In April 2009, the EPA issued a draft endangerment finding that linked emissions from motor vehicles to an endangerment of human health.

The comment period has closed on this draft endangerment finding, and when the EPA issues a final ruling it will trigger an array of regulations under the Clean Air Act.

These command and control regulations will have far reaching consequences for our economy at a time when we can least afford it.

According to media reports, EPA will eventually propose regulations for not just mobile sources, but stationary sources that emit over 25,000 tons of carbon dioxide.

The first round of regulations on stationary sources would cover approximately 13,000 facilities in the United States.

These include powerplants, large manufacturing facilities, refineries, fertilizer manufacturers, and a long list of other facilities that are critical to the health of our economy.

In South Dakota, these regulations would place a tax on powerplants, ethanol refineries, and even our largest public university.

And we need to remember that these companies will pass these new costs on to you and me. Now is an especially bad time to saddle the American people with what is in effect a gigantic new energy tax that would cause electricity, gasoline, and home heating costs to skyrocket.

Additionally, pending the outcome of the final endangerment finding, the EPA might be legally bound to regulate all sources that emit over 250 tons of carbon dioxide.

If this statutory threshold of the Clean Air Act is enforced, over 1 million carbon-emitting entities would be faced with a new tax, including commercial buildings, churches, homes, schools, restaurants, and manufacturing facilities both big and small.

Regulation of carbon dioxide is far too important for EPA and the administration to craft expensive, cumbersome, top-down regulations under the Clean Air Act.

Republicans in the Senate know this, Democrats in the Senate know this, the EPA knows this and the White House knows this.

Last year, Congressman JOHN DINGELL said that EPA greenhouse gas regulations would lead to ''a glorious mess.'' He continued by stating that ''As a matter of national policy, it seems . . . insane that we would be talking about leaving this kind of judgment, which everybody tells us has to be addressed with great immediacy, to a long and complex process of regulatory action.''

Congressman DINGELL said it best when he concluded that carbon regulation under EPA had ''the potential for shutting down or slowing down virtually all industry and all economic activity and growth.''

According to an OMB memo associated with EPA's endangerment finding, ''Making the decision to regulate CO_2 under the [Clean Air Act] for the first time is likely to have serious economic consequences for regulated entities throughout the U.S. economy, including small businesses and small communities.''

Representative COLLIN PETERSON, chairman of the House Agriculture Committee, noted in a recent op-ed that EPA regulations of greenhouse gas emissions would result ''in one of the largest and most bureaucratic nightmares that the U.S. economy and Americans have ever seen.''

Senator MURKOWSKI and I have filed an amendment to the fiscal year 2010 Interior and Environment appropriations bill that would prohibit the EPA from moving forward with regulations on carbon dioxide emitted from stationary sources for 1 year.

This amendment is not intended to impact the recent announcement from EPA and the Department of Transportation regarding new tailpipe emission requirements for new cars and light trucks.

Additionally, this amendment is not intended to impact the regulation of other greenhouse gasses, such as hydrofloural carbons, which are also included in the proposed endangerment finding.

This amendment would simply delay the expensive, top-down regulation of carbon emissions from thousands if not 1 million stationary sources in the United States.

For those Senators who wish to regulate carbon emissions through a cap-and-trade system, I encourage you to support this amendment as well . You should be supporting this amendment.

This amendment is not about whether carbon dioxide emissions should be regulated or whether the Federal Government should take any action to reduce carbon emissions. Rather, this amendment is about the process of regulating carbon dioxide emissions.

Should regulations as far reaching and expensive as taxing carbon dioxide be determined by EPA bureaucrats behind closed doors? Or should carbon regulations be openly debated on the floor of the U.S. Senate?

The Murkowski amendment gives the Senate a clear choice.

Constituents, through their elected representatives, should have a voice in that debate. If carbon dioxide regulations moved through the EPA unchanged, the American people would be deprived of their opportunity to be heard on this very important subject. Meanwhile the cost of gasoline, food, and manufactured goods will skyrocket. I urge colleagues on both sides to acknowledge the extremely dangerous consequences of allowing the administration to unilaterally regulate carbon dioxide under the Clean Air Act. I understand the Murkowski amendment will not be allowed to be voted on. I believe the regulations that amendment addresses should be delayed until Congress has the opportunity to debate the consequences. I will continue to work with Senator MURKOWSKI and other colleagues, families, and small business, to make them aware of what the EPA intends to do by regulation.

In addition to speaking on the Murkowski amendment, as I have filed an amendment which is similar, I ask unanimous consent to call up my amendment and ask that it be made pending.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THUNE. Let me briefly speak to the amendment because it simply addresses this subject in a slightly different way. It is clear the majority does not want to have a vote on either the Murkowski amendment or my amendment because they get at the fundamental issue which is whether we are going to have a debate in Congress about regulating CO_2 emissions or whether we will allow an administrative agency, the EPA, to do that for us. I understand my amendment, which has now been objected to, will not have a vote. We know where the votes are on this. But like the Murkowski amendment, what my amendment is designed to do is to shed daylight on harmful regulations that are taking shape behind the closed doors of the EPA. My amendment is designed to give our constituents a greater say in climate change regulations.

The amendment is also designed to force the EPA to consider the dramatic impact these new Clean Air Act regulations on carbon dioxide will have on electricity and gasoline prices. If these regulations move forward, I am concerned that many families, especially those who rely on coal-generated electricity, will see skyrocketing electricity bills. I am also concerned for families and truckdrivers who could see gasoline and diesel prices go up. EPA regulation of CO_2 would amount to a tax on millions of working-class families.

During debate on the climate change bill, proponents of cap and trade claimed that lower income families will be made whole by giving local distribution companies free allowances to meet the new carbon regulations. Aside from whether this mechanism would actually limit the impact on working families, it is clear such a safeguard is simply not possible under the Clean Air Act. Carbon regulations under the Clean Air Act would effectively be a huge new tax on electricity and gasoline prices paid by families and small businesses.

Additionally, new taxes under the Clean Air Act would apply to oil and ethanol refineries. In South Dakota, we produce approximately a billion gallons annually of ethanol. If the EPA moves forward with carbon caps under the Clean Air Act, 12 ethanol plants in South Dakota will be subject to this new tax. Additionally, we have a large soybean processing facility hoping to soon produce biodiesel that would also be covered. Not only will these costs be passed on to consumers in the form of higher prices at the pump, but the new regulations will be a major setback to renewable fuel production. In the end, the energy security benefits of domestic renewable fuel production will be negatively impacted by these new regulations.

My amendment 2540 asks EPA to consider the costs and the adverse impacts these regulations will have on the economy before moving forward with an endangerment finding.

It is clear that neither the Murkowski amendment nor mine will be voted on. This issue is not going away. The EPA is moving forward. The House has acted on this issue. The Senate

doesn't want to take the hard votes on this so they have punted it to the EPA. The EPA is now moving forward by regulation to do what Congress doesn't have the courage or the will to do, and that is to have a debate about the relative costs and, perhaps, benefits of climate change legislation. It is wrong for us to allow the bureaucracy at the EPA to move forward with these regulations that could be so harmful to our economy, so harmful to jobs, so disastrous when it comes to the energy prices paid by families and small businesses.

This issue will be back. Senator MURKOWSKI will bring it back. I will bring it back. Others of my colleagues who care about the impact of this particular regulation on small businesses and families will be back to debate the issue even though the Democratic majority will not allow us to get a vote today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mrs. FEINSTEIN. Mr. President, I know the Senator from Louisiana wishes to speak in morning business, which is fine. I wonder if I could make one brief announcement. Members are interested in bringing this bill to a conclusion. There are a number of amendments that were listed in the consent order. I ask that Members come to the floor to call up their amendments shortly. Senator COBURN has a number, Senator REID, Senator COLLINS. Senator ENSIGN has a motion to recommit. If these Members could come to the floor and call up their amendments, it would be appreciated. We would be able to, hopefully, conclude the bill.

Mrs. BOXER. Will the Senator yield for a question?

Mrs. FEINSTEIN. I certainly will.

Mrs. BOXER. I am here to make a few comments addressing the points raised by Senator THUNE and Senator MURKOWSKI. They were going to offer an amendment.

Mrs. FEINSTEIN. The Senator has an hour.

Mrs. BOXER. I won't be taking that. At what point would the Senator like me to use the time?

Mrs. FEINSTEIN. I think directly following Senator LANDRIEU.

Mrs. BOXER. That is fine. And how long is Senator LANDRIEU speaking?

Ms. LANDRIEU. Ten minutes.

Mrs. BOXER. I ask unanimous consent that I be recognized following Senator LANDRIEU.

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

The Senator from Louisiana.

Ms. LANDRIEU. I appreciate the leadership of the Senators from California and Tennessee, trying to move this important appropriations bill through the process. As we heard this morning, there are lots of important issues pending. I came to speak for a few minutes not about a pending amendment but about an issue bubbling up and brewing in a fairly significant way that we will have to address sometime soon, not necessarily on this bill today, not necessarily through an amendment process to the Interior appropriations, but a program that is in the Interior appropriations bill that is screaming for attention. That is the program having to do with the management of wild horses. It is not a major issue in all 50 States, but it is a big issue to a handful of western States and of interest to several of us in this body.

Let me thank Senator FEINSTEIN and her staff for the leadership they are providing in helping us shape policy. She has been extremely attentive over the last several months. I thank her. I acknowledge the interest of former Senator Salazar, now Secretary of Interior, and his top leadership. They have a tremendous amount of issues before them, issues that will take a lot of their time. For them to make this a priority because some of us have asked them to, I acknowledge that and thank them, all the assistant secretaries and staff from the Interior Department who are working on this.

There are two aspects to this important issue. One involves the fiscal element which taxpayers are alarmed about. The wild horse program, because of its mismanagement and poor, old-fashioned way of operating, is chewing up or taking up about three-quarters of the budget of the Bureau of Land Management. From a fiscal perspective and a financial management perspective, it is crying out for reform.

On the other hand, there is the view of the inhumaneness of some of the practices going on that also cries out for attention. I come to speak briefly about both.

As to the big picture, at the turn of the century, we had about a million wild horses in the territory of the United States. It is sad, from the perspective of most people, that we are now down to 66,000 wild horses and burros basically forced, through policies developed in the 1970s, to stay in relatively small places, grouped in a few States, most notably the States of Nevada, Wyoming, and California, and a few other western States. We also are down to a few herds of horses. The reason I believe this is important not only to western States or ranchers or landowners or humane societies and others is because for the American people generally, the idea of wild spaces with wild horses is something that is part of our heritage. We want to make sure that heritage is not lost, that we are being responsible in terms of the way the land is being used for multiple purposes and, from the perspective of horse advocates, that the horses themselves are being treated well.

None of that is now being done in the way that most people would appreciate or would be satisfied with. There have been any number of studies I will submit for the record. Most recently, the Congressional Research Service, as well as the Government Accounting Office, suggested major changes to the program. I am going to go through a few possible options. One is the creation of several public/private sanctuaries. This has been suggested by a few fairly high-profile individuals. The idea has merit. We are working with a variety of groups, along with the Department, to think about the possibility of creating public/private partnerships, large sanctuaries, maybe 500,000 or a million acres, where thousands of wild horses could not only roam freely in a healthy way but could potentially become ecotourist opportunities for some of the States and communities, as it would be an attraction that could potentially make money and attract people to some of the western areas or, for that matter, rural areas in other parts of the country.

There is the possibility of making some smart investments to step up some of the adoption programs that might work. There are any number of scientific and new technologies that can be brought to bear in terms of breed management, reproductive issues that could help us to get a much more cost-effective, sane, and humane approach to this problem.

I wanted to let the managers of this legislation know that while we will not have an amendment at this time on the Interior bill, I am looking forward to working with members of the Energy Committee who have jurisdiction over this matter to review in detail a bill that has come over from the House, the ROAM Act, by the chairman of that subcommittee, whom I commend for taking the committee's time, Congressman RAHALL, who sent the bill over here to the Senate. As we begin to discuss the ways that bill could potentially be modified, working with the Department of Interior to find a long-term solution, one that is cost effective, one that is humane, and one that honors the great history of wild horses, not just pleasant to look at but helped us to settle the West, helped us to open transport and commerce for the Nation, have carried us into war, into battle, helped to feed and clothe this Nation in our history, needs a bit more attention than what they are getting right now.

In conclusion, there was a disturbing roundup conducted not too long ago—just a few weeks ago—and I thank the advocates who brought this to my attention and commit to them to continue to work until we find a better way forward; again, a way that is good for the wild horses, that honors our heritage but is also very respectful of these Western lands and the ranchers who have multiple uses of this property.

I am certain in the Nation God has bequeathed to us we can find enough space for everyone if we keep an open mind. I know the Senator from Tennessee would agree with that; that if we work hard enough, we can find some common ground solutions to this issue.

I thank the Chair and yield the time. I understand my colleague from California is here to speak on a different issue.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, thank you very much.

I am on the floor, along with Senator WHITEHOUSE—there may be some others—to respond to the remarks made by Senators MURKOWSKI and THUNE regarding an amendment they very much wanted to put before this body. That amendment, simply stated, would stop the Environmental Protection Agency from enforcing the Clean Air Act as it relates to the pollutant carbon.

Some of the things they said are so reminiscent of what was said before the Clean Air Act passed, that: Oh, this is going to be a terrible thing for our people; and the same thing that was said when the Clean Water Act was passed: Oh, this is going to be a burden on business. I have to say to this body, the day we turn our back on these landmark environmental laws is the day the health of our people will suffer. We do not want that to happen.

I wish to be clear, I know this amendment will come back again and again. I know there will be attacks on the Clean Air Act and the Clean Water Act. That is an attack on our families. It is particularly an attack on our children and on our vulnerable senior citizens and our citizens who may have disabilities and who are ill. I will fight it with every ounce of my strength every time it rears its ugly head in this Chamber.

The interesting thing is, most of these environmental laws started with a Republican President named Richard Nixon. What happened to the days when environmental laws were supported on both sides? Those days appear to be gone.

What I would like to do is—I am going to yield up to 20 minutes to the Senator from Rhode Island. He is so eloquent on this point. Before I do, I wish to place some letters in the RECORD.

One letter is from the Environmental Protection Agency, saying they would have a very difficult time making sure the air was clean if that Murkowski amendment had been offered and passed and become law.

Interestingly, we have a letter from the Alliance of Automobile Manufacturers, also opposing that Murkowski amendment.

We have two more letters to put in the RECORD—and this just happened in 24 hours—one from a coalition made up of the Alliance for Climate Protection, Center for American Progress Action Fund, Center for Auto Safety, Center for Biological Diversity, the Clean Air Task Force, Clean Water Action, the Defenders of Wildlife, Environment America, the Environmental Defense Fund, League of Women Voters of the United States, National Audubon Society, the Natural Resources Defense Council, Oceana, the Sierra Club, Southern Alliance for Clean Energy, Southern Environmental Law Center, and Union of Concerned Scientists—all saying they oppose this amendment, which concerns not enforcing the Clean Air Act as it relates to carbon dioxide.

Lastly, we have a very well put together letter by the National Wildlife Federation, in which they quote a poll that says 75 percent of Americans believe our government should, in fact, regulate global warming pollution, which, of course, is mostly carbon.

Mr. President, I ask unanimous consent those letters be printed in the RECORD.

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

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, September 23, 2009.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: Thank you for your letter about Senator Lisa Murkowski's Amendment Number 2530 to H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act. As you noted in your letter, Senator Murkowski's amendment would prohibit the Environmental Protection Agency from using any funds made available under the Act to take any action that would have the effect of making carbon dioxide a pollutant subject to regulation under the Clean Air Act for any source other than a mobile source.

You asked me what the practical impact would be if Congress enacted Senator Murkowski's amendment. Perhaps the most striking impact would be to make it impossible for the Environmental Protection Agency to promulgate the light-duty vehicle greenhouse-gas emissions standards that the agency proposed on September 15, 2009. Because of the way the Clean Air Act is written, promulgation of the proposed light-duty vehicle rule will automatically make carbon dioxide a pollutant subject to regulation under the Clean Air Act for stationary sources, as well as for light-duty vehicles. The only way that EPA could comply with the prohibition in Senator Murkowski's amendment would be to not promulgate the light-duty vehicle standards.

As you know, promulgation of EPA's light-duty vehicle greenhouse-gas emissions standards is an essential part of the historic agreement that President Obama announced earlier this year with the nation's auto-makers, the State of California, the Department of Transportation, and EPA. That agreement attracted broad, bi-partisan support. The joint DOT-EPA standards are projected to save 1.8 billion barrels of oil over the life of the program, which is twice the amount of oil (crude oil and products) imported in 2008 from the Persian Gulf countries, according to the Department of Energy's Energy Information Administration Office. Additionally, the standards are projected to help save consumers more than $3,000 over the lifetime of a model year 2016 vehicle and reduce approximately 900 million metric tons of greenhouse gas emissions. Enactment of Senator Murkowski's amendment would pull the plug on those extraordinary accomplishments.

Sincerely,

LISA P. JACKSON.

SEPTEMBER 24, 2009.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: We are writing regarding Senator Murkowski's Amendment Number 2530 to H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act. As manufacturers, we are sympathetic to the thrust of Senator Murkowski's amendment that the Congress—and not simply EPA acting under the provisions of the current Clean Air Act—should determine how best to reduce U.S. greenhouse gas emissions economy-wide.

However, the amendment raises additional issues that must be considered where complicated and interconnected environmental and legal issues are at stake. We are concerned that due to the complex interactions among regulations under the various sections of the Clean Air Act, the amendment may impact significantly pending regulations in the mobile source sector—despite language in the amendment that would appear to leave the sector unaffected. In a letter to Senator Feinstein dated September 23, Administrator Jackson stated EPA's interpretation that the Murkowski amendment as filed would ''make it impossible for the Environmental Protection Agency to promulgate the light-duty vehicle greenhouse-gas emissions standards that the agency proposed on September 15, 2009.''

While the author of the amendment appears not to intend this outcome, we feel compelled to express our concerns. It is critical that the national program for regulating greenhouse gas emissions from autos be finalized early next year. Failure to do so would subject automakers to a patchwork of conflicting state and federal regulations.

Therefore, we respectfully oppose the adoption of the Murkowski amendment as written to H.R. 2996.

Sincerely,

DAVE MCCURDY,
President & CEO, Alliance of Automobile Manufacturers.

MICHAEL STANTON,
President & CEO, Association of International Automobile Manufacturers.

SEPTEMBER 24, 2009.

DEAR SENATOR: We are writing in opposition to Senator Murkowski's revised appropriations amendment (No. 2350) to the FY 2010 Interior Appropriations bill, H.R. 2996, which concerns carbon dioxide pollution and the Clean Air Act.

The filed amendment's spending limitation would go well beyond blocking the Environmental Protection Agency (EPA) from curbing carbon dioxide pollution from power plants, refineries, and other big ''stationary sources.'' It also would block EPA from implementing the Supreme Court's landmark decision in Massachusetts v. EPA by curbing carbon pollution from cars and trucks. If this amendment passes, EPA could not issue the historic consensus standards that the President announced in May with the support of the auto makers, the UAW, states, and the environmental community. Here is why:

The first sentence of the amendment says: ''No action taken by the Environmental Protection Agency using funds made available under this Act shall have the effect of making carbon dioxide a pollutant subject to regulation under the Clean Air Act . . . for any source other than a mobile source. . . .'' This is a reference to Section 169 of the Act, which says that every new or modified major stationary source needs to install best available control technology (BACT), considering costs, for each pollutant ''subject to regulation under this chapter,'' i.e., under the Clean Air Act.

When EPA issues final vehicle carbon dioxide standards under Section 202 of the Act as

planned next March, carbon dioxide will automatically become a pollutant ''subject to regulation'' under Section 169. From that point on, new or modified major stationary sources will need to install BACT for carbon dioxide, just as they currently do for other dangerous pollutants. This is automatic; there is no way around it without blocking the vehicle rules. Since the Murkowski amendment would bar any action that has the effect of making carbon dioxide ''subject to regulation'' under Section 169, EPA would be barred from issuing the vehicle standards.

This is why EPA Administrator Lisa Jackson said yesterday that the amendment would be ''a death knell to the historic agreement between the President and automakers to increase gas mileage and reduce emissions from cars and trucks.''

Congress should not take any action that would undo the progress already made on carbon pollution from motor vehicles.

Later paragraphs of the revised amendment attempt to limit other collateral damage done by the amendment. But those provisions cannot overcome the effect of the amendment's first sentence.

We believe common ground can be found to ensure that the Clean Air Act's stationary source requirements apply only to power plants and other big sources, not smaller sources, and to incorporate this approach in comprehensive energy and climate legislation. But it cannot be accomplished through this rider.

The Murkowski amendment would only move us farther from, not closer to, a bipartisan consensus on comprehensive clean energy and climate legislation that the Senator says she seeks. We strongly urge you to oppose Senator Murkowski's amendment as well as any other amendments to the Interior Appropriations bill that would delay America's progress toward a clean energy economy that would create jobs, increase America's energy security, and cut pollution.

Alliance for Climate Protection, Center for American Progress Action Fund, Center for Auto Safety, Center for Biological Diversity, Clean Air Task Force, Clean Water Action, Defenders of Wildlife, Environment America, Environmental Defense Fund, League of Women Voters of the United States, National Audubon Society, Natural Resources Defense Council, Oceana, Sierra Club, Southern Alliance for Clean Energy, Southern Environmental Law Center, Union of Concerned Scientists.

NATIONAL WILDLIFE FEDERATION,
NATIONAL ADVOCACY CENTER,
Washington DC, September 24, 2009.

DEAR SENATOR: National Wildlife Federation asks you to oppose Amendment 2530, sponsored by Sen. Murkowski, on HR 2996 (the Fiscal Year 2010 Interior and Environment appropriations bill).

America and the world are poised to take long overdue action to reduce global warming pollution. As President Obama said this week in a climate address to the United Nations, there are ''no excuses for inaction. . . . we don't have much time left.'' At this historic juncture, Senators should not hit the ''snooze button'' to delay enforcement of the Clean Air Act and extend the government's long nap on global warming. Year after year, Congress has debated whether or not to act on global warming, but little has been done. Over the past two decades, as the impacts of warming became increasingly severe and the scientific warnings increasingly urgent, U.S. emissions of global warming pollution increased 17%.

National Wildlife Federation, which represents over four million members and supporters, and Americans across the nation strongly and overwhelmingly support action by the Environmental Protection Agency. A recent Washington Post poll found that 75% of Americans believe the government should regulate global warming pollution from power plants and factories.

Amendment 2530 has been revised from earlier drafts and now has a fatal flaw that would extend the amendment's damage beyond what is intended, undoing the recent progress made by automakers, environmental groups and the Obama administration to reach agreement on reducing vehicle emissions. The regulation of a pollutant under the Clean Air Act for vehicles automatically triggers regulation of stationary sources. By blocking action on stationary sources, the amendment would block the Environmental Protection Agency from implementing the new vehicle tailpipe standards as well.

The Clean Air Act has a strong and proven track record of cleaning the air we breathe while allowing our economy to prosper. The Supreme Court has spoken clearly on the government's neglected responsibility to address global warming under the Clean Air Act. And the Environmental Protection Agency is already taking commonsense steps to meet the requirements of the Clean Air Act, focusing on the biggest corporate polluters and limiting the reach of any new regulations.

We appreciate Sen. Murkowski's commitment to advance global warming legislation in Congress, and look forward to pursuing that common effort with her and other Senators this year. But we strongly oppose this amendment.

Please support action on global warming and vote ''no'' on Murkowski Amendment 2530.

Sincerely,

LARRY J. SCHWEIGER,
President and CEO.

Mrs. BOXER. So here we had a situation where I am very pleased the rules of this Senate did not allow this very dangerous amendment to be brought before the body. We would have talked about it for days because, before I would allow a vote on that, I would want to make sure every single Senator understood it is a repeal of the Clean Air Act through the backdoor, even after the Bush Supreme Court said the Clean Air Act covers carbon and greenhouse gases.

With that, Mr. President, I yield 20 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, first, let me thank my distinguished Environment and Public Works Committee chairman, Senator BOXER, for her passionate defense of this statute, which has improved the quality of life and the quality of our air for a generation now of Americans against this assault. I appreciate that she has given me a few moments to discuss the amendment the Senator from Alaska wanted to offer. I know it was not offered, but, nevertheless, I feel we need to respond, given the message that amendment sends to this body, to the Nation, and to the world regarding America's position on the need to curb global warming and our move toward a clean energy economy.

This amendment would have tied the hands of the Environmental Protection Agency at the very time we need its help to protect the American public from the dangers of climate change—dangers to America's public health, to our national security, and to our economy.

A little history is in order here.

In 2007, the U.S. Supreme Court overrode the Bush administration and ruled, in a case called Massachusetts v. EPA, that the Clean Air Act requires the Environmental Protection Agency to regulate greenhouse gas emissions as pollutants, if the Agency determined that greenhouse gases posed a danger to public health, and the Court further obliged the EPA to go ahead and make that determination, yes or no.

The Bush administration, of course, did everything in its power to avoid the duty ordered by the Supreme Court, and it was only this April that the EPA, under Administrator Jackson, finally issued its proposed endangerment finding. The finding, unsurprisingly, acknowledged what every reasonable scientist—in fact, every reasonable person—has known for years: That carbon dioxide and other so-called greenhouse gas emissions cause our planet's atmosphere to warm and pose a threat to the public health.

The conclusion that these gases should be regulated under the Clean Air Act logically and inevitably followed, as required by law, from the determination that these pollutants threaten public health. Thankfully, this administration has already begun this important work. Senator MURKOWSKI's amendment would have required EPA to take what is called a timeout while Congress crafted a legislative solution to global warming. Unfortunately, time is not on our side as we race to protect our planet from the effects of carbon pollution.

Just yesterday, our President spoke before the United Nations about the challenges to all nations from unchecked global climate change and the opportunities we have to revive the world economy through the advancement of clean energy and clean energy jobs. The world community needs the United States to be a leader in this effort, and the world is watching our actions closely.

President Obama pledged that our steps so far—investments in alternative energy, efficiency measures, tougher fuel standards—and our steps to come ''represent an historic recognition on behalf of the American people and their government.'' He said:

> We understand the gravity of the climate threat. We are determined to act. And we will meet our responsibility to future generations.

Forcing the EPA to take a timeout now would have sent exactly the opposite message; would tell the world we do not truly care about climate change; that we are not ready to step up, let alone lead; would say we would prefer to leave a polluted world to our

children and grandchildren, a world far worse off than the world our parents and grandparents left to us. Any timeout now would have damaged our international progress and our leadership.

Moreover, a timeout of the sort proposed in the Murkowski amendment would have hurt our legislative efforts. Supporters of the timeout idea profess to want a legislative solution to address climate change. Well, maybe. But doing so would have set back that very goal.

To the extent some of the big polluters are working with us in this legislative process, it is because they feel the hot breath of the future on their necks, and they know they had better participate or be left to their fate. Give them an artificial reprieve from those consequences—real consequences of science, of fact, of law, and of nature—and their motivations would change. Delay would become their friend, indeed their purpose, because of the artificial, false status quo that a timeout would create for them.

Let me tell you how these polluters affect Rhode Island, my home.

Let's start back in 1972, when EPA authorized the use of tall smokestacks instead of emissions limits. By the mid-1970s, four different circuit courts of appeal had ruled that the Clean Air Act required real emissions controls and not just increased stack heights. A tall smokestack only curbs local emissions, but it spreads the poisons widely.

In 1977, Congress enacted section 123 of the Clean Air Act, which barred the construction of smokestacks taller than called for by good engineering practice. Notwithstanding, Midwestern powerplants continued to increase the height of their stacks. The average smokestack height increased from 200 feet tall in 1956 to over 500 feet tall in 1978. In 1970, there were two smokestacks in the United States taller than 500 feet. By 1985, 180 smokestacks stood taller than 500 feet. Twenty-three of these were over 1,000 feet. Once you get over 1,000 feet tall, you actually have to put that smokestack on the aviation safety maps because it becomes a hazard to aviation. Local interests, of course, were happy because less of the smokestack-emitted poisons fell locally and more were spread abroad.

What did this mean for downwind States, such as my State of Rhode Island? Well, all other things being equal, the taller the stack, the farther the poisons travel. According to a 2001 report by the Clean Air Act Task Force entitled ''Power to Kill: Death and Disease from Power Plants Charged with Violating the Clean Air Act,'' pollution spewed from just 51 plants has shortened the lives of as many as 9,000 people nationwide annually, including about 1,500 to 2,100 people in our downwind States such as Rhode Island.

These plants have also caused tens of thousands of asthma attacks each year and hundreds just in Rhode Island. This is just from 51 plants. Physicians for Social Responsibility has estimated that all coal plants in the United States together cause about 23,600 premature deaths and 554,000 asthma attacks each year.

The Centers for Disease Control tells us that between 1980 and 1995 the incidence of childhood asthma increased over 100 percent—the increase of childhood asthma more than doubled—from 3.6 percent to 7.5 percent of all children.

By 2005, nearly 9 percent of all children were reported to have asthma. In African-American children, the rate soared to 19.2 percent—nearly one in five African-American children.

Massachusetts, Maryland, and my State of Rhode Island—all downwind States—were among the five States with the highest incidence of asthma. The Rhode Island Lung Association estimates that 15,000 children—15,000 children in my State of less than 1 million population—have asthma. Nationally, every year more than 40 kids 4 years old and under will die from asthma. Another 115 kids 5 to 15 years old will die, and nearly 400 more age 15 to 34 will die every year. This is what upwind polluters have helped cause.

When I was attorney general for the State of Rhode Island, I joined EPA's lawsuit against American Electric Power for its illegal modification of 16 plants. In 2008, the utility company settled the lawsuit by installing billions of dollars of pollution-control equipment which slashed NO_X and SO_2 emissions by 813,000 tons each year—813,000 tons of pollution each year. American Electric Power also paid a $15 million penalty, nearly five times what ExxonMobil has paid so far for the Exxon Valdez oil spill in 1990, and it invested another $60 million in environmental mitigation projects. So don't tell me things can't be done.

But in Rhode Island, the danger continues, and still every summer in Rhode Island the morning radio announces several days that are unsafe air days, when infants and seniors and people with breathing difficulties are told they should stay home, that they should stay indoors because the summer air in Rhode Island is not safe, and one of the prime reasons it isn't safe is because we are downwind. So don't expect a lot of sympathy from me for these polluters, with their belching smokestacks, that want a free pass to endanger the public, timeout or not.

Here is a little description of how tall some of these stacks go. The tallest building is Willis Tower in Chicago. A lot of its radio towers are on the top, but it is still a heck of a big building. The Empire State Building is 1,250 feet. The Washington Monument is 555 feet. The Statue of Liberty is 305 feet. In Marshall, WV, there is a smokestack 1,204 feet tall. In Rockport, IN, there is a smokestack 1,038 feet tall. In Jefferson, OH, there is a smokestack exactly 1,000 feet tall. I don't know whether that has to go on the aviation safety maps. That is just at the boundary. What these things do is they solve the local problem of pollution by pushing the poisons so far up into the atmosphere that they don't fall in West Virginia, in Indiana, and in Ohio, but they move elsewhere and they land often in Rhode Island, and we face the health consequences every day. So if anybody is looking for a sympathetic ear for these powerplants, they have come to the wrong place if they have come to Rhode Island.

Today, we are facing perhaps the greatest environmental threat of our time: Global climate change triggered by increased concentrations of carbon dioxide in our atmosphere. We have supersaturated the atmosphere with carbon dioxide, and it is having an effect. Coal-fired powerplants share much of the blame. Forty percent of all carbon dioxide emissions come from coal powerplants. And the polluters will fight—they are fighting—any effort to control their carbon dioxide emissions. The polluter opponents of climate change who are resisting our change to a clean energy economy are strong and wealthy, and they will stop at nothing. We have even recently seen forged letters to Congress opposing climate change legislation in the names of groups that never authorized the letters.

Just like the polluters fought the Clean Air Act in the past, just like the polluters built taller stacks rather than making what comes out of the stacks cleaner, just like the polluters manipulated their flunkies in the Bush administration, today the polluters wanted a timeout. They may say they support a legislative solution to climate change, but if they could fool us so that we defunded and stopped and weakened all of the other available tools for pollution control, that would not help in passing a climate bill. That would give those polluters every incentive in the world to defect, to delay, and ultimately to defeat our efforts to move this country toward a clean energy economy, to stop subsidizing their pollution of our air, and our efforts to start solving this great problem of our day. To protect ourselves, we have to keep all of our tools available, all options for curbing greenhouse gas emissions working to protect us.

I thank the chairman very much for yielding me this time, and I look forward to working with her as we continue to find ways to support this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I wish to thank the Senator from Rhode Island. He gets us to where we need to be, which is focusing on what happens to our people when we walk away from protecting them from pollution.

I know Senator BROWN is in the chair. I wanted to share with him the fact that he knows well that after the Cuyahoga River caught fire in Ohio in 1969 and many of our lakes and rivers

appeared to be more like sewers, the committee, which I now chair so proudly and on which Senator WHITEHOUSE sits, responded by enacting the Clean Water Act. That was 1972. I don't know if Senator BROWN was born yet. The fact is, that incident of a river catching fire really caught the attention of the people of this Nation. Whether it was our water or our air or endangered species, we decided to take control of our communities, of our health, of our environment.

There is a lot about America that makes us proud. There is a lot about America that makes us great. I believe one of our values is caring about the health of our families. I thought Senator WHITEHOUSE was very clear that we are not just debating a regulation on page 4 or 5 or 20 or 50. We are talking about the ability of our kids to breathe the air. We are talking about the ability of this planet to survive without the ravages of global warming, which the Bush administration's CDC told us would have unbelievable effects on the health and safety of our people.

The laws we passed are the landmark laws. So therefore I just want to be put on record, along with Senator WHITEHOUSE, that if this amendment that wasn't offered today comes back in any other form, we are going to have to open up the debate pretty wide—pretty wide—because a repeal of an environmental law can't be done on an appropriations bill. In essence, when you don't enforce a law—that is what the Murkowski amendment would have done—when you don't enforce it, it is the same as not really having it. But you don't have to look in the eyes of your constituents and say: Oh, by the way, today I repealed the Clean Air Act. What you say instead is: Today I fought to have a pause—no enforcement. Well, let me tell my colleagues, when that child gets asthma, she is not going to ask her mom: Did I get asthma because there was a pause in the Clean Air Act or because they repealed the Clean Air Act? That child will get asthma. I swear to my colleagues that I am not going to let more kids get asthma, not on my watch. It is wrong. It is wrong.

Here is the great news. The great news is, if we decide to be the leader in this clean energy revolution, we will see our people get healthy. We will see millions of jobs created. We will move off of these dirty energy sources. We will create American jobs, 21st-century jobs, building wind turbines, installing solar panels, producing a new fleet of electric cars, hybrid vehicles. We see it in Ohio already where they are building solar panels. This is the one area of growth.

We are having a tough time in our State—people laid off, terribly high unemployment rate. The stimulus is helping us. We are getting some jobs back, but we are suffering. The one area of growth, I say to the Chair, 125,000 new green jobs that can't be taken away. You can't take a job of putting a solar rooftop on a home in Los Angeles or Riverside or San Bernardino or San Diego or Akron, OH—you can't have that person in China putting on a solar rooftop. They have to be here. These are good jobs. That is what we ought to be doing, not repealing the laws that protect the health of our citizens but trying to figure out a way to work together to have a bill that will create these new clean energy jobs, that will protect our kids from carbon pollution, and that will make sure the ravages of global warming won't occur.

At the end of the day, our competitiveness depends on how we face this challenge. I believe Thomas Friedman got it right. If you haven't read his book ''Hot, Flat, and Crowded,'' I think you should read it because he is so eloquent on the point. He is not on the defense on this, he is on the offense. He says that if we don't grab this mantle of leadership on clean energy, then other countries will grab it and they will create the technologies, they will create the jobs, and we will fall behind.

America is a leader. We are not a follower. We will have many more opportunities to debate this in the future, but, my goodness, if we are facing legislation that does not move us forward but takes us back to before Richard Nixon was President by not enforcing the Clean Air Act—I have heard of the party of no, but this is the party of yesterday if those are the kinds of amendments we are going to face, dangerous amendments that will hurt the health of our children.

So I wanted to make sure that America takes control of its energy future and that it doesn't cower in the corner and repeal laws that protect our citizens, landmark laws such as the Clean Air Act. I am so glad that today we avoided having to have this long debate. I am glad this amendment was disallowed because it doesn't belong on an appropriations bill. It is a repeal of the Clean Air Act. Let's face it, you don't do that in 15 minutes on the floor of the Senate and call it a timeout. Call it whatever you want, but when you tell an agency: Don't enforce the law that protects the health of our children and our families, that is a repeal through the back door.

So I thank you very much for the time. I know I have additional time. I will not be using it. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, in just a few minutes, the Senator from Maine will have the floor. Senator FEINSTEIN has asked those Senators who have amendments which are part of the unanimous consent agreement to come on over and call them up. I think Senator COBURN is probably coming following Senator COLLINS from Maine.

I listened carefully to Senator WHITEHOUSE and to the distinguished chairman of the Environment and Public Works Committee. I wish to make an observation, if I may, which will take only 3 or 4 minutes, not to prolong the debate.

First, what Senator THUNE and Senator MURKOWSKI were saying is that the question of climate change is so important that we in the Congress ought to deal with it, not the Environmental Protection Agency. That is the point of the amendment.

Second, I am one Senator who believes we need to deal with climate change and who believes humans are contributing to it, and we need to stop stuffing so much carbon into the atmosphere. But while my friends on the other side often speak in great rhetorical flourishes about the inconvenient problem of climate change that my friend and fellow Tennessean Al Gore talks about, they are conspicuously silent about the inconvenient solution, which is nuclear power.

Even the President of the United States went to New York this week and made an entire speech talking about our commitment to climate change and lecturing the developing countries of the world about climate change when they are ahead of us on nuclear power and the President, in his entire remarks, didn't mention it once. I simply think that ought to be noted in the midst of this debate.

The largest contributors to carbon in the air are China, the United States, Russia, India, and Japan. There are 44 nuclear reactors under construction this minute, almost all of them in Asia. China has 4 reactors under construction and has announced plans for 130 more reactors. Why? Because nuclear power is carbon free. The United States hasn't built a new nuclear plant in 30 years. Russia intends to build 2 reactors a year in order to replace the 30 percent of electricity they get from natural gas so they can sell that gas to Europe at a big profit.

Japan is building two nuclear reactors a year. They derive 36 percent of their electricity from nuclear. South Korea gets nearly 40 percent of its electricity from nuclear, and they are planning 8 more reactors by 2015. India is developing thorium reactors instead of uranium. France is 80 percent nuclear and is selling electricity to Germany, which is the only major European country still renouncing nuclear power. And here we sit worried about climate change, having 104 reactors that we built before 30 years ago, which produce 20 percent of our electricity, but 70 percent of our carbon-free electricity, and the President goes to New York and doesn't say one word about nuclear power. He wants to build 186 50-story wind turbines, which will operate about a third at a time, and not at all in our part of the country, instead of taking the greatest technological advance of the last century, which we already use to produce 70 percent of our carbon-free electricity, and say let's do more of that.

I am hopeful that as this debate proceeds, the President will say let's double our nuclear production and build

100 new nuclear plants in the next 20 years. We should be able to agree on 100 new nuclear plants and electrifying our cars and trucks. If we do those two things alone, we would meet the Kyoto Protocol by 2030. But we don't hear a word about it.

Let's bring up the inconvenient problem of climate change and let's deal with it here. But let's bring up the inconvenient solution of nuclear power. As far as science goes, the chief scientist in the Obama administration, a Nobel Prize winner, Dr. Chu, says nuclear power is safe and nuclear waste—used nuclear fuel—can be safely dealt with for the next 40 to 60 years by having it stored onsite, while we have a mini Manhattan Project over the next 20 years to find the best way to recycle used nuclear fuel that doesn't produce plutonium.

This is a good debate. I am glad Senators have come to the floor to talk about this, and this is an appropriate amendment on which to have the discussion. The point of the Republican amendments were, let's do it in Congress, not the agency. If we are going to talk about the inconvenient problem, climate change—and I agree it is a problem and we need to deal with it—let's talk about the inconvenient solution, nuclear power, which today provides 70 percent of our carbon-free electricity, which is what we are debating.

The PRESIDING OFFICER (Mr. FRANKEN). The majority leader is recognized.

AMENDMENT NO. 2531

Mr. REID. Mr. President, I have an amendment No. 2531, and I ask that it be brought before the Senate.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2531.

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

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

The amendment is as follows:

(Purpose: To make funds available for preliminary planning and design of a high-performance green building to consolidate the multiple offices and research facilities of the Environmental Protection Agency in Las Vegas, Nevada)

On page 183, line 14, before the period, insert the following: "': *Provided*, That, at the discretion of the Administrator of the Environmental Protection Agency, from the funds included under this heading, $500,000 may be made available for preliminary planning and design of a high-performance green building to consolidate the multiple offices and research facilities of the Environmental Protection Agency in Las Vegas, Nevada''.

Mr. REID. Mr. President, I appreciate my friend from Maine allowing me to speak for a couple minutes prior to her being recognized.

The amendment I have called up allows, not directs, the EPA Administrator to use $500,000 of the funds provided in the bill for preliminary planning and design to work to consolidate the many agency offices and labs in Las Vegas into one high-performance green building.

It doesn't make a lot of sense to continue spending money on aging facilities spread across several buildings in need of repair and rehabilitation, particularly with the leases that are not far from ending. Current costs associated with these facilities' leases and their operation cost over $5.5 million annually.

Consolidation would improve administrative efficiencies and reduce agency energy, water, and other costs over time. Developing a more precise estimate of total savings would be part of the preliminary planning effort my amendment authorizes.

The people in the offices and labs I think could be consolidated would also greatly benefit from their being able to work more closely together, given their mission and activities. These include the agency's National Exposure Research Laboratory, the Emergency Response Team—when something bad happens with a nuclear device, they are able to move on that—the Radiation and Indoor Environments National Laboratory, the Financial Management Center, the Human Resources Office, the National Environmental Research Center, and the Environmental Services Division's various laboratories and Technical Reference Center.

As we know, the Energy Independence and Security Act of 2007 and the Recovery Act strongly direct the Federal Government to be a leader, not a follower, in adopting green building technologies. EPA should be at the top of the list, given its important role, and I think its labs and facilities in Las Vegas should serve as a shining example of environmental leadership that saves the Federal Government and taxpayers money.

I ask unanimous consent to have printed in the RECORD following my statement a letter to the Appropriations Committee regarding this request, in compliance with paragraph 9 of rule XLIV of the Standing Rules of the Senate.

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

U.S. SENATE,
Washington, DC, September 22, 2009.

Hon. DANIEL K. INOUYE,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

Hon. DIANNE FEINSTEIN,
Chairwoman, Subcommittee on Interior, Environment, and Related Agencies, U.S. Senate, Washington, DC.

Hon. THAD COCHRAN,
Vice Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

Hon. LAMAR ALEXANDER,
Ranking Member, Subcommittee on Interior, Environment, and Related Agencies, U.S. Senate, Washington, DC.

DEAR CHAIRMAN INOUYE, VICE CHAIRMAN COCHRAN, CHAIRWOMAN FEINSTEIN, AND RANKING MEMBER ALEXANDER: I am writing to request that the Interior Appropriations bill for fiscal year 2010 include the discretion for the Administrator of the U.S. Environmental Protection Agency to use up to $500,000 from the amounts identified for buildings and facilities for the purpose of preliminary planning and design work to consolidate the Agency's Las Vegas offices into one high-performance green building.

Such a consolidation would save taxpayers money, reduce energy and water use, and improve administrative efficiency. The current facilities used by the EPA offices and laboratories are in need of rehabilitation and repair and their leases expire in the near future, so it is essential that the Agency begin making plans for their future use.

Consistent with paragraph 9 of Rule XLIV of the requirements of the Standing Rules of the Senate, I certify that neither I nor my immediate family has a pecuniary interest in the congressionally directed spending items I have requested. I further certify that I have posted a description of the items requested on my official website, along with the accompanying justification.

Thank you for your attention to this request

Sincerely,

HARRY REID,
United States Senator.

Mr. REID. Mr. President, on the University of Nevada-Las Vegas campus we have EPA buildings. They are so old. We have been talking about doing something about them for decades. They have been so terribly important over the years with what has been going on at the Nevada Test Site and Yucca Mountain. The leases are about to run out. It is not fair to the Federal Government or the university. It would save the government huge amounts of money and it would be the right thing to do. This would be the beginning of accomplishing what EPA wanted to do for decades. I hope that Senators will look favorably on this amendment.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The Reid amendment.

AMENDMENT NO. 2498

Ms. COLLINS. Mr. President, prior to Senator REID offering his proposal, the pending business before the Senate was an amendment I offered earlier this week, which was designed to promote better transparency, accountability, and oversight within our government.

I am deeply disappointed that a procedural tactic will be invoked to prevent an up-or-down vote on my amendment, which is designed to bring the proliferation of czars under the normal process.

The amendment I proposed would have ensured that the 18 new czar positions appointed by this administration could be held accountable to Congress and to the American people. The proliferation of czars under the current administration to manage some of the most complex and important issues facing our country has created serious problems in oversight, accountability, and transparency. It is of great concern to me that these positions circumvent the congressional requirements for

oversight. They circumvent the constitutional process by which the Senate is supposed to give advice and consent to major policy positions within our government.

I have a list of the 18 new czar positions that have been created by this administration. I ask unanimous consent that it be printed in the RECORD.

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

CZARS

POSITIONS IN THE EXECUTIVE OFFICE OF THE PRESIDENT (10)

Central Region Czar: Dennis Ross. Official Title. Special Assistant to the President and Senior Director for the Central Region. Reports to: National Security Adviser Gen. James L. Jones.

Cybersecurity Czar: TBD. Reported Duties: Will have broad authority to develop strategy to protect the nation's government-run and private computer networks. Reports to: National Security Advisor Gen. James L. Jones and Larry Summers, the President's top economic advisor.

Domestic Violence Czar: Lynn Rosenthal. Official Title: White House Advisor on Violence Against Women. Reported Duties: Will advise the President and Vice President on domestic violence and sexual assault issues. Reports to: President Obama and Vice President Biden.

Economic Czar: Paul Volcker. Official Title: Chairman of the President's Economic Recovery Advisory Board. Reported Duties: Charged with offering independent, nonpartisan information, analysis and advice to the President as he formulates and implements his plans for economic recovery. Reports to: President Obama.

Energy and Environment Czar: Carol Browner. Official Title: Assistant to the President for Energy and Climate Change. Reported Duties: Coordinate energy and climate policy, emphasizing regulation and conservation. Reports to: President Obama.

Health Czar: Nancy-Ann DeParle. Official Title: Counselor to the President and Director of the White House Office of Health Reform. Reported Duties: Coordinates the development of the Administration's healthcare policy agenda. Reports to: President Obama.

Senior Director for Information Sharing Policy: Mike Resnick. Reported Duties: Lead a comprehensive review of information sharing and lead an interagency policy process to identify information sharing and access priorities going forward. (Perhaps performing functions statutorily assigned to the Program Manager for the Information Sharing Environment). Reports to: Unknown.

Urban Affairs Czar: Adolfo Carrion Jr. Official Title: White House Director of Urban Affairs. Reported Duties: Coordinating transportation and housing initiatives, as well as serving as a conduit for federal aid to economically hard-hit cities. Reports to: President Obama.

WMD Policy Czar: Gary Samore. Official Title: White House Coordinator for Weapons of Mass Destruction, Security and Arms Control. Reported Duties: Will coordinate issues related to weapons of mass destruction across the government, including: proliferation, nuclear and conventional arms control, threat reduction, and terrorism involving weapons of mass destruction. Reports to: National Security Advisor Gen. James L. Jones.

Green Jobs Czar: TBD (Van Jones—Resigned). Official Title: Special Adviser for Green Jobs, Enterprise, and Innovation at the White House Council on Environmental Quality. Reported Duties: Will focus on environmentally-friendly employment within the administration and boost support for the idea nationwide. Reports to: Head of Council on Environmental Quality.

POSITIONS IN A DEPARTMENT OR AGENCY (8)

Afghanistan Czar: Richard Holbrooke. Official Title: Special Representative for Afghanistan and Pakistan. Reported Duties: Will work with CENTCOM head to integrate U.S. civilian and military efforts in the region. Reports to: Secretary of State (position is within the Department of State).

Auto Recovery Czar: Ed Montgomery. Official Title: Director of Recovery for Auto Communities and Workers. Reported Duties: Will work to leverage government resources to support the workers, communities, and regions that rely on the American auto industry. Reports to: Labor Secretary and Larry Summers, the President's top economic advisor (position is within the Department of Labor).

Car Czar (Manufacturing Policy): Ron Bloom. Official Title: Counselor to the Secretary of the Treasury. Reported Duties: Leader of the White House task force overseeing auto company bailouts; worked on the restructuring of General Motors and Chrysler LLC. Reports to: Treasury Secretary and Larry Summers, the President's top economic advisor (position is within the Department of Treasury).

Great Lakes Czar: Cameron Davis. Official Title: Special advisor to the U.S. EPA overseeing its Great Lakes restoration plan Reported Duties: Oversees the Administration's initiative to restore the Great Lakes' environment. Reports to: Environmental Protection Agency Administrator (position is within the Environmental Protection Agency).

Pay Czar: Kenneth Feinberg. Official Title: Special Master on executive pay. Reported Duties: Examines compensation practices at companies that have been bailed out more than once by the federal government. Reports to: Treasury Secretary (position is within the Department of the Treasury).

Guantanamo Closure Czar: Daniel Fried. Official Title: Special Envoy to oversee the closure of the detention center at Guantanamo Bay. Reported Duties: Works to get help of foreign governments in moving toward closure of Guantanamo Bay. Reports to: Secretary of State (position is within the Department of State).

International Climate Czar: Todd Stern. Official Title: Special Envoy for Climate Change. Reported Duties: Responsible for developing international approaches to reduce the emission of greenhouse gases. Reports to: Secretary of State (position is within the Department of State).

Special Representative for Border Affairs and Assistant Secretary for International Affairs (dubbed ''Border Czar''): Alan Bersin. Official Title: Assistant Secretary for International Affairs. Reported Duties: Will coordinate all of the Department's border security and law-enforcement efforts. Reports to: Homeland Security Secretary (position is within the Department of Homeland Security).

Ms. COLLINS. Many of the czars on the list seem to either duplicate or dilute the statutory authority and responsibilities that Congress has already conferred upon Cabinet level officials and other senior executive branch officials who go through the normal constitutional process whereby the Senate gives its consent to these nominees.

As I said when I first introduced this amendment, I do not consider every position that has been identified as a czar in various media reports to be problematic. Some of those positions are established by law. Some of them are subject to Senate confirmation. Rather, my amendment is carefully tailored so it would not cover and would not apply to positions recognized in law or subject to Senate confirmation.

For example, the proposal I have would not apply to the Director of National Intelligence, to the National Security Advisor, to the Homeland Security Advisor, to the Chairman of the Recovery Accountability and Transparency Board, or to the so-called information or regulatory czar within OMB. These positions, because they are recognized in law, or they are subject to Senate confirmation, simply do not raise the same kinds of concerns about accountability, transparency, oversight, and vetting.

Instead, my amendment has been carefully tailored to cover officials that the President has unilaterally designated as responsible for significant policy matters. It would not have covered the President's Chief of Staff, for example, and it would not cover less senior White House officials, despite some misinformation to the contrary.

Because the White House has raised so many objections to my amendment, I have offered to sit down with the White House counsel and narrow the scope of the amendment further, to address any concerns the White House might have. Unfortunately, the White House has failed to provide any modification to the text of my amendment. Instead, they said they did not want any of these officials to be called to testify before Congress.

Let me explain exactly what my amendment would have done, so you can see how modest indeed the amendment was.

The amendment simply would have required that the President certify to Congress that officials in these important positions would respond to all reasonable requests to testify before or provide information to congressional committees with jurisdiction over the issues involved.

Second, it simply would have required these officials to submit a biannual report to the congressional committee with jurisdiction, describing the activities of the official and his or her office, and any rule, regulation, or policy that the official participated in or assisted in the development of.

That is it. How can we possibly be against that kind of accountability, transparency, and oversight? It is our job as Members of Congress to conduct such oversight.

We cannot do so when the administration sets up a structure where there is an energy czar, an urban affairs czar, an environmental czar, a cyber-security czar—the list goes on and on. It creates confusion over who is in charge, who is making policy.

Let's take the area of health care. Is the top policy position in this administration Nancy-Ann DeParle, who is the

health care czar within the Executive Office of the President—a person, by the way, for whom I have the greatest respect—or is it Senate-confirmed Kathleen Sebelius, the Secretary of Health and Human Services? Who is in charge? Whom do we hold accountable?

What the President has done by creating so many czar positions within the White House that appear to duplicate the executive branch officials who are subject to Senate confirmation is to blur the lines of authority. That is not good for our system of government, and it is not in keeping with this administration's pledge to be the most transparent administration ever—a pledge for which I salute the President.

Mr. DURBIN. Mr. President, will the Senator yield for a question?

Ms. COLLINS. I will be happy to yield.

Mr. DURBIN. Mr. President, I would like to ask the Senator about her amendment. The first thing I would like to ask is, her amendment does not specify how many czars—I think that is the term she used on the floor—how many czars she thinks there are in the administration or what their titles are. Could the Senator from Maine tell me how many czars we are going to try to impact with her amendment?

Ms. COLLINS. I will be happy to. Mr. President, I say to my friend that I have a list of 18 positions which I have talked repeatedly about and which I have inserted into the RECORD. As I have said, I am not one who has used this term in the way some have to include individuals with broad authority across various agencies, such as the Director of National Intelligence. But that is the position that is established or recognized in law and is subject to Senate confirmation. I did not include those. In fact, in the language of my amendment, I specifically say it does not apply to positions established in law.

Mr. DURBIN. Mr. President, if the Senator will yield and share a copy of that list with me, I would appreciate it. But in the meantime, I ask the Senator, it seems that the czar watchers on her side of the aisle, Senator HUTCHISON, for example, found 32 czars when she went looking. One of the advisers to some politicians—and I will not include the Senator from Maine; she can speak for herself—the noted guru Glenn Beck has identified 32 czars as well.

I ask the Senator from Maine before we get into the propriety of her amendment under Senate rules, who is going to define who is covered by her amendment, if her colleague from Texas found 32, Glenn Beck found 32, and she found 18?

Ms. COLLINS. Mr. President, I will be glad to respond to the question of my colleague. My colleague did not have the benefit of being on the Senate floor when I first presented my amendment, and I addressed this very issue.

I was very careful in drafting this amendment to make clear that I was not talking about positions that are recognized in law. Some of my colleagues legitimately have taken a different approach. But that is not the approach that is before the Senate now. Rather, I have taken into account the issues that have been raised by my colleagues on the other side of the aisle, such as Senator BYRD—who certainly knows more about the Constitution than I think any of us who are serving at the present time—who has expressed concerns about the proliferation of czars. I have taken into account concerns expressed by Senator FEINGOLD, by Senator FEINSTEIN. I have done a careful, narrowly tailored amendment that does not attempt to sweep in positions that are recognized in law, nor does it sweep in positions that are subject to Senate confirmation.

That is why it is so disappointing to me that my colleagues are not unanimously adopting my amendment, which it looked like they were going to do earlier this week before the White House weighed in, because I did not take a broad sweeping approach. I took a very narrow, careful approach that aimed at the promise the President talked about, the lack of oversight, transparency, and accountability.

Mr. DURBIN. If the Senator will yield further for a question, I would like to ask the Senator—I have been told that using the definition of ''czar'' that Mr. Beck, political adviser to some, and Senator HUTCHISON, and even you use, that under President George W. Bush, the previous Republican administration, one could characterize his officials and advisers in the Executive Office of the President and other agencies as an Afghanistan czar, an AIDS czar, a drug czar, a faith-based czar, an intelligence czar, a Mideast peace czar, a regulatory czar, a science czar, a Sudan czar, a TARP bailout czar, a terrorism czar, and a weapons czar, under the previous administration. I ask the Senator from Maine if she proposed this amendment under a Republican President who clearly had his own stable of Muscovite czars of a lot of different versions?

Ms. COLLINS. Mr. President, I, again, will be happy to attempt to clarify this issue for my colleague and friend—and he is my friend—from Illinois. I realize he has his role to play in this debate. But the fact is, he has just listed several positions that are established by law. The intelligence czar is the Director of National Intelligence, Dennis Blair. Joe Lieberman and I wrote the law that established that position in 2004, and he is confirmed by the Senate.

The regulatory czar—he is referring to Cass Sunstein in this administration and John Graham in the previous one—it is established by law. It is part of the Office of Information and Regulatory Affairs within OMB. I am not talking about those positions no matter in whose administration it is. I am talking about perhaps other positions on his list. Regardless of whose administration they are in, I would apply the same standards.

The Senator may say why didn't I offer this amendment in the previous administration. The answer is, we did not have this proliferation of czar positions in the previous administration. But I would say to my colleagues, regardless of whether it is a Democratic President or a Republican President, a Democratic Congress or a Republican Congress, I think this is an institutional issue, and I think all of us as Members of Congress should be very concerned about organizational structures that make it impossible for us to conduct effective congressional oversight; that insulate these officials who have significant policy responsibilities from ever coming to testify, from going through the vetting and the confirmation process.

I think that is a problem regardless of who the President is, and I am not the only one who thinks it. That is why Senator ROBERT C. BYRD wrote to the White House, wrote to the President, as this press release says, questioning the Obama administration on the role of White House czar positions because, as he says:

> Too often, I have seen these lines of authority and responsibility become tangled and blurred, sometimes purposely, to shield information and to obscure the decision-making process.

I am not saying this is part of a plot to obscure information, but what I am saying is we have an obligation to exercise our constitutional duties, and the proliferation of these unaccountable positions in any administration makes that impossible for us to do so.

Mr. President, if I may complete the end of my statement—before we got into this good little colloquy. And I do appreciate the opportunity to clarify whom my amendment would cover, who would be covered by it and who would not. As I said, I was willing to work with the White House to make this even clearer. My staff was here many hours last night. I had conversations with White House officials and, unfortunately, at the last moment, they decided not to try to propose revisions to the text.

I am not going to seek to overturn the Chair's ruling on this amendment which will be forthcoming, and I know how it will go. But I do think it is unfortunate that a procedural tactic is being used to block a vote on this amendment. I do want to tell my colleagues that I think this is a real issue. I am very pleased the Homeland Security and Governmental Affairs Committee, under Chairman LIEBERMAN, is going to hold a hearing to explore this issue because it does have constitutional ramifications and it does involve the balance of power between the executive and legislative branches. The ruling the Chair is going to make is not going to be the last word on this subject.

The administration needs—any administration—to fully explain the responsibilities and authorities of these

czars. Until all of these czars are made available to testify before and provide information to Congress, until Congress is fully consulted on the decisions to create these positions in the first place, I will continue to press forward on this issue.

I believe the amendment I drafted is a very reasonable, balanced one, and it would have been a significant step toward establishing an oversight structure for these positions that would provide the transparency, accountability, and oversight our Nation expects from its leaders. I am dismayed the Senate is about to choose a point of order over these principles.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, let me point out at the outset my friendship and respect for Senator COLLINS. These are terms tossed around on the Senate floor sometimes in meaningless context, but this is meaningful. We have worked together on many issues. I respect her very much and believe when she was chairman of the then Governmental Affairs Committee, later to be the Homeland Security Committee, that she did extraordinary work with Senator LIEBERMAN, particularly when it came to the creation of a new intelligence agency. After 9/11, it was one of the toughest political assignments ever given, and Senator COLLINS handled it with professionalism, in a bipartisan way. I commend her for it. I think she is exceptionally talented, and I am happy to have her as my ranking member on the Financial Services and General Government Appropriations Subcommittee where we continue to work closely together.

She raises a legitimate inquiry. The legislative branch should ask whether the executive branch has gone beyond its constitutional authority. I think it is a legitimate question. Unfortunately, before she came to the Senate floor, the waters had been muddied by statements made by our colleague, Senator HUTCHISON, in the Washington Post on September 13 as to when she went searching for czars in the Obama administration, she found 32 of them. The political wise man, Glenn Beck, found 32 as well but went on to say on his Web site—he is a major champion on this issue, incidentally—''since czar isn't an official job title, the number [of czars in the Obama administration] is somewhat in the eye of the beholder.''

That is why this becomes a pretty difficult amendment to consider at this moment in time. The Senator from Maine has been kind enough to add a page in the RECORD that lists her findings of 18 of these so-called czars. I don't know if others would find the same number, more or less. Whether there are 57 known czars or whether there are 18, I just don't know.

This amendment would prohibit funds for the administrative expenses of White House advisers—and that is a term usually used by those not partial to Russian history—unless those positions were created through express statutory authorization.

Further, the amendment requires the President to certify to Congress that the adviser will respond to all reasonable requests to testify before or provide information to any congressional committee with jurisdiction over such matter.

The adviser must give a report every 6 months, kind of a work-in-progress report, a diary of what they are doing. So in addition to working on issues such as health care reform, they need to prepare a report sent to Congress every 6 months to let us know they are showing up on time at their desks and actually doing what they are supposed to do. The President doesn't need statutory authority to appoint advisers, and it doesn't make sense to require an assistant to the President, who has an otherwise pretty serious workload, to fill out these reports to Congress every 6 months to make sure they are showing up as promised.

But the amendment does touch on accountability in a way that I agree with. Public officials, including those who serve at the pleasure of the President, should be responsive to congressional inquiries. That is why Senator COLLINS and I, through our appropriations subcommittee, bring in leaders from the administration. And I can't say for certain, but I am virtually certain we have not been turned down by any at this point. The committee expects officials employed in whole or in part by the Executive Office of the President and designated by the President to coordinate policy agendas across executive departments and agencies to keep Congress fully and currently informed. We ask that of them, and so far we have received their cooperation.

Over the past several weeks, there has been this new interest in the czars and czarinas in the Obama administration, according to Mr. Beck and others. Some Members have asked serious questions about the makeup of the White House staff. The bulk of the noise being heard right now began with partisan commentators like Mr. Beck, suggesting this is somehow a new and sinister development that threatens our democracy.

Unfortunately, this czar issue didn't start with the Obama administration. It goes back much further in history, and it certainly includes the previous Bush administration, which was not subjected to an amendment such as is being offered at this moment. Many of the officials cited by conservative commentators—and I don't include Senator COLLINS because I haven't seen her list of 18—are Senate-confirmed appointees or advisory roles carried over from the Bush White House. Many are advisers to the President's Cabinet Secretaries. Many hold policy jobs that existed in the Bush administration. Some hold jobs that involve coordinating the work of agencies on President Obama's key policy priorities: health insurance reform, energy and green jobs, and building a new foundation for a longlasting economic growth.

I might say that in the past the same concern and furor hasn't arisen. DARRELL ISSA, a Congressman from California, was recently on FOX News and was asked what kind of investigation he had made into the Bush administration about czars, and he said he hadn't done so. He hadn't raised any objection, although he now thought it was a pretty important issue under President Obama. In fact, if you adhere to the definition of czar held by many Members—and I won't include Senator COLLINS in this group but other Members in the Senate—the Bush administration had 47 czars—budget czars, faith czars, manufacturing czars, to name a few.

Many of the Members who now decry the practice have called on Presidents in the past to appoint czars. Senator ROBERT BENNETT of Utah, a friend and recognized colleague who worked hard on the Y2K concern, asked for a czar to be appointed, and he said he had worked with that person to maintain ''bipartisan and across-the-government communication.'' Even the ranking member of the Appropriations Interior Subcommittee, Senator ALEXANDER of Tennessee, has had words said about czars in this administration. But during remarks delivered on the Senate floor in 2003, captured in the CONGRESSIONAL RECORD, Senator ALEXANDER said, ''I would welcome [President Bush's] manufacturing job czar.'' That same day in the Senate, he also expressed support for President Bush's AIDS czar, Randall Tobias.

Mr. ALEXANDER. Mr. President, will the Senator yield for a question?

Mr. DURBIN. I would be happy to yield.

Mr. ALEXANDER. Mr. President, I would ask the distinguished assistant Democratic leader if he is aware that the manufacturing czar in President Bush's time was appointed by the President and confirmed by the Senate and testified before the Senate? And I wonder if he is also aware that the AIDS czar was appointed by the President and confirmed by the Senate and testified before the Senate?

Senator COLLINS has been careful—I believe he is aware; I wonder if he is aware—that she is not talking about any czars whom we confirm and the President appoints and who testify, and she is only talking about the 18 new czars under the Obama administration, just as Senator BYRD did in February.

I wonder if the Senator is aware of those things?

Mr. DURBIN. I thank the Senator from Tennessee for the question, and I am aware of that fact, and I would respond to him, that is why I was trying to clarify how many czars are in this Muscovite conspiracy because one of his colleagues from Texas, Senator HUTCHISON, identified 32, as did Mr.

Glenn Beck, and they included 16—pardon me, 7 of these so-called czars are people who have—pardon me, 9 have been confirmed by the Senate. So it appears that some of your colleagues do not share your definition that Senator COLLINS referred to on the floor.

The point I am trying to make is that this is a legitimate inquiry, it is an important inquiry, but it has been muddled by statements made by some Members of Congress and certainly by those in the political commentary realm.

The good news for Senator ALEXANDER and Senator COLLINS and everyone else concerned about this issue is that a trusted friend and colleague, Senator JOE LIEBERMAN, chairman of the Homeland Security Committee, has promised a hearing on this issue. I know he will engage Senator COLLINS, as ranking Republican member, on it, and serious questions which have been presented will be considered by Senator LIEBERMAN. We respect him in that capacity.

So the reason I am objecting to this amendment isn't because I don't think Senator COLLINS has at least a legitimate inquiry, but I think it should be taken in the greater order of things rather than considered in this fashion on an appropriations bill.

So, Mr. President, I make a point of order that the Collins amendment, No. 2498, violates rule XVI, paragraph 4, legislating on an appropriations bill.

Excuse me, Mr. President, I missed one procedural step.

I call for regular order on the pending Collins amendment.

The PRESIDING OFFICER. The amendment is now pending.

Mr. DURBIN. Mr. President, I now make a point of order that the Collins amendment, No. 2498, violates rule XVI, paragraph 4, in that it legislates on an appropriations bill.

The PRESIDING OFFICER. The point of order is sustained. The amendment falls.

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the assistant Democratic leader for his comments, and I want to especially thank the Senator from Maine.

The Senator from Illinois suggested that the waters had gotten muddied because some of us didn't count very well in terms of the number of czars who might exist in the Obama administration. That is why we are so fortunate to have the Senator from Maine, who is always careful, always thoughtful, and always experienced. What she has done is gone back to Senator BYRD's first letter in February, in which he expressed his concern about the constitutional issues here, and then she has counted 18 new czars in the Obama administration. Her letter of September 14 to the President is limited, thoughtful and respectful, and she simply asks that the President identify the specific authorities and responsibilities of those positions, the process by which the administration examines these people, and whether they are willing to testify before us. She is the ranking member of the committee Senator LIEBERMAN chairs and will have an opportunity during the hearings to explore this.

Some of us are concerned that the administration is too dedicated to too many Washington takeovers, and the unusual number of new czars is the most visible symbol of the large number of Washington takeovers. I think we are fortunate that we have as thoughtful a Senator as the Senator from Maine and an independent Senator from Connecticut, JOE LIEBERMAN, who will look into it. I am sure Senator BYRD will want to weigh in. Senator FEINGOLD may want to have a hearing. So we will have an opportunity to have a thoughtful resolution.

I thank the Senator from Maine for her amendment and her leadership on this issue, and I look forward to hearing more from her on it.

Madam Chairman, if I could say to the Senator from California, the Senator from New Mexico has been waiting and the Senator from Louisiana has been waiting.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I ask unanimous consent for 2 minutes of recognition before we move away from this issue.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

Mr. VITTER. Mr. President, I will be brief. I wish to compliment my distinguished colleague from Maine on her amendment. It was very well tailored and very carefully put together. I do think it is a shame that it won't be able to come to any vote because of this procedural move by the assistant majority leader.

I want to underscore three points:

No. 1, maybe we can talk about some other universe when we debate the Beck amendment, but we are not debating the Glenn Beck amendment, we are talking about the Collins amendment, and we will get to vote on the Vitter amendment. What all of us have been talking about are appointees of the President whose offices were not created by statute in any way and who were never Senate confirmed.

No. 2, I also want to underscore the point that this is clearly a bipartisan concern, as evidenced by Senator BYRD's letter of February and the recent comments of Senator Russ Feingold. It is a very serious and very bipartisan concern.

No. 3, we will have an opportunity to vote on this issue today under my amendment. The climate change czar is one of those 18, and she clearly threatens to supercede and overshadow Senate-confirmed Cabinet members such as the head of EPA. My amendment is very simple. It says EPA shouldn't have to carry out orders of the climate change czar when it is supposed to be headed by a Cabinet member, a Senate-confirmed appointee, directly at EPA.

So again I compliment the Senator from Maine on her efforts. I will certainly pledge ongoing support on the issue, including through my amendment.

I yield back my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, I rise today to oppose the Murkowski amendment. The Murkowski amendment would prohibit the EPA from using funds under the Clean Air Act to deal with climate change.

I listened earlier today, and I heard the Senator from California, the chairman of the Appropriations Interior, Environment Subcommittee, speaking about the issue, and she spoke eloquently. I heard Senator BOXER, the chairman of the Environment and Public Works Committee, speaking about this issue. She also made the very strong point that this amendment would be ill-advised and irresponsible. And I rise today to speak to this amendment and to oppose it.

America and the world are face-to-face with a perfect storm—an energy crisis and a climate crisis that require a do-it-all energy policy. These two crises are closely linked, and today I would like to raise one facet of the solution: clean energy incentives.

I strongly believe we should resist efforts to block the Obama administration actions on clean energy on the fiscal year 2010 Interior and Environment Appropriations Act or other legislation, for that matter. If that were to happen, American families and the men and women in our Armed Forces would be stuck with the bill.

Concerns about the cost of the administration's actions to address our energy and climate crisis have it exactly backward. The biggest cost is the cost of inaction—costs families pay at the pump in energy bills every day; money from their hard-earned paychecks that end up in the treasuries of foreign countries or foreign oil companies, some of which are hostile to the United States. In the end, the only people who will benefit from efforts to block clean energy solutions are members of OPEC and other special interests in the fossil fuel industry.

To put it simply, our dependence on fossil fuels is a huge drag on families' pocketbooks and a clear and present danger to our national security. In 2008, American families and businesses sent $475 billion overseas to pay for foreign oil. That works out to over $4,000 per household in America—a massive transfer of wealth from hard-working families in New Mexico and the other 49 States to the treasuries of foreign nations. The largest consumer of foreign oil is the U.S. military, which is engaged in two major conflicts in the Middle East—an area of strategic importance largely due to its massive oil reserves.

Making matters worse, this same reliance on fossil fuels pollutes our atmosphere with toxic compounds such as sulfur dioxide, soot, and mercury, alongside greenhouse gases such as carbon dioxide. The global climate crisis is real. Strong scientific evidence shows unless we transition to clean energy sources, our home States will pay a heavy price.

In New Mexico, scientific evidence indicates more devastating forest fires, droughts, and invasive species caused by climate change.

Luckily, we have numerous cost-effective solutions at hand to address the energy and climate crisis. My home State of New Mexico and many other States across the Nation are rich in much cleaner domestic sources of energy, sources such as wind and solar, geothermal and natural gas. Several years ago, wind energy was unusual but today these projects are quite common. Wind projects create thousands of U.S. jobs in the steel, manufacturing, and construction sectors.

The United States is now installing over a gigawatt of solar power each year and there are six other gigawatts of concentrated solar power projects planned nationally, particularly in the Southwest.

U.S. natural gas reserves have also increased by 35 percent in 1 year, an increase that gives our Nation a century's worth of supply. While natural gas is a fossil fuel, it is significantly cleaner than either coal or oil, and much more abundant.

Despite these improvements, we continue to waste tremendous amounts of energy. Government and industry studies have found that the right investments could save energy and more than $1 trillion at the same time. Energy efficiency does not mean turning down the heater in the winter. Rather, efficiency means investments in building technologies such as advanced windows, insulation, and smart electric grids that do not waste energy or money. Improving our efficiency on a major scale would also save more than 1 billion tons of greenhouse gases, proving we can address the global climate crisis without increasing costs on families.

The U.S. Supreme Court ruled that the Bush administration was required by the Clean Air Act to reduce air pollution that is causing our climate crisis, but the Bush administration failed to act. Congress should not put the Obama administration in handcuffs when the President is trying to change course and follow the law. To those who worry that the administration action could short circuit debate on these issues in Congress, nothing could be further from the truth. I agree that Congress should act and set a comprehensive clean energy incentive policy. Numerous Cabinet Secretaries from the administration have testified that they welcome congressional action to create a path forward on clean energy. For Congress to block the administration and to fail to act itself would be the height of irresponsibility.

Our energy and climate crisis have the same root cause. The Senate should address both challenges with the same cost-effective solutions—incentives for renewable energy and energy efficiency. That is why efforts to block the Obama administration from acting on climate change are so dangerous. Such efforts continue our reliance on fossil fuels that hurt family budgets, threaten our national security, and pollute our atmosphere.

The bottom line is America needs a ''do it all'' energy policy, one that includes all the tools in our energy toolbox—more alternative energies and a commitment to conservation; increased domestic oil production, including offshore; investments in clean coal research and technology; and nuclear power has to be part of the mix. Energy and climate change are one of the defining challenges of our time—our perfect storm. We have the tools to fix the problem. Now we need the will to act, not to obstruct.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I wanted to make some comments based on the comments the Senator from New Mexico raised.

He talked about $4,000 a year in terms of imported oil into this country and then he talked about we needed to do offshore exploration, but I note for the RECORD he voted against an opportunity to expand offshore exploration yesterday. You can't have it both ways. If we are going to get off oil and hydrocarbons, it is going to take us 25 years. But when we have an opportunity to decrease that cost of $4,000 per family and use American oil, we do not have the same consistency as the rhetoric when it comes to the votes. I think the RECORD needs to show that although the Senator claims that, when he had the opportunity yesterday to vote in a way to expand domestic offshore exploration, he voted against that opportunity.

I wish to take this time to bring up several amendments and make them pending. I thank the chairman of the committee and staff for working with us. We will try to make this as painless as possible and do it in as short a period of time as possible, but I have been down here for the last 4 days, every day, trying to get things done and unable to get them done. So I am going to take adequate time to explain these amendments and also explain a couple of amendments I agreed not to offer but I think it pertinent the American people hear about.

AMENDMENT NO. 2463

First, I ask the pending amendment be set aside and amendment No. 2463 be called up.

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

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2463.

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

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

The amendment is as follows:

(Purpose: To require public disclosure of certain reports)

At the appropriate place, insert the following:

SEC. _____. (a) Notwithstanding any other provision of this Act and except as provided in subsection (b), any report required to be submitted by a Federal agency or department to the Committee on Appropriations of either the Senate or the House of Representatives in this Act shall be posted on the public website of that agency upon receipt by the committee.

(b) Subsection (a) shall not apply to a report if—

(1) the public posting of the report compromises national security; or

(2) the report contains proprietary information.

AMENDMENT NO. 2523

Mr. COBURN. I ask unanimous consent the pending amendment be set aside and amendment No. 2523 be called up.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2523.

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

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

The amendment is as follows:

(Purpose: To secure our borders and protect our environment)

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON USE OF FUNDS TO IMPEDE OPERATIONAL CONTROL.

None of the funds made available by this Act may be used to impede, prohibit, or restrict activities of the Secretary of Homeland Security on public lands to achieve operational control (as defined in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–367)) over the international land and maritime borders of the United States.

AMENDMENT NO. 2483

Mr. COBURN. I ask unanimous consent the pending amendment be set aside and amendment No. 2483 be called up.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2483.

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

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

The amendment is as follows:

(Purpose: To help preserve America's national parks and other public land treasures by reducing maintenance backlogs that threaten the health and safety of visitors)

At the appropriate place, insert the following:

SEC. ___. MAINTENANCE BACKLOG.

Notwithstanding any other provision of this Act, any funds provided from the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–5) to an agency under this Act for federal land acquisition shall be used by the agency for maintenance, repair, or rehabilitation projects for constructed assets.

AMENDMENT NO. 2482

Mr. COBURN. I ask unanimous consent the pending amendment be set aside and amendment No. 2482 be called up.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2482.

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

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

The amendment is as follows:

(Purpose: To protect property owners from being included without their knowledge or consent in the Federal preservation and promotion activities of any National Heritage Area)

Beginning on page 173, strike line 1 and all that follows through page 174, line 5, and insert the following:

NORTHERN PLAINS HERITAGE AREA, AMENDMENT

SEC. 115. (a) IN GENERAL.—Section 8004 of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1240) is amended—

(1) by redesignating subsections (g) through (i) as subsections (h) through (j), respectively;

(2) in subsection (h)(1) (as redesignated by paragraph (1)), in the matter preceding subparagraph (A), by striking ''subsection (i)'' and inserting ''subsection (j)''; and

(3) by inserting after subsection (f) the following:

''(g) REQUIREMENTS FOR INCLUSION AND REMOVAL OF PROPERTY IN A NATIONAL HERITAGE AREA.—

''(1) PRIVATE PROPERTY INCLUSION.—No privately owned property shall be included in a National Heritage Area unless the owner of the private property provides to the management entity a written request for the inclusion.

''(2) PROPERTY REMOVAL.—

''(A) PRIVATE PROPERTY.—At the request of an owner of private property included in a National Heritage Area pursuant to paragraph (1), the private property shall be immediately withdrawn from the National Heritage Area if the owner of the property provides to the management entity a written notice requesting removal.

''(B) PUBLIC PROPERTY.—

''(i) INCLUSION.—Only on written notice from the appropriate State or local government entity may public property be included in a National Heritage Area.

''(ii) WITHDRAWAL.—On written notice from the appropriate State or local government entity, public property shall be immediately withdrawn from a National Heritage Area.''.

(b) PROHIBITION ON USE OF FUNDS.—None of the funds made available by this Act shall be made available for a Heritage Area that does not comply with section 8004(g) of the Omnibus Public Land Management Act of 2009 (Public Law 111–11; 123 Stat. 1240) (as amended by subsection (a)).

AMENDMENT NO. 2511

Mr. COBURN. I ask it be set aside and amendment No. 2511 be called up.

The PRESIDING OFFICER. Is there objection?

Mrs. FEINSTEIN. Mr. President, if I may, if the Senator would be good enough to mention the subject of the amendment as he reads the number, it would be appreciated. We could keep it straight that way.

Mr. COBURN. This is the last one. These are all in the agreement the Senator and I had that I would bring up and this is the last one.

Mr. FEINSTEIN. Good. I just want to know about which one the Senator is speaking when he is speaking.

Mr. COBURN. I will be happy to do that. No. 2511.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. COBURN. This amendment is as modified without the second degree, with agreement of the chairman of the committee, and you should have the modified amendment at the desk.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2511.

The amendment is as follows:

(Purpose: To prohibit no-bid contracts and grants)

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON NO-BID CONTRACTS AND GRANTS.

(a) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be—

(1) used to make any payment in connection with a contract not awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation; or

(2) awarded by grant not subjected to merit-based competitive procedures, needs-based criteria, and other procedures specifically authorized by law to select the grantee or award recipient.

(b) This prohibition shall not apply to the awarding of contracts or grants with respect to which—

(1) no more than one applicant submits a bid for a contract or grant; or

(2) Federal law specifically authorizes a grant or contract to be entered into without regard for these requirements, including formula grants for States.

AMENDMENT NO. 2511, AS MODIFIED

Mr. COBURN. I ask unanimous consent this amendment be as modified, and I yield to the chairman of the committee.

Mrs. FEINSTEIN. Mr. President, with respect to amendment No. 2511, Senator COBURN and I have come to an agreement. Therefore, there is no need for me to offer a second degree.

I ask unanimous consent that the Coburn amendment No. 2511 be modified with the changes at the desk, and that the amendment, as modified, be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 2511), as modified, was agreed to, as follows:

(Purpose: To prohibit no-bid contracts and grants)

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON NO-BID CONTRACTS AND GRANTS. (a) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be—

(1) used to make any payment in connection with a contract not awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation; or

(2) awarded by grant not subjected to merit-based competitive procedures, needs-based criteria, or other procedures specifically authorized by law to select the grantee or award recipient.

(b) This prohibition shall not apply to the awarding of contracts or grants with respect to which—

(1) no more than one applicant submits a bid for a contract or grant; or

(2) Federal law specifically authorizes a grant or contract to be entered into without regard for these requirements, including formula grants for States, or Federally recognized Indian tribes; or

(3) Such contracts or grants are authorized by the Indian Self-Determination and Education and Assistance Act (P.L. 93–638, 25 U.S.C. 450 et seq., as amended) or by any other Federal laws that specifically authorize a grant or contract with an Indian tribe as defined in section 4(e) of that Act (25 U.S.C. 450b(e)).

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I will try to do this, to save some time, in the shortest amount of time I can. I also thank the chairman of this committee for working with me.

There are several amendments I did not offer. I want to spend a couple of minutes talking about those because I think the American people need to hear about them.

Less than a block from this building is the Belmont House. It is a foundation. It is a beautiful building. It has $4 million in the bank, the foundation does. There is an earmark in this bill at this time of a $1.8 trillion deficit, of a 16-percent increase in this bill. The Senator, Senator LANDRIEU from Louisiana, is sending $1 million to that building. They have the money in the bank but we are still going to take $1 million from our grandkids and send it there. I am not offering that amendment in conjunction with having the pleasure of the chairman consider my other amendments. But the American people need to know that kind of thing is going on. It is absolutely not indicated. Who uses that building? We do,

for fundraisers. We do for events. We do for social events. In fact, there is a high price paid when you rent it. But what we are going to do, without regard to what our fiscal situation is, is we are going to send another $1 million as though it is a peanut and send it to that building. That is all I will say on it, but to me it is one of the reasons why this Congress, and we in particular as Members of the Senate, lack the respect of the American people.

The other amendment I am not going to offer that was objected to by the chairman of the Resources Committee is for us to know what kind of land we own. We don't know, since 2005, how much land we have or where we own it.

Supposedly the BLM puts out something. Supposedly the Geological Survey puts something out. But there is not a concise list of the land that the Federal Government owns—and it is somewhere in excess of a third of all the land of this country—and it is 650 million acres. In this bill is another $300 million—almost $400 million—to buy more land. At the same time, the National Park Service has a backlog of $11 billion. We do not have one national park that does not have significant factors of erosion and dilapidation that is now putting both the employees and park visitors at risk. Yet we are going to spend $400 million to buy more land, to require more of their services to take care of, rather than to take care of what we have. It does not fit with common sense.

There is no way the American people as a whole would embrace that kind of stupidity. Yet that is in this bill. We are going to buy more land, we are going to take more land off the tax rolls, we are going to hurt the States, we are going to limit the ability of property owners, and we are going to continue—the Park Service, this year, their backlog grew by over $400 million.

We have the Carlsbad Caverns where we had sewage leaking into the cavern. I won't spend the time to go through the hundreds of examples the Park Service has given us, that they cannot maintain the parks because we will not send them the money to do it. We would rather spend it on an earmark or buy more land. The priorities here are amazing.

Let me talk about amendment No. 2511. I will spend a short period on it. That is the competitive bidding amendment. We have carefully crafted that with the concerns of both staff and the chairman and ranking member of this committee. What it says is we are going to use competitive bidding, much like the President campaigned, when we go to buy things that are approved in this bill. We very carefully exempted the sections of the Native Americans where their sovereignty reigns, where we would not step on their sovereignty—although I am not sure we should not require them to competitively bid, but we agreed not to do that.

Here is what we do know. If you take different branches of the Federal Government, about 5 percent of the costs are excessive because we do not have competitive bidding. If you take the Pentagon, it is about $20 billion a year because we do not have competitive bidding. In the Interior it is much smaller. But any penny we can save, in terms of enhancing the value of the American taxpayers' dollars by saying what we buy is going to be competitively bid, we ought to do that. We ought to get the best value we can. We may not always get great value but at least we are going to have a competitive bid and we are at least going to have everybody in that who is qualified to have a shot at some of that business. So it is a ''two-fer.'' It is, No. 1, better value for the American people but also opening up all this to everybody who has a opportunity to offer a service when the Federal Government buys it.

With that, we have an agreement and I appreciate the chairman accepting that amendment.

Amendment No. 2463 is an amendment for the public to see all the reports required by this bill if, in fact, that will not in any way compromise national security. I think we have worked out an agreement on that amendment to where that is going to be accepted. It is about transparency.

We ought to make sure the American people see what we are doing, and if we ask for a report that will not in any way endanger the security of this country that comes back to us, there is no reason the American people should not be able to see that and we make it available to them so they can make a judgment to judge us on what we are doing and whether we are responding properly to problems identified in such reports.

So I am very thankful for the chairman in terms of accepting this amendment. I look forward to her comments on it. We should do the same thing with this amendment as we did with the last one.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I would be happy to do the same thing. If I may, Senator COBURN's amendment No. 2463, he and I have come to an agreement.

I ask unanimous consent that the Coburn amendment be agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 2463) was agreed to.

The PRESIDING OFFICER (Mrs. MCCASKILL.) The Senator from Oklahoma is recognized.

AMENDMENT NO. 2523

Mr. COBURN. Madam President, I switch now to amendment No. 2523, which is a prohibition on funds being spent in this act that would actually limit the effectiveness of the Homeland Security Department in terms of securing our borders and protecting us.

This amendment basically ensures that the wilderness areas and other public lands are protected from crime and pollution. I know it is not seen that way, but what is happening is a very big and sad story about what is happening in our wilderness areas.

Border violence and trafficking is at an all-time high. Our public lands along the border are being exploited by drug and human smugglers. Wilderness concerns hinder law enforcement efforts. How do we balance properly our concerns for the environment and still secure our borders and still protect our population from both drug smuggling and human trafficking?

Wilderness areas also are being destroyed by these very smugglers because we do not allow the enforcement agencies access to be able to make a difference. We have not acted on it; we have not acted on it in this bill. We have to make sure there is the proper balance between protecting our wilderness areas and protecting our country and our citizens.

We have sought to address in the last couple of years our border security concerns by appropriating a large increase in Federal funds for law enforcement and for significant legislation to construct infrastructure along the southern border.

In the Secure Fence Act of 2006, Congress sought to ensure that the Secretary of the Department of Homeland Security was able to take the actions necessary and appropriate to achieve and maintain the operational control over the entire international land and maritime borders of the United States.

The goal of the act was to prevent all unlawful entries into the United States, including entries by terrorists, narcotics, and other contraband, except it has not had the desired impact, and in large part, to the unwelcome increase of illegal human and drug trafficking through public lands, along our southern border. So we have a conflict of desires by agencies to do their jobs.

Amendment No. 2523 would prohibit any funds from within the Interior appropriations bill to be used to prohibit or restrict the activities of Homeland Security on public lands to secure our borders. The effect of this amendment would be to ensure that DHS is able to further secure our borders from terrorists and other national security threats and protect the environment of these lands.

I know there is some concern on the other side with the language, the way we have written it. I am more than willing to work with the chairman of both the Resources Committee, Interior Committee, and the Appropriations Committee to try to put that in a way that properly balances it. I know this is a tough amendment. I do not deny that.

But when you hear the testimony—and I am going to ask that this be printed in the RECORD. This is former

Border Patrol officers and field supervisory Border Patrol agents who testified in Congress last April about what is going on in our wilderness areas.

Do you realize that these people, because we do not have law enforcement in there, they are setting fires in our wilderness areas to distract us to the fire so they can smuggle contraband and humans while we are addressing the fire?

Our wilderness areas are being defiled near McAllen, TX. It relates: When a wilderness area or refuge is established near the border, the criminal element moves in and trashes it because the restrictive wilderness or refuge status accorded to these lands effectively prevents all law enforcement from effectively working the area.

This is Border Patrol:

> In other words, refuge or wilderness designation actually serves to put the environment at a greater risk of being seriously damaged and defaced. Law enforcement must have common, unrestricted, free access to all lands near the U.S. border.

He goes on to clarify that it needs to be at least 50 miles. The other thing that was especially telling and which is horrific is the comments about what is going on along Interstate 8 and Interstate 10 in Arizona: numerous reported ''rape trees'' have been identified in and near the current Pajarita Wilderness near the U.S.-Mexican border.

> Rape trees mark the location where drug and alien smugglers habitually sexually assault and rape illegal alien females that are being brought into the United States across the Mexican border. These locations are marked by the perpetrators who prominently display and hang—

I will not use the words that he does.

> the underwear of their victims on a particular tree. I visited one such reported tree on March 27, 2008, and noticed 30 sets of underwear. These rape-tree trails begin at the Mexican border and travel all of the way through the Pajarita Wilderness.

In southern Arizona we are experiencing increased incidents of wildfires from two primary sources. The first source is illegal aliens who cross into the United States illegally and start fires through carelessness. The second is from illegal aliens engaged in other criminal enterprises who start wildfires intentionally to create a diversion so they can smuggle things into or out of the United States.

You cannot deny the fact that we are having a conflict between the Department of Interior and the Department of Homeland Security in terms of law enforcement along our border. The tragedy is that the very intent of the Department of Interior to protect the environment is actually being made worse by their policy of not allowing law enforcement efforts, i.e., the Border Patrol, into those areas.

So this amendment is intended to do a couple of things. Let me talk about what the claims against this amendment are first, and that I am more than willing to try to work out a sensible agreement. What is driving me nuts is those two Departments have not worked out a sensible agreement themselves, which we ought to have significant oversight hearings on the fact that we are having to do something that they should be taking care of.

The claim is that if this amendment passes it will devastate the environment and give the Department of Homeland Security the mandate to show no regard for the environment. Nothing can be further from the truth. The interpretation of congressional intent that we currently have has led to the destruction of much of our wilderness area because human and drug smugglers have been able to use these lands as major thoroughfares without fear of law enforcement.

Additionally, the Department of Homeland Security will still be obligated to conduct its law enforcement activities in a manner that seeks to minimize or mitigate any negative environmental impact. Do you realize in Arizona they are cutting down 150-year-old cactuses to block the road to inhibit anybody following them? And the fact that we do not have significant law enforcement, i.e., Border Patrol there, these majestic, 100-year-old cactuses, which are protected, are intentionally being destroyed to protect the smugglers.

In the past, when the Secretary of Homeland Security waived 30 environmental and other laws and regulations associated with the construction of tactical infrastructure along the southwest border in compliance with the Federal law, he still required the Department to practice responsible stewardship of natural and cultural resources.

The U.S. Customs and Border Patrol is also committed to do that. I will stop with this: I do want to have printed in the RECORD a letter from the National Border Patrol Council, which is the AFL–CIO representative of our Border Patrol agents who fully endorse this amendment because they are the people actually on the ground seeing the problem, and we are not allowing them to do their job.

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

EAGLE FORUM,
September 23, 2009.

U.S. Senate,
Washington, DC.

DEAR SENATOR: On behalf of the many thousands of American families we represent, I urge you to support Senator Tom Coburn's (R–OK) Secure Our Borders and Protect the Environment amendment (#2523) to the Interior Appropriations bill, H.R. 2996, currently being debated on the Senate floor.

The Coburn amendment would simply prevent any funds in this bill from going to any Department of the Interior efforts or activities to impede or stall the Department of Homeland Security's progress of the border fence or to prevent the enforcement of U.S. law on public lands near the border. Yesterday, the House passed a motion to recommit to the Santa Cruz Valley National Heritage Area Act (H.R. 324) by a vote of 259 to 167 that included this same amendment language.

In 2006, the U.S. Senate overwhelmingly passed the Secure Fence Act of 2006 by a vote of 80 to 19 to construct 700 miles of border fence between the U.S. and Mexico—even then-Senator, President Barack Obama, voted in favor of the fence. Despite the enactment of this law and billions of taxpayer dollars for law enforcement efforts, our border remains vulnerable and the increase in violence in Mexico has begun to spill over into the United States. Even worse, our national parks and other federal public lands are being easily targeted by and used as sanctuaries for illegal drug smugglers because environmental concerns limit the range of U.S. Border Patrol agents and also complicate efforts to build the barrier ordered by Congress.

Not only do these restrictions on enforcement endanger our border guards, but the increased illegal activity as a result of reduced law enforcement has led to adverse environmental impacts on these lands, including contamination of pristine areas with bio-hazardous waste and communicable diseases, contamination of water supplies for animals and local ranchers, and an increase in wildfires.

We need the Coburn amendment because it is a common-sense step in our fight against the illegal drug and human trade, to secure our border, and to restore our wilderness areas that border Mexico. I urge you to vote in favor of the Coburn amendment when it comes up for a floor vote today. Eagle Forum will score this vote, which will appear in our scoreboard, published annually, for the 1st session of the 111th Congress.

Sincerely,

SUZANNE BIBBY,
Legislative Director, Eagle Forum.

NATIONAL BORDER PATROL COUNCIL OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFFILIATED WITH AFL–CIO,
September 24, 2009.

Hon. TOM COBURN,
U.S. Senate,
Washington, DC.

DEAR SENATOR COBURN: The United States Border Patrol is charged with the formidable task of securing our Nation's borders, and confronts numerous obstacles that hinder the accomplishment of that goal, including rugged terrain, extreme climatic conditions, an overwhelming number of people crossing the border illegally, and violence perpetrated by smugglers and other criminals. Bureaucratic regulations that prevent Border Patrol agents from utilizing vehicles and technology on public lands should be the least of their concerns, but unfortunately are not.

Your amendment to the Fiscal Year 2010 appropriations bill for Interior, Environment and Related Agencies that would preclude the use any of those funds to impede, prohibit, or restrict any activities of the Department of Homeland Security on public lands that are undertaken to achieve operational control of our borders is therefore greatly appreciated by the dedicated men and women of the U.S. Border Patrol.

Sincerely,

T.J. BONNER,
President.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, if I may say through the Chair to the distinguished Senator from Oklahoma, the manager of the amendment and I are prepared to take the amendment. Moreover, we are prepared to convene a meeting between the two Department heads, have you present, and sit down and see what we can work out.

Mr. COBURN. Well, that is perfectly acceptable to me. I want the problem solved. I think security is just as important as protecting our environment. We are not going to allow one to trump the other.

Mrs. FEINSTEIN. We will accept the amendment on both sides with the stricture I just added to it on the pending amendment.

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

The amendment (No. 2523) was agreed to.

Mrs. FEINSTEIN. Thank you, Madam President.

AMENDMENT NO. 2483

Mr. COBURN. I would next like to talk about amendment No. 2483. This is the amendment that moves the Federal Land Acquisition Fund to backlog.

There is no question my colleagues in this body know of my concern about an ever-expanding, ever-enlarging Federal role in terms of land ownership. In fact, I have had a lot of conflicts with the chairmen, whether it was a Republican chairman or a Democratic chairman, in terms of expanding the amount of property the Federal Government owns.

It is not just about expanding. When we expand it costs more money. It costs our kids more money. But in this bill, we have almost $400 million that is going to be put in to buy more land where we cannot take care of the land that we have today.

What we know is the following: Federal land management agencies across all these different branches of government, as well as within this bill, are responsible for a large and aging number of structures. As we have continued, through the Federal Government, to consume more private land nationwide, Federal agencies have increasingly been unable to maintain the existing land holdings.

All one has to do is talk to any park ranger. Go up to the Statue of Liberty, they have an $800 million backlog. Go to the Washington Mall, well over $1 billion in maintaining some of our most significant structures. If you go to the Grand Canyon National Park, people are continually being limited because we can't maintain the trails and because we don't put the money in to do it. The National Park Service, which receives most of the money to buy more land in this bill, faces an $11 billion backlog.

When I first started talking about the issue, the backlog was $6 billion. In 4 years, we have seen the backlog with the National Park Service almost double. Although I am thankful for the increase in maintenance funds this bill does add to the national parks, it does not come sufficiently close.

What is the priority? Is the priority for the Federal Government to consume more land, restrict more access, limit the freedom of people around that land and on that land, or is it to let Americans own the land and take care of the land the Federal Government already has? It owns a third of the land. How much land is enough for the Federal Government to own? How much is enough, especially when most of the land we own we are not taking care of. We are letting it fall down. The question has to be: What are the priorities?

The committee says the priority is to buy more land. This amendment says the priority is to repair and take care of the land we have. It specifically directs this money to the National Park Service to help with a backlog of falling down structures and the increased risk of safety for both park employees and visitors.

I obviously don't have all the information the committee has, but as the Senator from New Mexico knows, I have been looking at land acquisition and land bills for the last few years. I have not been successful in slowing them down, but I think the American people need to know about this. They need to recognize that our priorities are screwed up and that, in fact, we ought to be about taking care of what we have before we add to it.

I yield the floor.

Mrs. FEINSTEIN. Madam President, regretfully, I have to oppose this amendment. The fact is, we would lose opportunities to conserve valuable lands because within national parks there are inholdings, and inholdings, when they become available—these are private properties that people own—the Federal Government buys them and adds to the public land. Let me name a few: In Georgia, I am told the Chattahoochee National Recreation Area would be involved; in many States, Civil War battlefield sites; in Ohio, the Cuyahoga Valley National Park; in the State of Washington, Mount Rainier, Olympic, and San Juan National Parks; in Texas, Big Thicket National Preserve; in Indiana, the Hoosier National Forest; in Utah, Dixie National Forest; in South Dakota, the Black Hills National Forest.

The point I wish to make is, on occasion, there are families who have large land holdings, and these are valuable, pristine land holdings. Their first preference might be to have the Federal Government buy these lands to hold them for the future and to conserve the lands. If the Federal Government can't do that, the lands go on the market, generally, for the highest and best use. With some of our prized and treasured possessions, that is not the way to go.

I will oppose this amendment. I am sure it will be in line for a vote.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. The chairman makes my point for me. Yes, we might miss an opportunity. But we don't have the courage to put the priorities right. We are going to miss an opportunity while structures fall down at Yellowstone. That is what the choice is. We are going to take large, valuable land segments that are now paying property taxes and, because they are up for sale, we are going to spend that money rather than repair Carlsbad Caverns. That is the choice. The chairman made my argument for me. We are not going to do the sensible thing.

Many of these things will come back. They are not gone forever. What we are saying is, because we don't have any limitation on what we spend or how we spend it, we therefore have no limitation in worrying about whether things fall down. The fact is, now an $11 billion backlog, which grew $400 million last year alone in the Forest Service, documented by the Forest Service—those are not my numbers—we are going to say these are more important now than putting back in proper order things that relate to safety or security in the national parks. I will end with the fact that if we don't do this, what we have done is earned the reputation we are garnering, that we refuse to make tough choices. Life is about tough choices. Maybe we don't get to add to one of these parks right now. But how about taking care of what we have? Why not make that a priority?

It is kind of like when your front porch is falling down and that is the only entrance to your house, you start building a garage rather than fix your front porch or you buy an extra five acres so you can have a big garden. We wouldn't do that. The American people wouldn't do that. We need to respond with some commonsense solutions. Instead, we are adding to the cost as the backlog grows.

I am uncomfortable with the fact that that is how we think here. I know the American people are uncomfortable with that fact. I am disappointed we will not have the support of the committee. I look forward to the vote.

The next amendment I will call up is pending, but I will discuss amendment No. 2482.

Mrs. FEINSTEIN. Will the Senator yield? I know he is a gentleman.

Mr. COBURN. I am happy to.

Mrs. FEINSTEIN. Madam President, when we did the stimulus, we put in the maximum amount that the departments could use for maintenance and rehabilitation. I have the breakdown. It is hard to add it all up quickly, but I can give some idea. Bureau of Land Management deferred maintenance, $35 million; recreation maintenance, 25; trail maintenance, 20; abandoned mine site remediation, $30 million; habitat restoration, 25. It goes on. I recall as we did this, what we were told by our staffs is that was the maximum amount these departments could absorb in the length of time covered by the stimulus. I will leave my colleagues with that.

Mr. COBURN. I would be happy to have a UC on this amendment that would exclude the inholdings, if that would satisfy the chairman.

In fact, the inholdings are a very small amount of the $400 million. A very small amount of the money for land acquisitions is inholdings. I would be happy to accept a second degree that would exclude the inholdings from this.

Mrs. FEINSTEIN. I appreciate that, but I cannot accept that. We believe the Land and Water Conservation Fund is working as it is supposed to. If anything, it has been underfunded. This bill proposes to appropriate $420 million of the $900 million that is authorized. That is less than 50 percent. The Land and Water Conservation Fund, we believe, is extraordinarily important. We would try to get it higher if we could, but we cannot.

Mr. COBURN. I thank the chairman for her comments on that. I am sure it is important. It is important to preserve what we have. You can't go to one national park and talk to the park rangers and talk to the person in charge without hearing them talk about the declining status of their individual parks. We have to start making some choices. We are going to refuse to do that. So next year, instead of it being $11 billion, it is going to be $11.6 billion, and then it is going to grow. What is happening right now is, we are shutting off parts of our parks. We are saying, since it is dangerous or it is in disrepair, we cannot let people experience it.

I will put in the RECORD hundreds of examples where that is happening right now. We have researched and the parks have told us where they are limiting access because of the lack of maintenance funds and funds for repair of required things in the parks.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2504, AS MODIFIED

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the pending amendment be set aside and amendment No. 2504, as modified, be called up.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment, as modified, is pending.

AMENDMENT NO. 2504, AS FURTHER MODIFIED

Mrs. FEINSTEIN. Madam President, there is a further modification at the desk, and I ask unanimous consent that the amendment be further modified.

The PRESIDING OFFICER. Without objection, the amendment is further modified.

The amendment, as further modified, is as follows:

(Purpose: To encourage the participation of the National Park Service in activities preserving the papers and teachings of Dr. Martin Luther King, Jr., under the Civil Rights History Project Act of 2009)

On page 135, line 2, before the period, insert the following: ''of which $200,000 may be made available by the Secretary of the Interior to develop, in conjunction with Morehouse College, a program to catalogue, preserve, provide public access to and research on, develop curriculum and courses based on, provide public access to, and conduct scholarly forums on the important works and papers of Dr. Martin Luther King, Jr. to provide a better understanding of the message and teachings of Dr. Martin Luther King, Jr.;''.

Mrs. FEINSTEIN. Madam President, this modification, which has been agreed to on both sides, allows the Secretary of the Interior to make $200,000 available for preservation of the Martin Luther King papers. It is an amendment offered by Senator ISAKSON. I fully support the amendment.

Madam President, I ask unanimous consent that the amendment as further modified, be agreed to.

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

The amendment (No. 2504), as further modified, was agreed to.

Mrs. FEINSTEIN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2535

Mrs. FEINSTEIN. Madam President, I ask unanimous consent to call up amendment No. 2535.

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

The assistant bill clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for Mr. BARRASSO, proposes an amendment numbered 2535.

The amendment is as follows:

(Purpose: To provide for the use of certain funds for an Indian estate planning assistance program)

In the matter under the heading ''FEDERAL TRUST PROGRAMS (INCLUDING TRANSFER OF FUNDS)'' under the heading ''OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS'' under the heading ''DEPARTMENT OF THE INTERIOR'' of title I, insert '', and of which $1,500,000 shall be available for the estate planning assistance program under section 207(f) of the Indian Land Consolidation Act (25 U.S.C. 2206(f))'' after ''historical accounting''.

Mrs. FEINSTEIN. Madam President, this amendment has been accepted by both sides. I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 2535) was agreed to.

AMENDMENT NO. 2527

Mrs. FEINSTEIN. Madam President, I ask unanimous consent to call up amendment No. 2527.

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

The assistant bill clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for Mr. BENNETT, proposes an amendment numbered 2527.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To modify the definition of the term ''Beaver Dam Wash National Conservation Area Map'')

On page 240, between lines 13 and 14, insert the following:

SEC. 4___. Section 1971(1) of the Omnibus Public Land Management Act of 2009 (16 U.S.C. 460www note; Public Law 111–11) is amended by striking ''December 18, 2008'' and inserting ''September 20, 2009''.

Mrs. FEINSTEIN. Madam President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 2527) was agreed to.

Mrs. FEINSTEIN. Madam President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LAUTENBERG. Madam President, I come to the floor because we were looking at an amendment earlier today that would have stopped the EPA from exercising its obligation to combat global warming pollution. There are those here who would choose to defer taking action to deal with this enormous threat where future generations' lives and well-being would be at risk. But the time for delay is a luxury we don't have. We can't afford to wait any longer and we cannot afford to limit our options.

Every day the science makes it more clear we are on a dangerous course. In fact, the scientific community has recently had to revise its own estimates because rising temperatures are destabilizing our planet far faster than originally expected. For instance, 2 years ago, scientists warned us that summers in the Arctic would be completely ice free by 2050. Now they are saying summers in the Arctic will be completely ice free in 3 years. Two years ago they said sea levels would rise less than 2 feet by the end of this century and now it is being said sea levels will rise by 6 feet. The risks of inaction are too great.

We have to look also at the national security risks we face by continuing to do nothing about climate change. According to the CIA's National Intelligence Council, if we fail to act, nearly 1 billion people may face water and food shortages in the next 15 years. These shortages will set the stage for conflict and breed conditions for terrorism. At the same time, with 20 percent of the world's population living in

coastal zones, rising sea levels and stronger hurricanes could displace more than 150 million people by 2050. When it is expressed in percentages such as that and talking about numbers that are almost beyond the imagination, it sometimes loses its impact. But what we are talking about are people seeking higher-level places to take themselves and their families so they are not overwhelmed by floods.

Border pressures created by these mass migrations will increase tensions and lay the groundwork for armed conflict. The U.S. Navy has looked at this problem in the past and issued a report that in the last half of the 21st century we could be looking at a different structure for naval engagements with smaller boats, higher speeds, and so forth to keep people from flooding our shores because they are trying to get away from higher water. Nations will look to us, to the United States, as a first responder in the aftermath of these major natural emergencies and humanitarian disasters.

Retired GEN Anthony Zinni put it this way, that if we don't begin reducing carbon emissions now, we will ''pay the price later in military terms and that will involve human lives.''

Delay is not a substitute for confronting this growing problem. It is no surprise that many of those who want to shelve the Clean Air Act and stop EPA from doing its duty are the same ones who close their eyes to the overwhelming scientific evidence that says, Wake up, hear the alarm. They have dismissed the ominous forecasts of life changes for plants, animals, and humans. They called global warming ''the greatest hoax ever perpetrated on the American people.'' A hoax is a joke. That is a bad joke.

Let's not forget, the EPA's power to curb greenhouse gas emissions under the Clean Air Act was recently affirmed by the Supreme Court. The Clean Air Act has been one of the great success stories of our lifetime and it is one of the few tools we have to overcome climate change. For the last 40 years, this law has led to cleaner skies and healthier children. If it weren't for the Clean Air Act, 225,000 Americans would have died prematurely, according to an EPA study. Imagine, we would have lost 225,000 people if it weren't for the Clean Air Act.

While the gains have been enormous, the cost to polluters has been minimal. In fact, the total benefits to our economy have been identified as high as $49 trillion, putting the benefit at 100 times greater than the cost for action. Even so, history shows that opponents often dramatically overstate the costs of environmental improvement. The last time we strengthened the Clean Air Act, our adversaries rang the alarm that these changes would cost too much and damage the economy. But as it turned out, the actual costs were less than one-fifth of what these opponents estimated. Today, even though EPA has a proven track record of producing trillions in benefits for our economy and our country under the Clean Air Act, we are hearing the same kinds of warnings. It makes no sense.

There is no doubt our opponents prefer to endorse inaction and will reward failure. That is why I urge my colleagues to stand up to the special interests and stand for the public interest. It is time to say from our hearts that we are willing to stand firm against those who claim the overstated cost of change outweighs the risk of disappearing species, poor health, and international unrest.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. COBURN. Madam President, I wish to put my colleagues on notice that we are trying to work out an amendment so it can be acceptable to all parties concerned. It has to do with the heritage areas. If, in fact, you are a landowner in this country or you are a farmer or you are a rancher or you happen to have 20 acres in the country, you ought to be very worried about the implications and the consequences of those who come in and change the zoning laws on heritage areas.

Most people in this country have no idea they are in a heritage area. They have no knowledge that they are in a heritage area. As a matter of fact, the whole State of Tennessee is a heritage area. So what we are attempting to do is to create a mechanism where anybody in the country who is in a heritage area who doesn't want to be in it can be out of it with their property.

We also want to respectfully protect some efforts in North Dakota on one specifically where they would have to opt in. So we are working on an agreement. We will come back and talk about this when this is finished. Hopefully, this is the start of restoring property rights to Americans that have been trampled, in my opinion, by those who are empowered through the heritage area name.

My hope is we are going to make good progress on this with this bill. It is important. If you are a farmer or a rancher, if you are a farm bureau member, if you are a cattleman or if you are a dairy farmer, it is time to make sure this stays—whatever agreement we come to—in this bill as it goes to conference. Because real property rights are at risk. They have been at risk. They have been trampled on. This is a great solution in terms of solving it.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I wish to thank the Senator from Oklahoma, the Senator from California, the Senator from North Dakota, and the Senator from New Mexico for their work on this amendment. The Senator from Oklahoma stated it exactly right, and that is our intention. I wish to thank the Senators involved.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I am in support of the amendment offered by the Senator from Oklahoma. I also offered an amendment which I understand will be accepted. It allows for something called an ''opt in'' for private property. It means that for the Northern Plains Heritage Area, private property would be involved only if someone wishes to be included. My understanding is, after having worked with the Senators from Tennessee and Oklahoma, and the Senator from California, who is managing this bill, my amendment will also be accepted by unanimous consent.

My amendment is amendment No. 2441 which has previously been filed.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, in the interest of moving things along—Members are impatient. We have been on this bill for a long time. We wish to conclude. It is my understanding both sides are agreeable to take the Dorgan amendment No. 2441, so I ask for unanimous consent.

Mr. ALEXANDER. Madam President, the Senator from Oklahoma has asked to be present when we do that, so I wonder if it might not be possible to take up other amendments at this time.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I withdraw my prior request and I ask unanimous consent that at 5 o'clock tonight, the Senate proceed to vote in relation to the following amendments and motion to recommit remaining in order to H.R. 2996, the Interior Appropriations Act, and in the following order:

The Vitter amendment, No. 2549; the Ensign motion to recommit; the Coburn amendment No. 2482; the Coburn amendment No. 2483; and the Reid amendment No. 2531; that the remaining provisions of the previous order are still in effect.

The PRESIDING OFFICER (Mr. WHITEHOUSE). Is there objection?

Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, the exercise of governmental authority by White House advisers, sometimes called ''czars,'' is a serious issue that deserves serious consideration by the Senate. Our ability to conduct meaningful oversight of those who hold the levers of power and to evaluate whether they have the qualifications and character to carry out their duties may be undermined by the centralization of power in the White House. That is why I wrote to the President recently and plan to chair a hearing in the Constitution Subcommittee on this topic in the very near future. We need to know

more about the role of these advisers and what powers they have. There is a core issue here that concerns me. At this point, however, it is premature to pass legislation on this topic before fully understanding the constitutional and policy ramifications. I am also uncomfortable with singling out a single policy adviser, the Assistant to the President for Energy and Climate Change, particularly since I am not aware of any evidence that she is acting inappropriately. Therefore, I will vote against the Vitter amendment.

Mrs. FEINSTEIN. Mr. President, I yield back the time remaining on the Vitter amendment No. 2549, and I move to table it. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll. ‘

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 295 Leg.]

YEAS—57

Akaka	Franken	Murray
Baucus	Gillibrand	Nelson (FL)
Bayh	Hagan	Pryor
Begich	Harkin	Reed
Bennet	Inouye	Reid
Bingaman	Johnson	Rockefeller
Boxer	Kaufman	Sanders
Brown	Kerry	Schumer
Burris	Klobuchar	Shaheen
Cantwell	Kohl	Snowe
Cardin	Landrieu	Specter
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Conrad	Levin	Udall (CO)
Dodd	Lieberman	Udall (NM)
Dorgan	Lincoln	Warner
Durbin	Menendez	Webb
Feingold	Merkley	Whitehouse
Feinstein	Mikulski	Wyden

NAYS—41

Alexander	DeMint	McCain
Barrasso	Ensign	McCaskill
Bennett	Enzi	McConnell
Bond	Graham	Murkowski
Brownback	Grassley	Nelson (NE)
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Shelby
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Corker	Kyl	Voinovich
Cornyn	LeMieux	Wicker
Crapo	Lugar	

NOT VOTING—1

Byrd

The motion was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

MOTION TO RECOMMIT

Mr. ENSIGN. Mr. President, I have a motion at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] moves to recommit H.R. 2996 to the Committee on Appropriations with instructions to report the same back to the Senate with changes that reduce the aggregate level of discretionary appropriations in the Act for fiscal year 2010 by $4,270,000,000 from the level currently in the Act.

The PRESIDING OFFICER. There is 2 minutes equally divided.

Mr. ENSIGN. Mr. President, this is a very simple motion. It just says that at this time of runaway deficits, of out-of-control Federal spending, we are going to try to do a little something. We are just going to take this appropriations bill and say with regard to last year's level, which was increased fairly substantially, we are going to freeze it to last year's level.

As State budgets, local budgets, and family budgets are all being cut, trimmed, and tightened around the country, Washington says: You know what, we are going to print money. We are just going to borrow from our children and grandchildren and continue to print money and print money and push it off onto the next generation.

It is time for this body to show some fiscal restraint. So let's cut $4 billion out of this spending bill and bring it back to last year's level. Let the Appropriations Committee determine where that spending is, but let's actually show some fiscal responsibility.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from California.

Mrs. FEINSTEIN. Mr. President, I urge a ''no'' vote. I am going to move to table at the appropriate time. If we adopt the Ensign motion, we cut Park Service dollars, Indian health dollars, particularly water infrastructure. Mr. President, $2.5 billion in this bill is for sewer grants; $1.8 billion is for fire suppression. It is the first time we have met the fire suppression need fully so that they do not have to take from other accounts to fight fires.

I move to table the motion to recommit.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table the motion to recommit.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 296 Leg.]

YEAS—64

Akaka	Feinstein	Nelson (NE)
Alexander	Franken	Nelson (FL)
Baucus	Gillibrand	Pryor
Begich	Hagan	Reed
Bennet	Harkin	Reid
Bennett	Inouye	Rockefeller
Bingaman	Johnson	Sanders
Bond	Kaufman	Schumer
Boxer	Kerry	Shaheen
Brown	Klobuchar	Shelby
Burris	Kohl	Specter
Cantwell	Landrieu	Stabenow
Cardin	Lautenberg	Tester
Carper	Leahy	Udall (CO)
Casey	Levin	Udall (NM)
Cochran	Lieberman	Voinovich
Collins	Lincoln	Warner
Conrad	Menendez	Webb
Dodd	Merkley	Whitehouse
Dorgan	Mikulski	Wyden
Durbin	Murkowski	
Feingold	Murray	

NAYS—34

Barrasso	Enzi	McCain
Bayh	Graham	McCaskill
Brownback	Grassley	McConnell
Bunning	Gregg	Risch
Burr	Hatch	Roberts
Chambliss	Hutchison	Sessions
Coburn	Inhofe	Snowe
Corker	Isakson	Thune
Cornyn	Johanns	Vitter
Crapo	Kyl	Wicker
DeMint	LeMieux	
Ensign	Lugar	

NOT VOTING—1

Byrd

The motion to table the motion to recommit was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

AMENDMENT NO. 2482, AS MODIFIED

Mr. COBURN. Mr. President, I think we can dispense with two fairly quickly, one with a vote and one without. We have worked out an agreement on amendment No. 2482. I believe the modification is at the desk. We have an agreement between the chairman and ranking member of the committee and the Senator from New Mexico, who is chair of the appropriate authorizing committee, which allows private property owners to opt out of heritage areas. I ask for its consideration now, rather than spending more time on it, and ask unanimous consent it be accepted.

Mrs. FEINSTEIN. The Senator is correct. We are prepared to accept the amendment.

The PRESIDING OFFICER. If there is no objection, the amendment will be modified and agreed to as modified.

The amendment (No. 2482), as modified, was agreed to, as follows:

At the appropriate place insert the following:

Any owner of private property within an existing or new National Heritage Area may opt out of participating in any plan, project, program, or activity conducted within the National Heritage Area if the property owner provides written notice to the local coordinating entity.

AMENDMENT NO. 2441

Mrs. FEINSTEIN. A corollary part of this is Dorgan amendment No. 2441, which also moves along with this. So we are prepared to accept Dorgan No. 2441 as well.

Mr. DORGAN. Mr. President, let me say I think this has been cleared by both sides. It does have a connection to the previous amendment. I appreciate the cooperation of the Senator from California, the Senator from Tennessee, and the Senator from Oklahoma.

I ask for its immediate consideration and approval.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, and Mr. CONRAD, proposes an amendment No. 2441.

The amendment is as follows:

(Purpose: To provide for the inclusion of property in, or removal of property from, the Northern Plains Heritage Area)

Beginning on page 173, strike line 12 and all that follows through page 174, line 5, and insert the following:

''(g) REQUIREMENTS FOR INCLUSION AND REMOVAL OF PROPERTY IN HERITAGE AREA.—

''(1) PRIVATE PROPERTY INCLUSION.—No privately owned property shall be included in the Heritage Area unless the owner of the private property provides to the management entity a written request for the inclusion.

''(2) PROPERTY REMOVAL.—

''(A) PRIVATE PROPERTY.—At the request of an owner of private property included in the Heritage Area pursuant to paragraph (1), the private property shall be immediately withdrawn from the Heritage Area if the owner of the property provides to the management entity a written notice requesting removal.

''(B) PUBLIC PROPERTY.—On written notice from the appropriate State or local government entity, public property included in the Heritage Area shall be immediately withdrawn from the Heritage Area.''.

The PRESIDING OFFICER. Without objection, the amendment will be accepted.

The amendment (No. 2441) was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

AMENDMENT NO. 2483

Mr. COBURN. We are on amendment No. 2483, which was not agreed to. We could not work out an agreement. I want to take a minute or two—we don't have a time agreement on this—to talk about this amendment, what amendment No. 2483 will do.

The PRESIDING OFFICER. There is 2 minutes equally divided on this amendment.

Mr. COBURN. I am not sure I was present. Do we have a unanimous consent in that regard?

The PRESIDING OFFICER. Yes.

Mr. COBURN. I should have been here to object.

We have an $11 billion backlog in the national parks. It grew by $400 million this year. The Land and Water Conservation Act of 1965 was not meant just to buy land. It was meant to take care of the backlogs and the problems associated with outdoor recreation enjoyment by the American people. There is almost $400 million in this bill to buy more land rather than take care of the things we have today. This amendment simply moves that to take care of the backlog at every national park we have. If we do not do that, we are soon going to be at $12 billion, soon at $13 billion.

The PRESIDING OFFICER. The Senate will be in order.

Mr. COBURN. The fact is, it is common sense. Every American knows you do not build a garage when your front porch is falling down and that is the only way to get into your house. That is what is happening to our parks. I know there is some increased funding for the parks but the fact is they are falling down, whether it is Yellowstone—I don't care where it is, there are significant maintenance problems in the parks. That ought to be a priority before we add 1 more acre to 650 million acres we already own.

The PRESIDING OFFICER. Who yields time?

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, we oppose this amendment. We oppose it because it takes $420 million out of the Land and Water Conservation Fund. We oppose it because the committee in the stimulus bill put in as many dollars as these departments could absorb in the period of time for maintenance.

I move to table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 79, nays 19, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—79

Akaka	Cochran	Kaufman
Alexander	Collins	Kerry
Baucus	Corker	Klobuchar
Bayh	Dodd	Kohl
Begich	Dorgan	Landrieu
Bennet	Durbin	Lautenberg
Bennett	Feingold	LeMieux
Bingaman	Feinstein	Leahy
Bond	Franken	Levin
Boxer	Gillibrand	Lieberman
Brown	Graham	Lincoln
Brownback	Gregg	McCain
Burr	Hagan	McCaskill
Burris	Harkin	McConnell
Cantwell	Hutchison	Menendez
Cardin	Inouye	Merkley
Carper	Isakson	Mikulski
Casey	Johnson	Murkowski
Murray	Schumer	Udall (NM)
Nelson (NE)	Sessions	Vitter
Nelson (FL)	Shaheen	Voinovich
Pryor	Shelby	Warner
Reed	Snowe	Webb
Reid	Specter	Whitehouse
Roberts	Stabenow	Wyden
Rockefeller	Tester	
Sanders	Udall (CO)	

NAYS—19

Barrasso	DeMint	Kyl
Bunning	Ensign	Lugar
Chambliss	Enzi	Risch
Coburn	Grassley	Thune
Conrad	Hatch	Wicker
Cornyn	Inhofe	
Crapo	Johanns	

NOT VOTING—1

Byrd

The motion was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote.

Mr. ALEXANDER. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

AMENDMENT NO. 2531

The PRESIDING OFFICER. The question is on agreeing to the Reid amendment No. 2531.

Mrs. FEINSTEIN. I yield back all time on the Reid amendment. It has been cleared on both sides. I ask for its adoption by unanimous consent.

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

The amendment (No. 2531) was agreed to.

TAHOE RIM TRAIL

Mrs. FEINSTEIN. Mr. President, I rise to provide additional clarification regarding a congressionally directed spending items included in the fiscal year 2010 Senate Interior Appropriations Subcommittee. At Senator REID'S request, the committee included $100,000 for the U.S. Forest Service to fund trail improvements in Nevada. It is my understanding that Senator REID intended those funds to be used for improvements for the Tahoe Rim Trail, to be conducted through a partnership with the Tahoe Rim Trail Association. Due to a clerical error, the project is not listed correctly in the committee report, and I would like to ensure that the RECORD clearly reflects Senator REID'S intended use for these funds. Through the chair, I would like to ask my colleague from Nevada, the distinguished majority leader, if my understanding of his intent is correct?

Mr. REID. I would like to thank the chairman for her efforts to clarify this matter Chairman FEINSTEIN is correct, I do intend that the funds recommended by the committee be used by the U.S. Forest Service for improvements to the Tahoe Rim Trail through their partnership with the Tahoe Rim Trail Association. I would also note for the record that my request complies fully with all disclosure requirements relating to congressionally directed spending.

Mrs. FEINSTEIN. Mr. President, I thank the majority leader for his clarification and I look forward to working with him to support his project as we move through the annual appropriations process.

FUNDING RCAPS

Mr. LEAHY. Mr. President, as the Chair knows, I have long been a supporter of improving the quality of drinking water in rural America. There is a lot of work to be done. While small rural communities are home to fewer than 20 percent of America's population, they account for more than 85 percent of the Nation's community water systems, and are more likely than larger systems to report major drinking water violations. According to EPA data, 93 percent of the maximum contaminant level, MCL, and treatment technique, TT, violations reported in 2002 affected community water systems serving fewer than 10,000 people. MCL and TT violations include higher than allowable levels of organic and inorganic contaminants such as arsenic, benzene, atrazine, lead, copper and nitrate.

One significant reason for these high numbers is the lack of capacity among local elected officials to deal with the complexities of maintaining a safe and clean supply of drinking water. For this reason I have supported funding for RCAPs—six regional nonprofit organizations that help rural communities with facilities needs.

The technical assistance and training activities the RCAPs provide focus on helping communities comply with the Clean Water Act and the Safe Drinking Water Act. Last year alone, the RCAPs assisted more than 2,000 communities, leveraged over $200,000,000 in funding, conducted 78 training sessions for almost 2,000 community water officials, and assisted nearly 3 million people to access safe and clean water. Most of the communities the RCAPs work with have populations of less than 1,500.

Funding for the RCAPs has been included in this bill for more than 20 years. I understand that the committee was limited by rules regarding earmarks, and I note that funding for the RCAPs is not included in the fiscal year 2010 Senate bill. However, I understand that the House bill includes funding for the RCAPs at the current rate and it my hope that in conference the Senate will move toward the House position on this.

Mrs. FEINSTEIN. I thank the Senator for his comments on this. I appreciate the difficulties faced by rural communities in gaining and maintaining access to adequate drinking water. I also know well the good work of the RCAPs in assisting those communities. As we move into conference on this legislation I look forward to working with my colleague to see if we can maintain funding for this important program.

WHITE NOSE SYNDROME

Mr. LAUTENBERG. I would like to discuss with the Senator a serious issue that deserves our attention. White nose syndrome, WNS, is a fungus that is causing an extraordinary number of bat deaths, particularly in the Northeast. This disease has the potential to inflict widespread ecological, agricultural, and economic damage throughout our country. More than 1 million bats have died from New Hampshire to Virginia over the last two winters, and scientists report mortality rates as high as 100 percent in some affected caves. Experts fear that WNS could lead to the extinction of many bat species as the disease spreads across the country.

WNS not only has ecological effects, but it also has severe economic and environmental implications. Bats consume vast quantities of insects, protecting crops and reducing pesticide use. A single bat can easily eat more than 3,000 insects a night and an entire colony will consume hundreds of millions of insects per year. Bats prey on mosquitoes, which spread disease, and moths and beetles, which damage agriculture.

With the Senator's leadership, the fiscal year 2010 Interior appropriations bill has included $500,000 for research to prevent the spread of WNS, and I thank the Senator for that.

Mrs. FEINSTEIN. I thank Senator LAUTENBERG. Our offices have worked together on efforts to provide funding to fight WNS, and I share his concerns about this issue.

Mr. LAUTENBERG. As the Senator knows, the U.S. Fish and Wildlife Service, FWS, is spearheading efforts to better understand this deadly disease and learn how to control its spread. FWS is working in conjunction with the U.S. Geological Survey, National Park Service, and U.S. Forest Service and with State and local partners, scientists, and conservation organizations. Due to the high mortality rate and the rapid spread of the disease, time is of the essence.

Mrs. FEINSTEIN. I agree with the Senator. We must tackle this issue head-on and make sure all stakeholders are working together to combat this challenge.

Mr. LAUTENBERG. Experts estimate that much more funding is needed for research on WNS. Accordingly, I filed an important amendment to this bill, amendment No. 2476, to shift $1.4 million in additional funding to WNS research. My amendment would not put any other projects or programs at risk, and it would provide critical resources to fight this disease. I ask for the chairman's assurance that she will work in conference to implement my amendment.

Mrs. FEINSTEIN. As I mentioned earlier, I share the Senator's concerns and agree that we need to focus more attention and resources on WNS. I commit to work in conference to increase funding for this disease as called for in his amendment.

CLEAN AUTOMOTIVE TECHNOLOGY

Mr. LEVIN. Mr. President, I want to bring to the attention of the distinguished chair of the Appropriations Subcommittee on Interior, Environment and Related Agencies a very important program in my State. The Environmental Protection Agency's National Vehicle and Fuel Emissions Laboratory in Ann Arbor, MI, leads EPA's Clean Automotive Technology Program by facilitating collaboration with the automotive industry through innovative research to achieve ultra low-pollution emissions, increase fuel efficiency and reduce greenhouse gases.

One of the programs that has been developed collaboratively through the Ann Arbor laboratory and its industry partners is the hydraulic hybrid technology which has come out of the laboratory's focus areas in hydraulic hybrid research, engine research, alternative fuels research and technical and analytical support. This technology offers potential to reduce greenhouse gas emissions by 50 percent.

The President's fiscal year 2010 budget increases the Climate Protection Program line in EPA's budget, which includes this facility, and I appreciate the subcommittee's concurrence with the request in the bill before the Senate.

It is my understanding that the version of the bill adopted by the House of Representatives provides an additional $1.6 million over the fiscal year 2010 budget request. Is that also the understanding of the Senator from California?

Mrs. FEINSTEIN. The Senator is correct. The President's budget proposed $18.975 million for the Climate Protection Program, and that is the same amount proposed in this bill. The House of Representatives approved $20.575 million.

Mr. LEVIN. I hope to provide additional funding for this program in order to fund a demonstration program to deploy hybrid hydraulic technology in larger fleet vehicles, such as school buses. Demonstration of this hybrid hydraulic technology, through its incorporation into a fleet of school buses, would not only bring these fuel-efficient and environmentally friendly technologies closer to wide-scale viability and acceptance but also provide EPA with important data to support its work in developing achievable standards for fuel economy and greenhouse gas emissions.

As the conference committee considers the differences between the House and Senate bills, I am hopeful that the additional $1.6 million included in the House bill will be maintained and that serious consideration will be given to directing this funding to demonstration of the hybrid hydraulic technology I have described.

Mrs. FEINSTEIN. I appreciate the Senator from Michigan bringing this to my attention and I assure him that I will keep his suggestions in mind as this bill progresses.

Mr. LEVIN. I thank the distinguished Senator.

NEW YORK'S NORTHEASTERN STATES RESEARCH COOPERATIVE FUNDING

Mrs. FEINSTEIN. I would like to enter into a colloquy with my colleague from New York.

Mrs. GILLIBRAND. I thank the chairman for entering into a colloquy

with me and for her hard work on this bill. I want to discuss the need to add New York to the list of States included for Northeastern States Research Cooperative Funding.

The Northeastern States Research Cooperative, NSRC, was originally authorized by Congress in the Forest and Rangeland Renewable Resources Research Act of 1978 and is managed by the U.S. Forest Service. The clear intent of Congress in creating the NSRC was to fund a competitive grants research program shared by the four states of the cooperative, New Hampshire, Vermont, Maine and New York.

The original intent of Congress was to have all four States jointly funded by the enacted authorization of this act. Unfortunately, New York has been left out of the Forest Service budget requests this year.

Funding through this cooperative will maintain critical forestry research programs in New York State. For instance, the State University of New York, College of Environmental Science and Forestry has received funding through this program in the past that has provided research, technology transfer and outreach to coordinate and improve ecological and economic vitality of the northeastern forests of New York, Vermont, New Hampshire and Maine.

The NSRC's research is critical to the economic vitality of and quality-of-life in the 18.5 million acres of the New York's forested land.

Mrs. FEINSTEIN. I would like to thank my colleague for bringing this to my attention and I will certainly look into this matter during conference negotiations.

Mrs. GILLIBRAND. I thank the chairman for her help and for her leadership.

Mr. UDALL of New Mexico. Mr. President, I would like to correct the record regarding some recent remarks of Senator TOM COBURN of Oklahoma regarding offshore drilling. Senator COBURN stated in today's debate that I ''voted against an opportunity to expand offshore exploration yesterday.''

First, the Senator's comments are somewhat confusing because there were no votes yesterday that would have opened up even one acre of our offshore public lands to oil exploration. Instead, I believe that Senator COBURN may have been referring to yesterday's motion to recommit by Senator VITTER of Louisiana.

I opposed the Vitter motion yesterday because it was counter-productive. By using political interference in offshore permitting, it would have actually created serious delays. Supporters of the Vitter motion talked about their desire to expand offshore oil drilling, but the motion set up major legal obstacles to developing our natural resources.

The motion was vaguely drafted, but it could have blocked funding from being used to review the over 300,000 public comments received. The motion also could have blocked the Secretary from considering facts and scientific evidence regarding the decision he needs to make.

I opposed the Vitter motion because the only way that we can legally access our public lands for natural resources is by due process. If we block the Department of Interior from following due process, that only serves to delay the process with litigation.

Mr. HATCH. Mr. President, I rise today to discuss an amendment I filed to the Interior appropriations bill, and in doing so, I hope to remind my colleagues about their responsibility as federally elected representatives of the citizens of the United States. The U.S. Constitution, the document written by the people to empower and limit government, specifically gives the Congress the power to make the laws that direct this government. The first section of the first article of the Constitution states ''All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.'' The people also established an executive power and a judicial power, but put the lawmaking power specifically into the hands of Congress

I would invite my colleagues to consider for a moment, and to remind themselves, why the people put the control of the Nation's laws into the hands of Congress, and not to the other branches of government. It is because Congress is directly answerable to the people. For members of Congress, there is no escape from the people. Our founding document ensures that we routinely have elections whereby lawmakers face the citizens who sent them here. By limiting legislative powers to Congress, the people have secured this power to themselves. So we see that the people are willing to live under laws, but only to the extent that those laws are their own.

This is a principle upon which our Nation was founded. This is a principle upon which we have achieved our status as a great nation. It is a principle that has made our government an inspiration to generations of free minds throughout the world. And I believe it is a principle that is being weakened on our watch during the 111th Congress.

In April of 2007, the Supreme Court ruled in Massachusetts v. EPA, by a 5 to 4 margin, that the Environmental Protection Agency could act to regulate carbon dioxide emissions as a pollutant from vehicles under the Clean Air Act without further authorization from Congress. And it is widely believed that this decision allows the EPA to also regulate carbon dioxide emissions from all other sources, as well, without further action from Congress.

I disagree with the Supreme Court's decision in Massachusetts v. EPA and even consider it ill-informed in some respects. However, I don't question the role of the Court to make such a decision. After all, the people did, in fact, give the Supreme Court the jurisdiction to interpret the laws of Congress.

Furthermore, I disagree with the EPA's finding that carbon dioxide poses an endangerment to humans and that it is a pollutant. Unlike conventional pollutants, CO_2 does not normally cause direct harm to our environment or to our bodies. It is considered an endangerment only because it has the potential as a greenhouse gas to warm the planet. What seems to be completely lost by the EPA, is that most scientists will tell you that a warming climate is a net benefit, while a cooling climate is a net detriment to life on Earth.

If greenhouse gases and warming are detrimental to life, then why doesn't the EPA propose to regulate water vapor? Water vapor makes up 95 percent of all greenhouse gases, and a cubic foot of water vapor has a much stronger warming factor than a cubit foot of carbon dioxide?

Those are just a couple questions that haven't been answered sufficiently, in my view. And so I disagree with the EPA's finding that carbon dioxide is an endangerment. In spite of that, I do recognize that the Supreme Court has the ability to interpret the Clean Air Act in a way that allows the EPA to make this finding.

However, I doubt that any of my colleagues can honestly say that when Congress voted for the Clean Air Act in 1970, that we intended that carbon dioxide should be regulated as a pollutant. But now we are witnessing the EPA initiating a process to that end which will lead to the most sweeping, and probably most expensive set of regulations in our nation's history, with no specific authorization from Congress to do so.

Is it the proper role of Congress to sit by and allow an independent agency, with nary an elected official within its walls to take over every single energy producing activity in the Nation? Could there be a more dramatic and sweeping centralization of government power than the move to control all carbon dioxide emissions? And are we, as the elected body representing the people going to hide behind a decision by a Supreme Court and just watch it happen? While technically, the Supreme Court and the EPA are acting within their jurisdictions and authority. Certainly, though, with such far reaching regulations, Congress has a responsibility to put these actions back under the direct authority of Congress, and thus back into the hands of the people.

My amendment would do just that. It would bar the EPA from moving forward with these far reaching regulations until Congress has expressly authorized such an action. I urge my colleagues to restore Congress and the people to their proper role over laws that relate to the regulation of carbon dioxide, and support my amendment.

Mr. AKAKA. Mr. President, I rise today to speak in support of the fiscal

year 2010 Department of the Interior, Environment, and Related Agencies Appropriations Act. I wish to thank subcommittee Chairman FEINSTEIN and Ranking Member ALEXANDER, as well as committee Chairman INOUYE and Vice Chairman COCHRAN, for their work on this bill.

This bill will fund important programs at the Environmental Protection Agency, Department of the Interior, Indian Health Service, Forest Service, Smithsonian Institution, National Endowment for the Arts, and National Endowment for the Humanities. Consequently, it addresses critical needs related to public lands management, environmental protection, Indian Country, and cultural education. I am pleased with the inclusion of a number of initiatives for which I requested funding and that I believe will be of great benefit to Hawaii and our Nation. Therefore, I am very thankful that my colleagues on the Appropriations Committee recognized the need of these programs and backed them with unanimous committee approval. I would like to take this opportunity to discuss these important initiatives.

The Omnibus Public Lands Management Act of 2009, which was signed into law earlier this year, includes a bill I introduced in the 110th Congress to authorize appropriations for the National Tropical Botanical Garden, NTBG. Chartered by Congress in 1964, the NTBG collects, cultivates, and preserves tropical flora and conducts research in tropical botany. The NTBG's work has advanced disease treatment, world hunger prevention, and medical education. Funding in this appropriations bill will allow the NTBG to continue to help protect, propagate, and study tropical species that could permit additional scientific advances but are threatened with extinction.

The bill will also fund the establishment and construction of a research and education center for the Hawaii Experimental Tropical Forest, HETF. The Hawaii Tropical Forest Recovery Act, which I sponsored and became law in 1992, authorized the establishment of the HETF to be managed as a site for research and education on tropical forestry, conservation biology, and natural resource management. HETF has been home to dozens of research projects since its establishment, and it has been selected as one of the National Science Foundation's 20 core wildland sites of the National Ecological Observatory Network and a site of the Forest Service's Experimental Forest and Range Synthesis Network. Construction of the center will further HETF's mission to improve the conservation and scientific understanding of tropical forests, a natural resource of global significance.

The James Campbell National Wildlife Refuge will receive funding in this bill to help provide for the acquisition of the remaining parcels on Oahu's northern shore to complete the expansion of the Refuge. The expansion would add approximately 1,100 acres and ensure protection of the largest natural coastal wetland and last remaining natural coastal dune ecosystem on Oahu. It is a premier endangered Hawaiian waterbird recovery area and supports four endangered Hawaiian waterbirds and a variety of migratory shorebirds and waterfowl. I was pleased to be an original cosponsor of the 2005 legislation that authorized such expansion and believe that securing the remaining parcels will aid in preserving the wetland's natural floodwater retention function.

In addition, the invasive species management project in Hawaii included in this bill will help to reduce the impact of established invasive species in the State and support ongoing efforts to prevent the introduction of new ones. Hawaii's delicate insular ecosystems are home to over 300 endangered species, which is more than any other State, and the primary factor limiting their recovery and contributing to their decline in Hawaii is the continued presence of ecologically harmful invasive species. Thus, continued vigilance and action is needed to safeguard these species and their habitats, which are so important both nationally, in terms of biodiversity, and locally, in terms of agriculture, tourism, and culture.

I am also pleased the funding in this appropriations bill that will support the Native Hawaiian Culture and Arts Program, NHCAP, which preserves, supports, revitalizes, and develops Native Hawaiian arts and culture. NHCAP's efforts are focused on assisting Native Hawaiians to be practitioners of their culture and to share knowledge of and celebrate Hawaiian art and culture. NHCAP projects include educational programs, exhibits, publications, and increased access to the Bishop Museum's vast cultural collections of artifacts, documents, and images. These projects foster Native Hawaiian cultural preservation, create important educational opportunities for youth, and promote the sort of understanding necessary in a multicultural nation and increasingly interconnected world.

As population grows on islands with limited freshwater resources, information to evaluate the sustainability of water resources is needed to make informed decisions that balance environmental protection with economic opportunity. The resources that this bill supports for well monitoring and water assessment in my State will enable continued work with stakeholders to provide information on water resources so that they can be managed in a sustainable and legally compliant basis. It will also provide for the operation of stream gauges, which supply data important to signaling flood conditions, improving long-term planning, examining climate change, and measuring water availability and quality.

In all, funding for our national priorities in such areas as environmental protection, Federal lands, and cultural education is complemented in this bill by these six Hawaii programs that drive progress on research, education, planning, and preservation related to natural and cultural resources across my home state for the benefit of my constituents and the country as a whole. Again, I thank my colleagues for their support of these initiatives and urge continued support in conference.

Mr. LEVIN. Mr. President, I will vote for this bill to provide $32 billion in funding for a variety of important environmental and infrastructure purposes. This bill would provide clean drinking water, prevent pollution from contaminating our precious natural resources, clean up hazardous waste sites, protect lands for habitat preservation and recreation, improve vehicle efficiency, and help restore the Great Lakes.

I am pleased this bill includes $400 million for Great Lakes restoration and protection efforts through a new effort called the Great Lakes Restoration Initiative, GLRI. The GLRI is a multiagency effort to address the array of current and historic threats facing the Great Lakes including invasive aquatic species, nonpoint source pollution, and contaminated sediment.

While I appreciate the significant investment in the Great Lakes, I have encouraged the bill managers to provide the full funding requested for the GLRI. The President requested $475 million for the GLRI, and the Environmental Protection Agency has prepared a spending plan for the full funding. Full funding is needed now and would be well spent.

A 2003 GAO report on Great Lakes federal restoration programs stated: ''Despite early success in improving conditions in the Great Lakes Basin, significant environmental challenges remain, including increased threats from invasive species and cleanup of areas contaminated with toxic substances that pose human health threats.'' More recently, scientists report that the Great Lakes are exhibiting signs of stress due to a combination of sources, including toxic contaminants, invasive species, nutrient loading, shoreline and upland land use changes, and changes to how water flows. A 2005 report from a group of Great Lakes scientific experts states that ''historical sources of stress have combined with new ones to reach a tipping point, the point at which ecosystem-level changes occur rapidly and unexpectedly, confounding the traditional relationships between sources of stress and the expected ecosystem response.''

The Great Lakes are a unique American treasure. We must recognize that we are only their temporary stewards. If Congress does not act to keep pace with the needs of the lakes, and the tens of millions of Americans dependent upon them and affected by their condition, the problems will continue

to build and we may start to undo some of the important work that has already been done and is underway. We must be good stewards by providing the resources that the Federal Government needs to meet its ongoing obligation to protect and restore the Great Lakes. This bill will help us meet that great responsibility to future generations.

Importantly, the bill would provide $1.4 billion to capitalize the Drinking Water State Revolving Fund and $2.1 billion for the Clean Water State Revolving Fund for wastewater projects. The funding in the Senate bill more than doubles the amount provided in the fiscal year 2009 bill. I had urged appropriators to provide this increase because Michigan's water infrastructure needs are sizable. Michigan would receive about $41 million for drinking water and $88 million for wastewater projects, protecting public health, improving the environment, and creating a stronger economic climate.

I am also pleased this bill provides $2.7 billion for our National Park Service, an increase of $200 million from last year's level, which I supported. Michigan has six national park units, and this funding would help ensure these resources are adequately maintained and protected. The national parks have been struggling for years with inadequate funding and large maintenance and construction backlogs. This funding would help meet these needs so that our Nation's natural and cultural heritage is preserved. Over a million people visited Michigan's national parks last year, and it is important that visitors find our parks in good condition and that we do the same for future generations.

I am pleased to see this bill includes the President's fiscal year 2010 budget request for the Environmental Protection Agency's Climate Protection Program, which includes the Clean Automotive Technology Program. EPA's National Vehicle and Fuel Emissions Laboratory in Ann Arbor, MI, leads the Clean Automotive Technology Program by facilitating collaboration with the automotive industry through innovative research to achieve ultra low-pollution emissions, increase fuel efficiency and reduce greenhouse gases. An example of the work done collaboratively through this program at the Ann Arbor laboratory with its industry partners is development of hydraulic hybrid technology that offers potential to reduce greenhouse gas emissions by 50 percent. The House bill includes an additional $1.6 million for the Climate Protection Program, and I am hopeful this additional funding will be maintained in conference and that serious consideration will be given to directing this funding to deployment of hybrid hydraulic technology in larger fleet vehicles, such as schoolbuses.

Mr. President, this appropriations bill would protect our natural resources and the Great Lakes in particular, provide communities with safe drinking water and wastewater infrastructure, improve fuel efficiency and reduce greenhouse gases, and protect and improve public lands and parks, and I support its passage.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, my understanding is that the next vote will be final passage on the Interior appropriations bill. I want to alert all Members and give them kind of a suggestion of what the schedule is going to be.

First of all, people are asking about the Finance Committee. I have spoken to Chairman BAUCUS. The Finance Committee is going to work late tonight. They are going to come in in the morning and work, and then they will make a decision how long they are going to work tomorrow and whether they go into the weekend.

The next item of business will be the Department of Defense appropriations bill. Tonight will be debate only. There will be no votes on Friday. The Defense appropriations managers will be here for amendments and debate.

This is one of the most important bills we deal with every year. There will be no votes on Monday. It is one of the high holidays, Yom Kippur. The Defense managers will be here to continue consideration of the bill. We are not going to be in session on Monday, not on the holiday. I do not think that would be appropriate. People are traveling that day. I do not think it is fair.

There will be votes on Tuesday. It will be like a regular Monday. There will be no votes before 5:30. I would hope if people have amendments on this Defense bill they will lay them down. We want to move on this as quickly as possible. We know there are lots of important subjects people want to talk about.

Wednesday, September 30, is the end of the fiscal year. We have a number of things we must do before the end of the fiscal year. We are going to have a CR. We have to extend FAA authority and other issues. All of the chairmen and ranking members know what they are and we have discussed them on the Senate floor.

Next week will be an extremely busy week. I am hopeful in the next few days the Finance Committee will complete their work on the Finance health care bill, and I hope we do not have to do anything dealing with reconciliation on that. We have made progress this week.

Members this week working on this bill have been very cooperative. We have two wonderful managers on this Interior appropriations bill. They have worked well together and done a good job.

Mrs. FEINSTEIN. Before you call the roll, I just want to thank the distinguished ranking member. A lot of cooperation went into this bill or it would have taken a lot longer.

I thank particularly the staff: Peter Kiefhaber, Virginia James, Scott Dalzell, Rachael Taylor, Chris Watkins; on the Republican side, Lee Fonnesbeck, Rachelle Schroeder, and Rebecca Benn. We thank you very much.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. In 60 seconds I would like to thank Chairman FEINSTEIN for being so accommodating working with Republican Members. I would like to thank my colleagues for moving this bill along. Senators COCHRAN, INOUYE, REID, and MCCONNELL have been terrific. The staff members, Peter and Rachael and Scott; on our side, Leif and Rachelle and Rebecca. We thank you for your hard work.

The PRESIDING OFFICER. Under the previous order, the committee substitute, as amended, is agreed to.

Mr. INHOFE. 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.

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

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

AMENDMENT NO. 2445

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that Inhofe amendment No. 2445 be in order.

The PRESIDING OFFICER. Notwithstanding the adoption of the substitute, the clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 2445.

Mrs. FEINSTEIN. This amendment has been cleared on both sides. I ask unanimous consent the amendment be agreed to.

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

The amendment (No. 2445) was agreed to, as follows:

AMENDMENT NO. 2445

(Purpose: To provide for the expedited cleanup of the Tar Creek Superfund Site)

On page 240, between lines 13 and 14, insert the following:

SEC. 423. TAR CREEK SUPERFUND SITE.

(a) IN GENERAL.—To expedite the cleanup of the Federal land and Indian land at the Tar Creek Superfund Site (referred to in this section as the ''site''), any purchase of chat (as defined in section 278.1(b) of title 40, Code of Federal Regulations (or a successor regulation)), from the site shall be—

(1) counted at twice the purchase price of the chat; and

(2) eligible to be counted toward meeting the federally required disadvantaged business enterprise set-aside on federally funded projects.

(b) RESTRICTED INDIAN OWNERS.—Subsection (a) shall only apply if the purchase of chat is made from 1 or more restricted Indian owners or an Indian tribe.

(c) APPLICABLE LAW.—The use of chat acquired under subsection (a) shall conform with applicable laws (including the regulations for the use of chat promulgated by the Administrator of the Environmental Protection Agency).

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment in the nature of

a substitute, as amended, and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 77, nays 21, as follows:

[Rollcall Vote No. 298 Leg.]

YEAS—77

Akaka	Gillibrand	Murray
Alexander	Gregg	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Pryor
Bennet	Hatch	Reed
Bennett	Hutchison	Reid
Bingaman	Inouye	Risch
Bond	Isakson	Roberts
Boxer	Johanns	Rockefeller
Brown	Johnson	Sanders
Brownback	Kaufman	Schumer
Burris	Kerry	Shaheen
Cantwell	Klobuchar	Shelby
Cardin	Kohl	Snowe
Carper	Landrieu	Specter
Casey	Lautenberg	Stabenow
Cochran	Leahy	Tester
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Crapo	Lincoln	Voinovich
Dodd	Lugar	Warner
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Merkley	Wicker
Feinstein	Mikulski	Wyden
Franken	Murkowski	

NAYS—21

Barrasso	Cornyn	Kyl
Bayh	DeMint	LeMieux
Bunning	Ensign	McCain
Burr	Enzi	McConnell
Chambliss	Graham	Sessions
Coburn	Grassley	Thune
Corker	Inhofe	Vitter

NOT VOTING—1

Byrd

The bill (H.R. 2996), as amended, was passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

Mr. REID. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER appointed Mrs. FEINSTEIN, Mr. BYRD, Mr. LEAHY, Mr. DORGAN, Ms. MIKULSKI, Mr. KOHL, Mr. JOHNSON, Mr. REED, Mr. NELSON of Nebraska, Mr. TESTER, Mr. INOUYE, Mr. ALEXANDER, Mr. COCHRAN, Mr. BENNETT, Mr. GREGG, Ms. MURKOWSKI, Ms. COLLINS and Mr. BOND conferees on the part of the Senate.

ENHANCED PARTNERSHIP WITH PAKISTAN ACT OF 2009

Mr. DORGAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1707, introduced earlier today.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1707) to authorize appropriations for fiscal year 2010 through 2014 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (S. 1707) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1707

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Enhanced Partnership with Pakistan Act of 2009''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—Except as otherwise provided in this Act, the term ''appropriate congressional committees'' means the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and Foreign Affairs of the House of Representatives.

(2) COUNTERINSURGENCY.—The term ''counterinsurgency'' means efforts to defeat organized movements that seek to overthrow the duly constituted Governments of Pakistan and Afghanistan through violent means.

(3) COUNTERTERRORISM.—The term ''counterterrorism'' means efforts to combat al Qaeda and other foreign terrorist organizations that are designated by the Secretary of State in accordance with section 219 of the Immigration and Nationality Act (8 U.S.C. 1189), or other individuals and entities engaged in terrorist activity or support for such activity.

(4) FATA.—The term ''FATA'' means the Federally Administered Tribal Areas of Pakistan.

(5) FRONTIER CRIMES REGULATION.—The term ''Frontier Crimes Regulation'' means the Frontier Crimes Regulation, codified under British law in 1901, and applicable to the FATA.

(6) IMPACT EVALUATION RESEARCH.—The term ''impact evaluation research'' means the application of research methods and statistical analysis to measure the extent to which change in a population-based outcome can be attributed to program intervention instead of other environmental factors.

(7) MAJOR DEFENSE EQUIPMENT.—The term ''major defense equipment'' has the meaning given the term in section 47(6) of the Arms Export Control Act (22 U.S.C. 2794(6)).

(8) NWFP.—The term ''NWFP'' means the North West Frontier Province of Pakistan, which has Peshawar as its provincial capital.

(9) OPERATIONS RESEARCH.—The term ''operations research'' means the application of social science research methods, statistical analysis, and other appropriate scientific methods to judge, compare, and improve policies and program outcomes, from the earliest stages of defining and designing programs through their development and implementation, with the objective of the rapid dissemination of conclusions and concrete impact on programming.

(10) SECURITY FORCES OF PAKISTAN.—The term ''security forces of Pakistan'' means the military and intelligence services of the Government of Pakistan, including the Armed Forces, Inter-Services Intelligence Directorate, Intelligence Bureau, police forces, levies, Frontier Corps, and Frontier Constabulary.

(11) SECURITY-RELATED ASSISTANCE.—The term ''security-related assistance''—

(A) means—

(i) grant assistance to carry out section 23 of the Arms Export Control Act (22 U.S.C. 2763); and

(ii) assistance under chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 et. seq); but

(B) does not include—

(i) assistance authorized to be appropriated or otherwise made available under any provision of law that is funded from accounts within budget function 050 (National Defense); and

(ii) amounts appropriated or otherwise available to the Pakistan Counterinsurgency Capability Fund established under the Supplemental Appropriations Act, 2009 (Public Law 111–32).

SEC. 3. FINDINGS.

Congress finds the following:

(1) The people of the Islamic Republic of Pakistan and the United States share a long history of friendship and comity, and the interests of both nations are well-served by strengthening and deepening this friendship.

(2) Since 2001, the United States has contributed more than $15,000,000,000 to Pakistan, of which more than $10,000,000,000 has been security-related assistance and direct payments.

(3) With the free and fair election of February 18, 2008, Pakistan returned to civilian rule, reversing years of political tension and mounting popular concern over military rule and Pakistan's own democratic reform and political development.

(4) Pakistan is a major non-NATO ally of the United States and has been a valuable partner in the battle against al Qaeda and the Taliban, but much more remains to be accomplished by both nations.

(5) The struggle against al Qaeda, the Taliban, and affiliated terrorist groups has

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER) and the Senator from Pennsylvania (Mr. CASEY) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Arkansas (Mr. BOOZMAN), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Utah (Mr. LEE).

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

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

[Rollcall Vote No. 173 Ex.]

YEAS—95

Alexander	Grassley	Murray
Ayotte	Hagan	Nelson
Baldwin	Harkin	Paul
Barrasso	Hatch	Portman
Begich	Heinrich	Pryor
Bennet	Heitkamp	Reed
Blumenthal	Heller	Reid
Blunt	Hirono	Risch
Boxer	Hoeven	Roberts
Brown	Inhofe	Rockefeller
Burr	Isakson	Rubio
Cantwell	Johanns	Sanders
Cardin	Johnson (SD)	Schatz
Carper	Johnson (WI)	Schumer
Chambliss	Kaine	Scott
Coats	King	Sessions
Coburn	Kirk	Shaheen
Collins	Klobuchar	Shelby
Coons	Landrieu	Stabenow
Corker	Leahy	Tester
Cornyn	Levin	Thune
Crapo	Manchin	Toomey
Cruz	Markey	Udall (CO)
Donnelly	McCain	Udall (NM)
Durbin	McCaskill	Vitter
Enzi	McConnell	Walsh
Feinstein	Menendez	Warner
Fischer	Merkley	Warren
Flake	Mikulski	Whitehouse
Franken	Moran	Wicker
Gillibrand	Murkowski	Wyden
Graham	Murphy	

NOT VOTING—5

Booker	Casey	Lee
Boozman	Cochran	

The nomination was confirmed.

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided in the usual form prior to a vote on the motion to invoke cloture on the Burwell nomination.

The Senator from Oregon.

Mr. WYDEN. Madam President, Sylvia Mathews Burwell was introduced at the Finance Committee by the Senator from Oklahoma TOM COBURN and the senior Senator from West Virginia JAY ROCKEFELLER. She has extraordinary bipartisan support because she can bring people together. After years of divisive and polarizing discussion about the Affordable Care Act, Sylvia Mathews Burwell is somebody who will bring Democrats and Republicans together to improve the quality and affordability of our health care.

I strongly urge all Senators to vote for Sylvia Mathews Burwell.

I yield back time.

The PRESIDING OFFICER. All time is yielded back.

The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Sylvia Mathews Burwell, of West Virginia, to be Secretary of Health and Human Services.

Harry Reid, Ron Wyden, Tom Harkin, Richard J. Durbin, Barbara Boxer, Michael F. Bennet, Debbie Stabenow, Benjamin L. Cardin, Mary Landrieu, Mark Begich, Joe Donnelly, Tim Kaine, Robert P. Casey, Jr., Sherrod Brown, Patrick J. Leahy, Tom Harkin, Angus S. King, Jr.,

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

The question is, Is it the sense of the Senate that debate on the nomination of Sylvia Mathews Burwell, of West Virginia, to be Secretary of Health and Human Services shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. BOOKER) and the Senator from Pennsylvania (Mr. CASEY) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Arkansas (Mr. BOOZMAN), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Utah (Mr. LEE).

Further, if present and voting, the Senator from Arkansas (Mr. BOOZMAN) would have voted ''nay'' and the Senator from Utah (Mr. LEE) would have voted ''nay.''

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

The yeas and nays resulted—yeas 67, nays 28, as follows:

[Rollcall Vote No. 174 Ex.]

YEAS—67

Alexander	Hagan	Murray
Baldwin	Harkin	Nelson
Begich	Hatch	Portman
Bennet	Heinrich	Pryor
Blumenthal	Heitkamp	Reed
Boxer	Hirono	Reid
Brown	Isakson	Rockefeller
Burr	Johnson (SD)	Sanders
Cantwell	Kaine	Schatz
Cardin	King	Schumer
Carper	Klobuchar	Shaheen
Chambliss	Landrieu	Stabenow
Coats	Leahy	Tester
Collins	Levin	Toomey
Coons	Manchin	Udall (CO)
Corker	Markey	Udall (NM)
Crapo	McCain	Walsh
Donnelly	McCaskill	Warner
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Flake	Mikulski	Wyden
Franken	Murkowski	
Gillibrand	Murphy	

NAYS—28

Ayotte	Heller	Roberts
Barrasso	Hoeven	Rubio
Blunt	Inhofe	Scott
Coburn	Johanns	Sessions
Cornyn	Johnson (WI)	Shelby
Cruz	Kirk	Thune
Enzi	McConnell	Vitter
Fischer	Moran	Wicker
Graham	Paul	
Grassley	Risch	

NOT VOTING—5

Booker	Casey	Lee
Boozman	Cochran	

The PRESIDING OFFICER. On this vote the yeas are 67, the nays are 28. The motion is agreed to.

NOMINATION OF SYLVIA MATHEWS BURWELL TO BE SECRETARY OF HEALTH AND HUMAN SERVICES

The bill clerk read the nomination of Sylvia Mathews Burwell, of West Virginia, to be Secretary of Health and Human Services.

NOMINATION OF STEFAN M. SELIG TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE

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

The bill clerk read the nomination of Stefan M. Selig, of New York, to be Under Secretary of Commerce for International Trade.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Stefan M. Selig, of New York, to be Under Secretary of Commerce for International Trade?

The nomination was confirmed.

NOMINATION OF SYLVIA MATHEWS BURWELL TO BE SECRETARY OF HEALTH AND HUMAN SERVICES—Continued

The PRESIDING OFFICER. The Senator from New Jersey.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR NO. 8

Mr. MENENDEZ. Madam President, 2 weeks ago I came to the Senate floor to ask unanimous consent to ratify the protocol amending our tax treaty with Switzerland. I argued that the new protocol would no longer permit Swiss banks to withhold information on U.S. individuals who have hidden behind Swiss bank secrecy laws to avoid paying U.S. taxes.

Today I come to the Senate floor to ask unanimous consent to ratify the bilateral income tax treaty with Chile.

If the protocol with Switzerland is the perfect example of how tax treaties enhance our efforts to prevent tax evasion, the treaty with Chile—the first between our two countries—is the perfect example of why the United States pursues tax treaties. We pursue them to promote greater trading investment.

We pursue them to protect American companies from double taxation. We pursue them to expand new markets and develop new business opportunities for companies and investors.

On April 1 the Foreign Relations Committee, with strong bipartisan support, reported favorably on a proposed new income tax treaty with Chile. If ratified, the treaty would be only the third U.S. tax treaty in all of Latin America, but it would be a significant step forward in a region critical to U.S. international economic interests and would be with one of our strongest allies in the hemisphere.

What does this treaty do? Simply put, it promotes trade and investment between the United States and Chile. It provides for reduced withholding rates on cross-border payments of dividends, interest, and royalties. It would prevent avoidance or evasion of the taxes, includes rigorous protections against treaty shopping, and ensures exchange of information between our nations' tax authorities.

Let me also add, the American private sector's support for this treaty is unequivocal. To quote from a 2013 letter to Senate leaders from the National Foreign Trade Council, the National Association of Manufacturers, the U.S. Chamber of Commerce, and other major U.S. business associations, '' . . . ratification would represent an important milestone in lowering tax barriers to U.S. companies operating in Latin America . . . and would protect the interests of U.S. taxpayers'' in Chile.

This protects and grows U.S. investment in Chile. It expands U.S. economic engagement in the region, and that is a win-win-win.

I know there are those in the Chamber who do not see it that way, but these are the facts of economic engagement and economic statecraft in the hemisphere.

In the last decade, Chile has taken a regional leadership role on trade issues. It is one of our most important bilateral economic partners in the region. Total bilateral trade has nearly tripled since 2003, and U.S. investment in Chile has more than tripled from $10 billion in 2004 to roughly $35 billion today. Ratifying this treaty will take the bilateral commercial relationship to the next level.

I understand newly inaugurated Chilean President Michelle Bachelet plans to travel to Washington later this month to continue the close partnership between our two countries. Ratifying this treaty would send President Bachelet a strong message that we value our partnership with Chile and we are serious about further expanding economic opportunities between our two countries.

Madam President, 1,421 days have passed since the last time this Senate ratified an income tax treaty. We can end that ignoble streak right now.

So I ask unanimous consent, at a time to be determined by the majority leader, in consultation with the Republican leader, the Senate proceed to executive session to consider Calendar No. 8, treaty document No. 112–8; that the treaty be considered as having advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification; that any committee declarations be agreed to as applicable; that any statements be printed in the RECORD as if read; that if the resolution of ratification is agreed to, the motion to reconsider be considered made and laid upon the table; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Kentucky.

Mr. PAUL. Madam President, reserving the right to object, I think it is important to remember that the vast majority of Americans are law-abiding Americans who reside either here or overseas and that they do have an expectation of privacy and they do have a right to privacy. Those who break the law should be punished, but we can't forget about the innocent Americans who are not breaking the law who do have a right to privacy.

We have had treaties such as this for decades, and I am not opposed to the treaties. There are beneficial aspects to the treaties. Past treaties have had a standard which said that one had to be committing tax fraud or that one had to be engaged in fraudulent activity, the same way every American here expects that the government is not going to look at a person's bank account unless they have gone to a judge with evidence that a person is cheating on their taxes. The government can't just look at everybody's information in the bank without probable cause. The previous standard was that there had to be some evidence presented that a person was cheating on their taxes. I think there should be some evidence presented.

The new standard is they can look at any of a person's records that may be relevant. This is a much lower standard, and I think it will be injurious to the vast majority, if not the overwhelming majority, of Americans who are actually innocent but just happen to be living abroad.

I would be willing to work with whoever is willing to work with me on this to get the treaties passed if we can keep the same standard we have had previously, which is a standard of fraud, not a standard that these may be relevant.

So for this reason, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from New Jersey.

Mr. MENENDEZ. Madam President, I would have more extensive remarks, but I know my colleague from Maryland has a different unanimous consent request. Let me make just three quick points.

Chile's and other tax treaties the Foreign Relations Committee has reported favorably do not represent the first time the Senate has considered treaties providing for information exchange based on a ''foreseeably relevant'' or ''may be relevant'' standard.

In fact, since 1999—so that is about 15 years now—the Senate has adopted resolutions of advice and consent for at least eight other tax treaties using the relevant standard. This standard has been part of the model of U.S. tax treaties since 2006. So it is not correct that the ''may be relevant'' or ''foreseeably relevant'' standard is vague or ambiguous. In fact, it has been extensively defined in agreed guidance to which no country has expressed a dissenting opinion to date.

I must say that not only are these objections ultimately not providing all the benefits that all of the private-sector interests have expressed—as I referred to before, the entire business community—but by the same token, I simply have a tough time accepting that those who cheat get away with cheating and that somehow we are going to make it easier for them to cheat when the average American does not have the opportunity nor the desire nor do they cheat in terms of their payment of whatever are the taxes they owe to the Federal Government in a way that helps sustain all of the things we seek as Americans: the best armed forces in the world, security here at home, educational opportunity for our kids.

So there is a fundamental difference here. I will push these tax treaties, and I will urge the majority leader to give us votes then in a process because it has overwhelming support and we cannot have one Member of the Senate object to a process that can provide such benefits and such equity across the board.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR NO. 9

Mr. CARDIN. Madam President, let me underscore the point Senator MENENDEZ, the chairman of the Foreign Relations Committee, has made in regard to these tax treaties.

I want to make two principal points, and then a few other comments, and then I am going to propound a unanimous consent request in regard to the Swiss protocols.

The two points I want to raise—first on the standard of fraud, the relevancy standard that has been included in tax treaties ratified by the Senate since the 1990s. There are at least eight treaties that have used this standard. This is the international standard on fraud. It is not the U.S. Standard. It is not the Swiss standard. It is not the Chilean standard. It is the international standard.

There may have been one time when the United States could dictate what tax treaties would include. But we are part of an international community. It is part of international negotiations.

This is the international standard for cooperation among taxing authorities in order to establish a level playing field.

Secondly, our Constitution provides for the ratification of treaties by the Senate and provides for a two-thirds vote. It is an extraordinary vote. It is a heavy vote. It is a heavy burden for ratification of the treaties. It is not 100 percent; it does not require every Senator to agree to it, but it takes two-thirds of the Senators.

I would urge my colleagues that we need to return to regular order. Everyone talks about returning to regular order in the Senate. Well, if we need to go through lengthy debates and votes on a treaty that is totally noncontroversial, I am not sure we are serving the best interests in the Senate. Let's have an open debate, but let's vote. If some Senators disagree, well, at least allow the vote to go forward so we can get the two-thirds of the Senate to agree.

I want to thank the chairman of the committee. He gave me the opportunity to chair the hearings. So I was at the hearings during consideration of these treaties. We had a full panel of witnesses. Not one testified in opposition and not one was concerned about the issue that my colleague from Kentucky has raised on the fraud standard. In fact, they all said this is the level playing field. This will allow our country to support our companies and provide a level playing field for international investment in the United States.

The absence of this treaty affects America's ability to attract investment. Make no mistake about it. It hurts our companies. It hurts American companies that want to do business in other countries. They need a level playing field, to be protected against multiple layers of taxation and compliance issues. So this allows for that level playing field, so we can have fair agreements.

Let me mention one company that has come to us and said this is very important: McCormick. McCormick is a company that has been headquartered in Maryland for 125 years. They have 2,000 employees in my State of Maryland and 10,000 employees globally. They are hurt by the failure to have these treaties ratified.

It presents a level playing field. It allows for investment. It protects the privacy. Our laws protect privacy. Swiss laws protect privacy. What this does is establish a level playing field so all are protected.

I appreciate the fact that we may want to negotiate this in a different way. Well, let's work with our negotiators and work with the international community. It is not going to be the United States dictating what that standard should be. Quite frankly, the relevancy standard has worked well. There have been no complaints whatsoever on privacy issues on the eight treaties we have ratified. To the contrary, what it does is it removes the veil from those who are tax cheats, to allow us to get that information. It provides for the transparency necessary between taxing jurisdictions so you cannot hide and commit fraud against one country where you have the treaty.

So I would urge my colleagues to allow us to proceed on these treaties. It is very important to economic growth in our own State.

With that, Madam President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Republican leader, the Senate proceed to executive session to consider Calendar No. 9, treaty document 112–1; that the treaty be considered as having advanced through the various parliamentary stages up to and including the presentation of the resolutions of ratification; that any committee declarations be agreed to as applicable; that any statements be printed in the Record; that if the resolution of ratification is agreed to, the motion to reconsider be considered made and laid upon the table; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Kentucky.

Mr. PAUL. Madam President, reserving the right to object, let me make one point very clear. One Senator cannot prevent a vote in this body. The vote can occur at any point in time. One Senator can prevent sort of expedited passage without extensive debate.

One of the things our Founding Fathers did with this body, by allowing filibuster and by allowing procedural ways to slow things down, was to allow Senators who are in the minority to try to influence legislation.

I am open to a discussion on the language of this treaty, and I am open to a discussion on how we would have the standard promulgated. But I am very aware that when people talk about the criminal aspect of people they want to punish—I am in favor of that as well—you have to be aware that the vast majority of Americans who reside overseas are not criminals, are not tax cheats, and are law-abiding citizens.

So I do not think we should agree to a standard that is less than our normal standard here in the country. I also do not think we should agree to a standard that might allow bulk collection of data on everyone who lives overseas. Realize that this can be putting us beholden to other countries as well, accessing records of their citizens who are here as well.

So I think we have to be very careful about lessening the standard, and it is very much worth a debate. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Maryland.

Mr. CARDIN. Madam President, let me point out that it has now been 4 years since we have ratified treaties—4 years—because of time restraints of doing business in the Senate. It is one Senator holding up an expedited way under the Senate rules so we could get a vote. He can cast his vote any way he wishes on this issue.

I will just say, we have so many of these tax treaties that are backed up now, not just the two we have spoken about today. There are other tax protocols and treaties that are waiting for Senate ratification. I would hope we could find a way that would satisfy colleagues to allow an up-or-down vote on these treaties. They are noncontroversial, but they are extremely important to the businesses of our country and moving our economy along.

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

Mr. CARDIN. Madam President, I ask unanimous consent that the majority control the time from 2 p.m. until 3 p.m. today and the Republicans control the time from 3 p.m. until 4 p.m. today.

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

Mr. CARDIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from West Virginia.

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

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

Mr. MANCHIN. Madam President, I come today and I am honored to support my friend Sylvia Mathews Burwell. Sylvia is a native of West Virginia, and I have always said that we are all a part of our environment. If you know where Sylvia came from, the type of area where she was raised and the neighborhood, it will tell you everything about who she is today and why she has been so successful and why public service runs through her veins, truly giving something back.

The little town of Hinton, WV, is where Sylvia is from. It is in beautiful Summers County in the southern part of the State. It is right on the New River. It is a train town. Trains will come there and dispatch, and they will get them turned around to go in the right direction.

I will never forget when they introduced Sylvia. I think it was Senator ALEXANDER who was speaking. He was talking about his father, who worked in the rail yard and was always responsible for turning the trains and getting them moving. I said: Well, one thing about that, Sylvia comes from a train town. She knows how to get the train on the track and how to get it moving in the right direction, and she has proven that.

She is an unbelievable, blessed person. She is gifted, as smart as they come—a Rhodes scholar. In West Virginia we are so proud to have a person with those types of skills and the ambition to serve.

Now we will get into a little bit about her mom and dad because it is really who she is. Her father is an eye doctor there and is well respected in the town, and he is an immigrant who came from Britain. Her mother Cleo Mathews was the mayor. When I was Governor of West Virginia and I would come to town, Cleo would always call and tell me everything I did wrong. She was usually right, and we would get things worked out. We always had a great relationship. But she had skills and she had to give something back. You had to be involved. You just couldn't sit around. You couldn't be satisfied with your life just thinking, well, I work and I have a paycheck. There was always something.

I think that comes from—I am second generation also—coming to this country and hearing your grandparents talk about all the wonderful opportunities they have been provided and how privileged they believe they are and how honored and why we always have to give something back. You had to volunteer, be involved. You had to go out and contribute. You had to do something. That is the type of background Sylvia comes from.

When you look at every job she was asked to do, she was in the Clinton administration. If fame and fortune were her desire, she could have gotten it a long time ago. She did public service, and she did it in an exemplary fashion. Then after the Clinton administration she went to the Gates Foundation. She went to the Walmart Foundation. She is always with a foundation. She is somebody who is willing to help others and give back, trying to invest in the best of America. Then she came back and she became our Director of OMB. She got totally unanimous support.

Now the President has tasked her to come and take the reins of the DHHS. I say to my friends, whether or not you support the Affordable Care Act, Sylvia is not coming here to change your minds. She is not going to tell you: I am going to tell you why you should be for it, and you are wrong if you are not for it. She is not going to do that. She is going to make the system work. She is going to be following the law and listening to everybody—those who support it and those who do not support it—and making adjustments and recommendations. I trust that she will take good, solid recommendations to the President: If change is needed, this is where we need it. If this is not working, this is why it is not working. If the numbers don't add up and we cannot afford it, we will make adjustments to make sure it does work so all Americans can benefit.

I come to the floor because I know Sylvia Mathews Burwell. I know where she comes from. I know her family. I know her friends. I know her town. That speaks volumes. As I said in the opening, we are all products of our environment. Sylvia Mathews Burwell is a product of her environment, which is as nurturing and loving and caring as any one of us could ever hope for. To have that quality of a person who is going to be serving at the highest level is something I am very proud of—not just because she is a West Virginian but because she is such an accomplished person and she wants to give something back. She has lived the American dream. Her parents made that come true for her, and that is who she is.

I would ask all of my colleagues, when they are voting, who do you think would have better values, who would have the ability, and who has the knowledge and the experience to make sure there is fairness and bipartisanship? Every person is going to be listened to, and she will give a direct answer as to exactly how she has come to a decision. That is all you can ask for. When you have an opportunity to get somebody at that level in the private sector, you would jump all over it. You would do whatever it would take to get somebody with her qualities.

In public service, we have such a hard time today recruiting the young, recruiting this new crop of leaders. Some of them will be Senators, some of them will be Congresspeople. They are going to be leaders in their communities. They care at a young age. We have a hard time recruiting this younger crop of people, and when we have it, we better hold on to it.

We have a chance to hold on to Sylvia, to take us to a new level where health care could be affordable for the masses. We could have a healthier population. We don't have to rank 43rd in the world as far as wellness and longevity. It shouldn't be that we are spending more money than anybody else and not getting results. We need somebody like Sylvia Mathews Burwell, who could put all of this together and make sense out of it because she comes from a family and a community that is all-West Virginian and all-American.

I say to my colleagues, I hope you will vote in favor of Sylvia Mathews Burwell and show that we can come together, we can work in a bipartisan fashion and pick the best person for the job—not because they are Democratic or Republican or Independent or have any political affiliation but because they are the best qualified person for the job.

I would say thank you to all of my colleagues for allowing me to give a little bit of insight into a most amazing young lady, a mother, a daughter, and a loving friend to all who really gives all she can.

Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MURPHY. Madam President, I come to the floor to speak in support of Sylvia Burwell's nomination to lead our efforts at HHS and to follow up on the comments of her great friend Senator MANCHIN.

I would like to add two points to what I think was a great presentation by the Senator from West Virginia. We rarely get someone who has this kind of background in both the public and private sector and of course who is perfectly suited for a tour of duty at the helm of the Nation's largest public-private partnership.

HHS is obviously the payer for our Medicare Program and for much of our Medicaid Program, but they are doing business with literally hundreds of thousands of private entities and private companies all throughout the country—primarily health care practitioners from the east coast to the west coast—and the Affordable Care Act is an enormous private-public partnership. We expanded coverage through both the traditional Medicaid Program and also through millions of people—8 million and counting—who have signed up for private insurance with a little bit of help from their government through tax credits. It is this background that she has on both sides of the public-private divide that I think will put her in a perfect position to lead this agency.

When she came before the HELP Committee, I was particularly pleased that she was very willing to be flexible and aggressive in her work with Governors throughout the country who have not yet expanded Medicaid. I think there is growing willingness on behalf of many Republican Governors to look at some innovative ways to expand Medicaid, and Sylvia Burwell is the perfect Secretary to work with Governors to find a way—perhaps with subsidies—that will help people in the lower income brackets afford private insurance that could capture those 5 million individuals across the country who do not have access to Medicaid because their States have not expanded it.

I wish to spend a few minutes in the context of this debate answering what I imagine will be a growing chorus of concerns and criticism from our Republican friends regarding some of the new rate announcements from exchanges all across the country. It has been hard to follow a lot of the criticism of the Affordable Care Act because it seems as though it mutates on a pretty regular basis. It started out with claims that the Web site could never work given its initial rollout problems. Of course it is working very well today.

Another criticism was that nobody would sign up for this new benefit because it was not affordable. We hit 8 million in terms of those who signed up for private insurance.

They said young people would not sign up. Private insurers are telling us their mixes of enrollees are exactly as they hoped, especially with respect to the young people signing up.

Then they said people would not pay their premiums. In a House hearing about 1 month ago, the private insurers said that in fact 80 to 90 percent of people were paying their premiums, which is comparable with the non-ACA plans.

Of course, there was the general claim that it will bankrupt the Treasury, even though it is saving us trillions in terms of deficit savings as well as savings to the overall health care spending line items of the Federal Government.

Now the critique is that these rate increases are unjustifiable as insurers are getting ready to offer rates on the new exchanges coming out for open enrollment at the end of this year.

First of all, it is important to note that there are a lot more insurance companies offering health care on these new exchanges. Connecticut will get at least one new entrant. New Hampshire, for instance, went from one insurer to five insurers. There is very good news coming with the new exchanges. There will be a lot more options because the insurers have figured out it is a pretty good deal for them as well as their consumers.

It is important to have a little bit of context. I have a couple of examples of the kind of premium increases that have been asked for by private insurers all across the country in the last several years. In 2010, Anthem in California proposed a 25- to 39-percent increase in premiums. Again in 2010, Anthem asked for a 23-percent increase in Maine. The year before in Michigan, Blue Cross Blue Shield asked for increases up to 56 percent for some populations.

The reality is that on average we have seen a premium increase for the individual market of 15 percent or above over the last 10 years. That is not good news, but it does provide some context for the requests for premium increases we are going to see in the exchanges this year. Actually, the reality is that since the law passed, there has been a fairly precipitous decline in the number of premium increases above 10 percent that have been requested by private insurers. There are less requests for premium increases above 10 percent today than there were in the corresponding period before the Affordable Care Act was passed.

Just because the rate increases that are being requested—or may be requested—as we roll out the next year of open enrollment for the State-based exchanges may be below the historical averages of the last few years, that certainly is not any reason for people to jump for joy. Fifteen percent is unaffordable, fifty-six percent is unaffordable, and 10 percent is still unaffordable.

It is also important to note some of the protections that are in the bill. For instance, one of the most important provisions of the Affordable Care Act that very few people have noticed is the provision that says that an insurer has to spend 80 percent of all the money it takes in on care. If at the end of the year they have not spent 80 percent of the money they have taken in from ratepayers and premium payers on direct care, then they have to rebate money to consumers.

Thus, if these premium increases are above what is justified based on the actual experience, there is going to be a rebate paid to ratepayers. Those rebates thus far have saved patients and consumers all across the country $5 billion, and it is a significant, historic protection against unjustifiable premium increases that are not backed by actual experience in terms of claims paid.

The protections are even broader. While rate increases are not new, what is new is that consumers are back in charge of their health care again. Ten years ago insurers were charging 15 percent, 20 percent increases and they were also denying health care to millions of Americans who were sick. In some parts of the country they were charging women 50 percent more than what they were charging men. They were putting annual limits on health care coverage that ended medical insurance for many of the sickest individuals and families all across the country. All of those abuses, under the Affordable Care Act, are history.

While I will admit we still have work to do to bring down the cost of health insurance in this country, at the very least today consumers are back in charge of their health care, the worst excesses and abuses of the insurance industry are no longer permitted.

While I want to see a day when health insurance premium increases are 2, 3, and 4 percent, what we are seeing thus far in the wake of the passage of the Affordable Care Act is premium increases that are less than the historical average before the law was passed.

Those are the facts. I know that is not solace for individuals who are receiving these premium increases, but what we have seen are premium increases coming down and not going up since the Affordable Care Act was passed.

There is still an enormous amount of work to do. The news is generally very good. More people are being enrolled in the Affordable Care Act than what was expected. Over the last 6 months alone, the rate of uninsured individuals in this country has come down by 20 percent. Medical inflation is at a near-term historic low. Whether it be infection or readmission rates, outcomes are getting better.

Our next Secretary of Health and Human Services will have a lot of work to do to continue to perfect this law, but she is going to have a lot of good work and a lot of good outcomes upon which to build, based on her experience in both managing private sector entities and large public sector entities. Even with these challenges, Sylvia Burwell is the right choice for HHS, and I hope we will confirm her in a big vote tomorrow.

I yield back.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Madam President, I come to the floor to discuss the nominee for Secretary of Health and Human Services because as a physician I am very concerned and want to make sure Americans can get health care. I think getting care is actually much more important than getting the insurance component of that, but that is nothing new, and I said that to the President. In so many ways, the President has actually offered empty coverage but is not actually providing an opportunity for care for people. We have seen situations where people are paying higher premiums, higher copays, and higher deductibles, all of which are the many side effects of the President's health care law.

When I hear my colleague from Connecticut make reference to rates going up, let's face it. What the President of the United States said is that premiums would drop $2,500 per family by the end of his first term. The President didn't say, well, it will not go up as fast or that it will go up some, but don't worry about it. The facts are that people are continuing to be hurt by the health care law, and much of it is as a result of the expense of the law.

Last week USA Today had a report that said: ''Many employees hit with higher health care premiums.'' They go on to say:

> More than half of companies increased employees' share of health care premiums or copayments for doctors' visits in 2013. . . .

Why? Because of the health care law. What other things have businesses that are trying to provide health insurance for their employees had to do? Thirty-two percent of the time the businesses delayed raises for the individuals because the cost of insurance under the President's health care law has gone up so much. People who are concerned about take-home pay are getting hurt by the health care law.

According to this USA Today report, 22 percent eliminated or cut back on benefits, and 21 percent of these folks were cut back from full-time work to part-time work. That is obviously a hit to somebody's take-home pay.

The report says health care premiums have increased 80 percent since 2003, nearly three times faster than wages and nearly three times faster than inflation. The health care law has actually failed to do what the President promised when it comes to actually providing care and affordable care.

As I look around the country, it is interesting to see what is happening. There was a report out very recently about hundreds of thousands of Iowans who don't have coverage. The report goes on to talk about a woman who said she drove a half hour from

Mitchellville recently to seek care for flu-like symptoms at a free clinic in Des Moines. She is an assistant manager of a convenience store. She has been offered insurance by her employer but would have to pay $111 every 2 weeks for her part of the premium, and she said: ''I can't afford that. . . . There's no way on Earth.''

Our colleague from Connecticut said it is working. It is not working, and it is because of the mandates of the law, such as the mandate that people have to get insurance that the government says they need as opposed to what may be good for them or their family.

The woman, Reinna, said she heard most Americans are required to have health insurance this year or pay a penalty. Democrats who voted for this said if someone doesn't buy the insurance, they have to pay a penalty. She heard that and learned it was equal to 1 percent of her income.

According to this article from the Des Moines Register where they had their primary elections yesterday, in Iowa, the Des Moines Register: The lady laughed ruefully at the prospect. ''I don't care. They can fight me for it.''

So this is a woman in Iowa, knows about the penalty, knows about the mandates, and she would say to my colleague from Connecticut who was just on the floor that it is not working for her.

She bristled at the new requirement to obtain insurance. She said, if we could afford it, do you think we would be standing out here? Of course, where she was standing was in a line for a free clinic, nodding at a half dozen others in line on the sidewalk waiting for the free clinic to hold one of its twice-a-week sessions.

I come to the floor today, as I have repeatedly, to talk about the issues of the health care law as a doctor trying to make sure patients get the care they need from a doctor they choose at lower costs, and seeing that the President's health care law has failed miserably because so many people have been hurt by this health care law. They have had their insurance canceled, even though the President said, Oh, no, it won't happen. He said, If you like what you have, you can keep it. National folks who assessed this called that the lie of the year.

We also see that many people cannot keep their doctors, and they are finding out that their copays are higher, their premiums are higher.

It is interesting, because it is affecting people in so many different ways. Minnesota is another State where there has been a lot of debate and discussion about the health care law. The headline in the Mankato Times: ''Minnesota Schools to lose more than $200 Million because of ObamaCare.'' My colleague from Connecticut just said it is working. Well, if it is working, why are the Minnesota schools losing $200 million because of the health care law? The article says: State Representative Paul Torkelson said the wasteful spending on ObamaCare that has left many taxpayers outraged will soon be making a significant impact on Minnesota's schools—a significant impact on Minnesota schools. According to documents released by Minnesota's management and budget office, over the next 3 years, the total unfunded costs associated with Affordable Care Act compliance will cost school districts statewide at least $207 million.

It is troubling news for our schools, the State representative said. This is $200 million that school districts won't be able to use to hire more teachers or improve their educational programs. This is an unneeded expense that does absolutely nothing for our students.

The senator concludes by saying: It is pretty sad when schools are forced to prioritize ObamaCare compliance over the education of our children.

So I come to the floor when I hear my colleague from Connecticut saying it is working to say it is not working all across the country. It is not working in so many ways that the President said it is. The President said Democrats should forcefully defend and be proud of the health care law. I don't know how a Senator can stand up who voted for this and be proud of what we are seeing happening to school districts all across the State of Minnesota.

The President continues to tout some number of people who signed up across the country, and I always ask, How many of them actually have insurance?

In Oregon, a story just out in the last week or two, in The Oregonian: Thousands have not paid premiums for Cover Oregonian health policies, placing coverage at risk. So in spite of what my colleague from Connecticut may have said, this article says a large number of people who have signed up for private health insurers through the Cover Oregon health insurance exchange have not paid their first month's premiums, meaning they are at risk of going without coverage through November.

More than 81,000 people went through Cover Oregon—either through paper or electronic applications—to select a private plan. We know about the failures of that exchange. We know that the FBI, I believe, is investigating it. Of those, 5,000 have already canceled policies or been terminated for lack of payment. Thousands more have not yet paid their first month's premiums, meaning they have not completed their enrollment, according to the carriers.

The President talks about the numbers of enrollees. I don't know how many people actually paid to continue—to consistently say they have insurance, and consistent insurance, all the way through. Insurers say anywhere between 66 to 80 percent of consumers have paid, meaning anywhere from 20 to 34 percent have not. So it is hard for me to say that things are working.

It is interesting. Unions, which have supported the law, have come out with concerns. UNITE HERE, a union in Las Vegas, representing many of the casino workers, 2,000 housekeepers, waiters, others at 9 of 10 downtown Las Vegas casinos, are concerned about the cost. One of the union leaders has said, when we first supported the calls for health care reform, we thought it was going to bring costs down.

That did not happen, and that is why I am here on the floor.

Mr. MERKLEY. Mr. President, would the Senator yield for a question?

Mr. BARRASSO. Certainly. Absolutely. Yes, Mr. President.

Mr. MERKLEY. I thank the Senator. I couldn't help but hear outside the Chamber the Senator from Wyoming talking about Oregon. So I just wanted to ask, in Oregon, 400,000-plus people have signed up for health care through the Affordable Care Act. Some of those may have had insurance before. We are not sure if it is 25,000, maybe it is 50,000; there are conflicting numbers on that. But is it a good thing or a bad thing that 350,000 or more individuals have gained access to health care through this plan?

Mr. BARRASSO. I would say that many people in Oregon have been helped and many have been hurt. That is the problem with this health care law. There are people who have been helped, absolutely. I just believe that the costly side effects, the harmful side effects, the dangerous side effects of this health care law have actually hurt people. So for people who may have been helped, there are as many, if not more, who have been hurt through higher premiums, higher copays, loss of their doctor, can't go to their hospital—all of those things—plus, at the expense of significant amounts of taxpayer money wasted. I think we are seeing that situation in Oregon right now with potential lawsuits being filed, FBI investigating, whether there was oversight, and hundreds of millions of dollars, as reported in today's Wall Street Journal, of wasted taxpayer dollars. Oregon, I believe Massachusetts as well; Maryland, Minnesota, States that I have been talking about here.

Mr. MERKLEY. Could the Senator explain how it is for those 350,000 or more—maybe 400,000—who have newly gained access to health care, how they have been hurt by gaining access to health care?

Mr. BARRASSO. I am referring to people who have been hurt by the health care law all across the country. I worry about the more than 5 million people who have lost their coverage as a result of the health care law.

The PRESIDING OFFICER (Mr. COONS). The time of the Senator from Wyoming has expired.

Mr. BARRASSO. Thank you. I am merely trying to respond to my colleague.

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

Mr. MERKLEY. I thank very much the Senator for responding to my questions.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Connecticut.

STUDENT LOAN DEBT

Mr. BLUMENTHAL. Mr. President, I am very proud to begin a conversation on the floor with a number of my colleagues about one of the most urgent and pressing challenges that face us as a body here in Washington, making laws, but even more preeminently to families and students around the country who literally, right now, are sitting at their kitchen tables, in their living rooms, in family gatherings, trying to find a path forward in financing their education, their children's education, their grandchildren's education.

We must do better as a nation. We have to do better in giving a fair shot to them—to the innovators and entrepreneurs and investors of the future—the people who will power our economy with ideas and energy as a result of college education, which is part of the American dream—part of giving everybody in America a fair shot at that dream.

I have been doing a lot of listening over these past weeks, over these past 3½ years, and over three decades in public service. I think listening is one of the most important things we do as public officials. There is an old saying that God gave us two ears and one mouth so that maybe we do a little more listening than talking. When I talk to students—and I have been doing a lot of that at commencement addresses and classrooms and roundtables around the State of Connecticut—I tell them I want to listen. What I have been hearing at Ansonia High School and Windham High School and The Stanwich School—high schools around the State of Connecticut—is they are seeing dreams crushed by the cost of college education. The pages who are here today, our children, when we go home at night can tell us about how devastating these costs are, how their hopes and aspirations for the future are constrained and sometimes crippled financially by the cost of college education. We must bring it down. The costs of tuition and expenses must be reduced.

At the same time, we need to find better financing options for our students. That is the reason we are reintroducing today the Bank on Students Emergency Loan Refinancing Act, with some minor changes, because we have listened to people who have told us improvements that could be made in that measure. But, most importantly, we have listened to students, both the high school students and college students, who are telling us about dreams deferred and dreams devastated by the costs of college education. So we must make sure that the $1.2 trillion that overhangs them and our economy is addressed.

This measure would help the students of today and tomorrow. It would help the students of today because it offers promise for the future, and the students who already have debt would be able to reduce that debt. Those students who are paying 7 or 8 or 10 or 11 percent would be able to reduce it, refinance, not just—we all do refinancing of our home loans and our car loans right now. There is no possibility of doing it with student debt loan, and that is what this measure would enable them to do. For folks who have graduated and who cannot start families, begin businesses, buy homes, contribute to our economy, it would enable them to accomplish those dreams rather than deferring or abandoning them.

I am often heartbroken, as I talk to people who have these debts. They did the right thing; they played by the rules, went to college, and now find themselves crushed by that debt. Those who are laboring under these crushing debt loans often have pursued careers in medicine and other professions such as nursing that would enable them to do an enormous good for this country if they were helped, if that crushing burden were somehow reduced. Giving them a fair shot is good for our economy because it will increase consumer demand. It is also good for our social fabric—literally economically, socially, and physically good for our health by enabling some of those doctors and nurses to work in communities that are underserved right now. We ought to give them public service options, enable some of that debt to be paid down or paid off through community and public service. But the measure I think we can agree is urgent and pressing, where there ought to be consensus, is enabling the commonsense refinancing of current debt.

There are other measures that are vitally important, such as clarifying and requiring more accuracy and truth in the forms that are given to students at the time they take these loans so they know what their debt will be; enabling more of them to have grants rather than loans, bringing down the cost of tuition; enabling more public service options as a means to pay down or pay off debt. But let's focus right now on what is clearly an imperative—a moral imperative and a social imperative for our Nation—to enable more refinancing right now. For federal student loans that were originated in the years between 2007 and 2012, the government will make $66 billion. Mr. President, $66 billion. That money goes into the U.S. Treasury fund when, in fact, instead it should be invested in our students and our communities.

I urge my colleagues to join in this effort and to focus on those additional measures we can achieve.

I see my colleague from Illinois is here. He has championed and I have been pleased to join him in efforts to enable student debt to be discharged in bankruptcy. One of the great, gaping gaps in our present bankruptcy system is that students cannot find any relief from this student debt. Almost every other form of debt can be discharged from bankruptcy but not student debt.

So there are other measures we can and should achieve, but a fair shot for everyone ought to begin right now with this measure on the floor, enabling students and former students to refinance so they have the best shot at paying off those loans and a fair shot at the American dream.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank my colleague from Connecticut for referencing a measure in which we both share an interest. He is right; a student loan is not like another loan. It is not like the mortgage on your home. It is not like the money you borrowed to buy a car or a boat or a line of credit you might have needed at some point in your life. A student loan is a debt that cannot be discharged in bankruptcy. No matter how bad things get, you are going to carry that debt with you to the grave, and believe me, they will pursue you all the way.

We just had a report in the Wall Street Journal. There was a grandmother receiving Social Security benefits. They levied her benefits because grandma decided to befriend her granddaughter by cosigning her student loan, on which her granddaughter defaulted. So now grandma finds her Social Security check being levied to pay off her granddaughter's student loan. It never ever ends.

So I support my colleague from Connecticut. He and I both believe this ought to change. This is awful. For goodness' sake, we have to have some recognition of what is happening with student debt today. It is not the way it used to be. Those of us fortunate enough to get the early government loans—the National Defense Education Act, that is how I went to college and law school. Scared to death when the Soviets launched sputnik, this Senate and the House created a loan program for kids like me from East St. Louis, IL, to borrow money to go to college. I had to pay it back over 10 years with 3 percent interest. I did not think I ever would, but I did. Now look at what students are faced with.

Hannah Moore, of the suburbs of Chicago—I have gotten to know Hannah. I want to tell you Hannah Moore's story. This young lady went to community college first. A good idea, right—affordable, a local college. Then she decided to sign up at the Harrington College of Design. They were going to give her a special education. Well, they sure as heck did. The Harrington College of Design is a for-profit college. Hannah Moore signed up for the course. It is owned by Career Education Corporation. It is a for-profit school. You ought to know something. Career Education Corporation is under investigation in 17 different States for their activities in luring students into worthless college courses. Hannah Moore was one of those victims.

What happened to Hannah? Well, at the end of the day, when she finished

her so-called course at the Harrington College of Design, she ended up $124,000 in debt, and it is growing. She cannot keep up with it. She cannot earn enough money to keep up with it. Do you know what has happened? She has moved into her parents' basement. That is where she has to live now. Her dad has come out of retirement to help her pay off the loan. That is what she faces.

So we are going to do something about it with the help of a few Republicans. I hope a few of them will stand and join us. We are going to give students across America who are not in default an opportunity to refinance their college loans with lower interest rates. Those of us who have had a few mortgages in our life know what that means—a lower interest rate, a lower payment or more money reduced from the principal. It is the only way some of these people ever get out from this burden of student debt. Senator ELIZABETH WARREN put the bill together. I have cosponsored it with a number of others. We think this is the only way that students deep in debt have a fair shot at a future; otherwise, they are going to be swamped with debt and never get out of it.

The prospect of going back to school for Hannah? Impossible. She cannot borrow money for that. Buying a car? Out of the question. Her own apartment? No, sorry, you cannot do that either. I have met young couples who have said: We are putting off raising a family because of the debt.

Now we have a bill that is going to be introduced by Senator WARREN, brought to the floor, and we need Republican support. We cannot pass it without Republican support. So far not one Republican has joined us—not one—for refinancing college debt. But that can change. It will change if our Republican colleagues will simply go home to their States and have a town meeting and ask the people in attendance: What do you think; should we give college students a lower interest rate? Should the Federal Government make less money off these college students so they can get out from under this debt once and for all?

They will find what I found in Illinois—overwhelming support for this approach.

So if we are going to do something in the Senate Chamber that really affects the lives of working families—where young people and their parents can say, well, thank goodness somebody in Washington is finally listening to problems families face—this is it: refinancing college student loans. This is our opportunity to give a fair shot to kids from working families all across America, the kind of opportunity I had, the kind of opportunity millions of others have had.

There is a lot more we need to do to clean up this mess when it comes to college loans and when it comes to the schools that are ripping off students, but let's start at the right place. Let's help students in debt get out from under that debt.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I thank my colleague from Illinois.

ORDER OF PROCEDURE

I ask unanimous consent that Senators be permitted to speak for up to 5 minutes each during the majority's controlled time.

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

Mr. BLUMENTHAL. Mr. President, I would like to yield now to Senator MERKLEY and then to Senator SCHUMER.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Thank you very much, Mr. President.

I am honored to be here joining Senator BLUMENTHAL, Senator DURBIN—Senator BALDWIN is going to be here—Senator SCHUMER, and many others to come and address this important topic, and this topic is the college loan debt trap.

I have a letter here from Stephanie from Oregon, and she writes to me about the trap she and her husband feel they are in. She says:

> I am writing to you as a potential investor into Oregon's economy and the economy of the United States. Unfortunately, however, I will not be able to be this investor until mine and my husband's Private Student Loans . . . are paid off. We owe a little less than $100,000 in . . . Student loans and pay $1,100 per month. We will pay this amount for the next 12 years. Because of our student loans and the 7–7.2% interest [rate] they are set at, we cannot afford to purchase a house in the neighborhood we love . . . cannot buy a car, and cannot even fathom starting a family. We can't even afford to go on vacation, whether that is around Oregon, or outside of that to the many other wonderful states and countries. We pay rent, utilities, and try and buy good, healthy food, but in order to even afford these basics I have to work 2 jobs at 7 days a week.

She goes on later to say:

> It has been nothing but spinning in place. . . .

This is a growing reality for millions of Americans who have graduated with student loan debt the size of a home mortgage and higher interest that make these huge student loans the equivalent of a millstone around their necks. When our aspiring young adults in America—who have graduated, who have gone on to start their careers—when they cannot afford to buy a house, that enhances inequality in the United States of America because home ownership is the major vehicle by which middle-class families in America establish a nest egg, establish wealth, establish a slice of the American dream. What is more joyous in life than having children, being able to raise children? That is the most tremendous, tremendous experience. But she is saying she and her husband cannot even think about starting a family.

The picture was quite different when I was graduating from high school in 1974. My father—when I was in grade school, we lived in a working-class neighborhood—had taken me to the school doors and said: Son, if you go through those doors and you work hard, you can do just about anything here in America.

Well, that was a message about the fact that there is a pathway to thrive, a pathway to fulfill your potential, a pathway to pursue your dreams, and in the process of doing that you are strengthening our entire Nation because when you aspire to your potential, when you aspire to your dreams, then you also find yourself giving back in all kinds of other ways, including having enough income to pay a Federal income tax and contribute property taxes and revenue, as well as the talents or fruits of your profession.

Well, I still live in that blue-collar community. My kids still go to the same high school I went to. But the message to our students today is very different. They are familiar with many families such as Stephanie and her husband. They are familiar with the fact that student tuition has gone up faster than virtually anything else in our society. It is a much bigger share. I think a rough estimate is about 2½ times the amount in terms of a working income than it was when I was going to school, starting college. Let's make this comparison: In Germany, the cost of a year in college is around 4 percent of the median income. In the United States of America, the cost of a year in college is about 50 percent of the median income. Well, what a difference between less than $1 out of $20 and $1 out of every $2. What an incredible difference. So, at a minimum, shouldn't we be acting today to enable those who have these high-interest student loans to refinance them to a reasonable low rate? Shouldn't we be able to do that?

The PRESIDING OFFICER. The Senator's time is expired.

Mr. MERKLEY. I ask unanimous consent for 30 seconds.

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

Mr. MERKLEY. Thank you, Mr. President.

I will wrap up simply by saying that this is common sense. Let's lower this burden, and then let's go on and do much more: control the cost of tuition, raise the impact of Pell grants, and pursue low-interest student loans as a tool for our students from here going forward.

Mr. President, I am delighted to have had this chance to speak to a fundamental challenge to young Americans in every State of the United States of America.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first let me salute my colleague from Connecticut for bringing us all together to talk about this important issue, the good words of my colleague from Oregon—always on the money, always understanding what average folks need

and have to go through—and, as well, our sponsors of this legislation. I salute Senators WARREN and FRANKEN, who are our two lead sponsors.

The bottom line is very simple. It is amazing to think that there are 40 million Americans and their families—at a time when interest rates are at about a record low—who are paying 7 to 14 percent on their student loans. It is amazing to think that the average student graduates with over $30,000 of loans on his or her back. It is amazing to think that so many of our young people are living at home because they cannot afford not to because of student loans. Thirty-six percent of all individuals between 18 and 31 live with their parents—the highest percentage in 4 decades.

Why should people be paying more? And even more outrageous, guess who is making the profit much of the time? Sometimes it is the private banks. That is bad enough, but sometimes it is the Federal Government. For the Federal Government to charge people nearly double the going rate for their student loans is so unfair.

So we Democrats are hoping to give people a fair shot, a fair shot at being able to repay the cost of college at a reasonable interest rate. That is all we want. We are dedicated to helping the middle class, to helping working people, to helping people who do not have so much money get a fair shot at living decently well, the way they always have in America but in a way that is beginning to decline.

Our colleagues on the other side of the aisle, we would beg of them not to stand in the way but to join us. How do they defend charging those who have graduated from college 7, 10, even 14 percent for their student loans?

Now, we just got a CBO score. Our bill, which is paid for by simply the Buffett rule, which says that someone making over $1 million should pay the same rate as their secretary, as an average person.

Well, that is how we pay for it. Again, I cannot believe my colleagues on the other side of the aisle would disagree with that. Anyway, we have a $21 billion net positive on our bill. So for anyone who is worried that we do not pay for the bill, we actually pay for the bill and return some money to the Treasury. So a fair shot is what is needed here, a fair shot for everyone to afford college.

Last year we lowered the interest rate for people already in college. But what about the 40 million who are out of college and are saddled with high interest rates, people who got out of college before 2010? Let's not forget the effect this has on the rest of the economy and new homes. Young people are not buying homes at the rate they used to—first time home buyers. Why? Well, one of the reasons—we cannot quantify how much yet, but we will be doing that—is that they are saddled with so much student debt at high interest rates.

So it affects our entire economy because construction jobs are not up to what they should be. A large part of that is because people are not buying homes the way they used to. So the bottom line is, it is very hard to resist the logic of the proposal that Senators WARREN and FRANKEN have put together.

Here are some numbers from my State. Fifty-four percent of Long Islanders between the ages of 25 and 29 live at home with their parents or relatives—more than one in two. Amazing. That is the American dream, to be able to get out of college and go live on your own, find a job, maybe find the person you want to spend the rest of your life with. That is the American dream. It is a lot harder to do that when you are living at home, as much as we all love our parents. But because of student debt, because of high interest rates on student debt, people are forced to do that.

So, again, I thank all of my colleagues who have joined in our fair shot effort—our fair shot effort on minimum wage, our fair shot effort on pay equity, and our fair shot effort on college affordability. We will continue to fight as hard as we can to see that the average middle-class family is finally given a fair shot. We hope and we pray our colleagues on the other side of the aisle will not stand in the way.

I know my colleagues from Connecticut and from Minnesota, who has been a great leader on this—and very few in America, let alone in this Senate, have such an understanding of the needs of average families and the middle class than the Senator from Minnesota. So I am happy to yield the floor so she may say a few—what I am sure will be very prescient—words.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I appreciate the words of the Senator from New York, and also his keen focus on these issues for the middle class, giving everyone a fair shot.

I rise today to talk about the problems of student debt in this country and the effects that it has on millions of Americans. I think we all know that it is not just students, as much as that is the first group we think about—students—it is also their parents. Those are the ones I hear from a lot, and how hard it is, and how they have that next kid coming.

While maybe they were able to patch together loans and some income to help one kid go through college, the second one comes along and it is incredibly difficult. They literally have this Sophie's choice about which kid they are going to send to college or what are they going to do with the third kid. It just should not be happening in America today.

I thank Senators BLUMENTHAL and BALDWIN for bringing us together on the floor, as well as Senators HARKIN, WARREN, and DURBIN for their leadership on this issue. In the United States we appreciate the value of education. We know it leads to higher-paying jobs, better health, and even longer lives. I know the value of education. My grandpa worked 1,500 feet underground in a mine in Ely, MN. He was not able to graduate from high school because when his parents died, the two oldest boys had to go to work in the mines. They were only 15 years old. That is what they did. They went to work in the mines. They were able to keep the entire family together.

The youngest girl had to go to an orphanage in Duluth for a while, and then they were able to bring her back. Those two oldest boys never got to graduate from high school, never went to college, and worked in the mines their entire life, worked underground at a very dangerous time in our country. When the sirens would go off, they would not know whose family member had been killed.

That is what my grandpa did. He wanted a better life for my dad. He literally saved money in a coffee can in the basement of their house so that he could send my dad to college. Then my dad went to college and became a newspaper reporter. My mom, during the same time period, growing up in Milwaukee during the Depression, ended up going to Milwaukee Teachers College and then came to Minnesota and was a teacher.

Here I am standing today on the Senate floor, the daughter of a teacher and a newspaper man and the granddaughter of an iron ore miner. It would not have happened without education. It would not have happened without my mom's parents struggling to make sure she went to college, and without my grandpa saving that money in a coffee can after working underground in the mines and never being able to go to school himself.

That is what I know about education. That is a story we hear again and again from people in this country. Higher education provides students with the skills they need to be competitive in today's global economy. At a time when more and more jobs require some form of postsecondary school, we cannot allow cost to be a barrier to that opportunity. We cannot allow only the wealthy to be able to send their kids to college. It is really that simple.

This country was built on the middle class. This country was built on this idea that no matter where you come from, if you are in a little iron ore mining town in northern Minnesota, that there is a chance that your kid can go to college. My dad did not start at some fancy college. My dad went to a community college which is now Vermilion Community College, which was then Ely Junior College, and got his 2-year degree. Then he went to the University of Minnesota. Back then it was so incredibly affordable. He would still send his laundry back to my grandma in Ely, and she would do his laundry and she would send it back. He got by on barely nothing.

But he went on from that degree at the University of Minnesota to become a journalist and interview everyone from Ginger Rogers to Mike Ditka to Ronald Reagan. It all started in that hardscrabble mining town. That is what education is about in this country. Outstanding student loans now, they are not like something you can fit in a coffee can. Outstanding student loans now total more than $1.2 trillion, surpassing total credit card debt and affecting 40 million Americans.

One in seven borrowers defaults on Federal student loans within 3 years of beginning repayment. Other borrowers are struggling too. Thirty percent of Federal Direct student loan dollars are in default, forbearance or deferment. It costs a lot of money. When there are not high-paying jobs right out of school or when kids have really high costs from school, and when they are in a job that maybe eventually they will get enough money, they have trouble paying off their loans.

But make no mistake, student loan debt impacts everyone, not just students. Student loan debt hangs like an anchor around not just individual students but around our entire economy. It is dragging us down. Graduates with high debt may delay making key investments like saving for retirement or getting married or buying a home. Student debt may even impact a person's career choices, by deterring some graduates from taking jobs in crucial fields like education.

According to a report I released as chair of the Joint Economy Committee on the Senate side, Minnesota actually has one of the highest rates of student debt in the country. Seventy percent of the recent graduates in Minnesota have loan debt, compared to 68 percent nationally. So it means a lot in our State.

The good news is that there are actions we can take——

The PRESIDING OFFICER. The Senator's time has expired.

Ms. KLOBUCHAR. I ask unanimous consent for another 30 seconds.

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

Ms. KLOBUCHAR. Last summer we acted to prevent the interest rate from doubling. We have also introduced the Bank on Students Emergency Loan Refinancing Act. I urge the Senate to consider this very important bill so more students can manage their debt and build a better future for themselves and their family. I am proud to support this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

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

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

Mr. REED. Mr. President, we need to rethink financial aid in this country. We need urgent action if we are to reform our system, to return to the roots, the ideals that made college affordable for generations past, and hopefully for this generation and generations to come. Back in the 1970s and 1980s when several Members of today's Senate were college students, the Pell grant, which is the cornerstone of our Federal student aid programs, covered as much as 72 percent of the cost of attendance at a 4-year public college.

For the 2014–2015 academic year, the maximum grant is expected to cover less than one-third of the cost. Investing in things like Pell grants is critical to ensuring the doors to higher education remain open to all students with the talent and desire to pursue a college degree.

Young people today deserve the same fair shake that Members of this body got when we were undergraduate students, when grants and not loans covered most of the cost of college.

Now, I was fortunate enough at 17 to join the Army and attend West Point. So I did not have to face the rigors of financing college education. But everyone I know in my generation will tell you it was easier then because there was a strong Federal commitment to supporting men and women of talent and desire to go on to college. Ever-rising costs today are just pricing out a whole generation from college education.

We see more and more hard-working young people and their families falling behind as they try to pay for their degrees that were supposed to help them get ahead. In fact, an analysis of student loan debt by Demos predicts that today over $1 trillion in outstanding student loan debt will lead to a total lifetime wealth loss of $4 trillion for indebted households. Not only do people start off after college with great debt, but their ability to build assets in the future is also reduced. So it is a much deeper hole than even the initial debt.

Student loan debt is jeopardizing this generation's ability to buy a home, to start a business, to start a family, to do things that my generation took for granted after getting out of college. For the last 30 years, tuition increases have outpaced inflation. Outstanding student loan debt has quadrupled since 2003. It is time for action.

First, we must provide relief for borrowers who are currently repaying their loans. We must ensure that student loan servicers are held accountable for providing borrowers with accurate and clear information and the full range of borrower benefits they are due. That is why I was pleased to join Senator DURBIN in introducing the Student Loan Borrower Bill of Rights Act.

Even more important to families' bottom line is reducing their payments and overall debt burden. We should allow borrowers with high fixed-rate loans to refinance at the lower rates approved on a bipartisan basis under the Bipartisan Student Loan Certainty Act that became law last year. That is the premise of Senator WARREN's Bank on Students Emergency Loan Refinancing Act which I am also very proud to cosponsor.

I hope my colleagues will let us vote on this proposal so we can provide relief to millions of Americans who are struggling under the weight of student loan debt.

We also have to demand more responsibility from colleges and universities. While student loan debt skyrockets, we are also seeing college executive salaries climb ever higher. Clearly institutions need to have more skin in the game when it comes to student loans. That is why I introduced, along with many colleagues, the Protect Student Borrowers Act, specifically with Senators DURBIN and WARREN. The Protect Student Borrowers Act will hold colleges and universities accountable for student loan default by requiring them to repay a percentage of defaulted loans. As the percentage of students who default rises, the institution's risk-share payment will rise. Essentially, they will now have an interest, and a real interest, in ensuring that their students take out appropriate loans and they have coursework that leads to remunerative employment after they graduate. Colleges can play a key role in all of these things. Today it is a spotty record. Some are very good, some are indifferent, and some are very bad.

The Protect Student Borrowers Act also provides incentives for institutions to take proactive steps to ease student loan debt and reduce default rates. Institutions can reduce or eliminate their payments if they implement a comprehensive student loan management plan—again, if they talk to their students, if they advise them what to do, if they help them manage this debt.

The risk-sharing payments will be invested to help struggling borrowers, preventing future default and delinquency, and reducing shortfalls in the Pell Grant Program. This money will stay in the system to help other students.

With the stakes so high for students and taxpayers, it is only fair that institutions bear some of the risk in the student loan program. I would argue a basic premise, that they will do a lot better as custodians and managers and advisers for the students when they have money at risk.

Right now, it is the students and their families who bear it all—and the government, if there is default. As a result, you don't have the active participation at the institutional level that could make a real difference.

In many respects, this is a lesson we learned, at a very expensive cost, during the financial crisis in the mortgage markets, where mortgage makers had no interest in who was borrowing money. They didn't care if they could pay it back, because the minute the paper was signed, they sold it off to the secondary market and they walked away to the next closing. We can't have that attitude pervasive in higher education.

We know there are many forces that are driving increases in costs in higher education, and one of the cost drivers is, frankly, the falloff on State contributions to public higher education. According to the State Higher Education Finance report, state spending per full-time equivalent student reached its lowest point in 25 years in 2011.

I have introduced the Partnerships for Affordability and Student Success Act to reinvigorate the Federal-State partnership for higher education with an emphasis on need-based grant aid. Remember back in the sixties and seventies, nearly 80 percent of the financing was grant aid. You didn't have to pay it back. You had a chance to get an education and start off without a lot of debt.

Simply put, I believe the States have to begin to renew their investment in education at the college level.

I urge the Senate to come together with a sense of real urgency on finding solutions to all of these issues, to move forward, and to give this generation and the next generation the same opportunity that many of us here took for granted in the sixties, seventies, and eighties.

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

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. I thank my colleague from Rhode Island, who has been such a champion and a leader in these efforts over so many years. Well before I came to the Senate, he was there working and fighting for more affordable loans for our students.

The comments that have been heard on the Senate floor over the past hour reflect a growing awareness and worry in the country, a worry about what happens to America in the future, whether we will leave a lesser America, and whether the American dream will be not only deferred but denied to so many students who are wondering and worrying right now about their personal futures as well as the future of the country.

These comments and this conversation will be extended over this day and the days to come as we prepare for a crucial vote next week on this bill. One of the chief authors of this bill, Senator WARREN, is to be thanked and commended. She will be on floor later today or tomorrow to speak for herself, but she has shown, through her career, how often people who most need this kind of help, whose finances most cry out for this assistance, are impacted, and in fact constrained in their futures by the big banks and lending institutions that take advantage of them—and, in this case, even the U.S. Government itself that is profiting off their backs—billions of dollars in profit at the expense of our students when we should be investing in them.

We have an obligation and a historic opportunity to make things right for young people and older people, whose present lives are impacted and whose futures are constrained by the daunting and financially crippling overhanging debt. It is an overhanging debt that impacts our economy because it prevents the entrepreneurs from taking risks. It prevents young people from buying homes and starting families. It financially cripples our economy as well as those individual lives.

So in the light of self-interest, we ought to argue for all of us to support this legislation. For myself, I am going to be listening to those students who discussed their futures with me at Ansonia High School, Stanwich, at roundtables across Connecticut, at the commencements where I spoke, and the college students who spoke to me at Quinnipiac, or the law school students there who talked to me about how their present lives and their spirit, their hope for public service, as well as for gaining for themselves the promise of their futures, will be impacted and maybe put out of reach by the debt they have, not just hundreds of dollars or thousands of dollars, but tens of thousands of dollars and, for some, hundreds of thousands of dollars.

We can do better for them and for ourselves if we enable them to refinance. Right now, student debt is not only one of the few debts that is nondischargeable in bankruptcy, but it is one of the few debts that is nonrefinanceable.

Let's treat these students as we would other debtors. In fact, let's give them a fair shot. Let's give our country a fair shot.

I am proud to support this legislation. I thank all of my colleagues who are here today, and all who will support—I hope on both sides of the aisle—this vote we will have next week.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I rise for a moment to talk about the Sylvia Burwell nomination, pending confirmation to be Secretary of Labor at HHS, and also to talk about the Affordable Care Act, because you can't separate the two.

I have the good fortune of being on the Health, Education, Labor and Pensions Committee and the Finance Committee. The good fortune of that is it allowed me to twice be able to interrogate—and I use the word interrogate understanding its many definitions—Ms. Burwell over issues that were important to me both in the Health, Education, Labor and Pensions Committee, as well as in the Finance Committee.

I found her to be articulate, forthright, straightforward, and candid—something we haven't had in the Secretary of Labor-HHS for the last year or so. I am looking forward to having somebody in there who will be able to answer the hard questions. I might not like the answer, I might not agree with the solutions, but I like having somebody who has the intellect, the capability, and the willingness to communicate with Members of Congress, regardless of their party. So I will vote for Sylvia Burwell to be confirmed as Secretary of Labor and HHS, and I wish her the best.

No one should confuse that vote, however, for being a vote in support of the Affordable Care Act and what it is doing to health care in the United States today. I want to talk about that for a second. Some of these things I want to talk about are questions I asked Ms. Burwell in the confirmation hearing.

When I was on the Health, Education, Labor and Pensions Committee, and we did the markup in terms of the health care bill, we met for 69½ hours. I heard every debate on every amendment; I heard every debate on every philosophy; I heard every proposal that was made, and it became quite clear to me that the premise of that legislation, based on the President's recommendation, was diametrically opposed to my personal philosophy in terms of where government's role should be.

I think the President—and it has been said by the leader HARRY REID recently—thought a single-payer health care system was the right way to go. I think the Affordable Care Act is designed to drive America toward a single-payer health care system.

I would rather have a competitive private sector system that is on a playing field that the government makes sure is fair and level but that the winners and losers in health care become those who compete the best in terms of quality and service.

In fact, the intent of the ObamaCare act and Affordable Care Act has directed a lot of things to happen. Three of them were not good.

Premiums have gone up. The costs to the consumer have gone up, principally because taxes have been levied on the insurance industry. That is No. 1.

Access has been more limited and more restricted based on the Bronze Plan, the Silver Plan, the Gold Plan, and differences between the exchanges.

Third and foremost, there is a great uncertainty in America about what happens next and where health care is going, because the President has selectively given waivers and put off the impact of certain provisions of the law, while lifting up and actually repealing with his own signature and his own pen provisions that were in the law. So there is a lot of uncertainty.

Two things I want to focus on from the cost standpoint. One of them is what is called the HIT, the health insurance tax, which went into effect this year. This year $8 billion in taxes were levied against small- and medium-size group insurance providers in the exchanges for health care. It is an arbitrary number that was used to help determine and pay for the Affordable Care Act, and it is assessed based on the market share of the companies.

Think about this for a second. The U.S. Government is taxing health insurance providers based on their market share of health insurance, and adding that cost to where? To the premium that is paid by the consumer.

It has been estimated that the premium cost is going to go up about $512 a year for the average consumer, just in order for the moderately small- and medium-sized group provider to pay the fine or pay their share of the tax of $8 billion. That $8 billion in 2014, in 2019 goes to $14.3 billion and will go up ad infinitum as it will continue to climb—which means costs will continue to climb.

Access has been restricted because a lot of people aren't playing in the system. A lot of specialty hospitals have chosen not to join the plans. That has meant that specialty care to a lot of children and adults is not available.

Another problem we have had is with navigators, and I want to focus on the navigator point for a second, because it fundamentally underscores my belief in the private sector.

For years I ran a business. It was a business where we had some employees but mostly had independent contractors. We provided group medical benefits for our employees, but only access to salesmen who would sell group plan health plans for independent contractors.

They got a commission when they sold a plan, when they provided the services, and the employee or the independent contractor in my company decided to buy. What we did in the Affordable Care Act—or what the Affordable Care Act and those who voted for it did—it basically did away with all the salesmen in the country who were selling group medical plans to individuals and small businesses. Why? Because it had a medical-loss ratio maximum of 80 percent or 85 percent, meaning your medical costs had to be 80 percent to 85 percent of the premiums. Administrative costs could only be 15 to 20, and it counted the commission for selling the product as an administrative cost, which meant commissions weren't available to be paid.

So what happened? All the people in sales in terms of group medical insurance got out of the business and went to selling something else. What happened because of that? Navigators came about.

So we ended up hiring a bunch of unqualified, unknowledgeable, limited-talent people as navigators to offer to try and sell insurance under the new exchanges created by the ObamaCare act. What happened is sales of those policies were not very robust. In fact, it was very difficult for the President to get his minimum goal of 7 million people being covered. Why? Because the navigators weren't salesmen, No. 1; No. 2, they weren't as well educated as they should have been; and, No. 3, the States did not embrace it.

So that is the private sector solution that had been used for years and years in our country; that is, independent agents making sales of independent insurance products through independent contractors. That has now gone away. They have to now go find an employee who is a navigator, who has no incentive, because they are on a salary and not a commission, to provide a plan or to sell a plan. They merely are there to collect their paycheck and offer information, if in fact somebody can find them.

My point is this: Ms. Burwell is taking on a serious challenge in terms of Labor HHS. The Affordable Care Act presents a lot of problems in terms of access, cost, and quality of health care for the American people that will only get greater as the years go by. We are going to take somebody of her competence and her candid nature to help us join together to see to it that what has become a major problem that looms for our country, the Affordable Care Act, is revisited to look at a new way to go back to the private sector, go back to competition, go back to a level playing field and out of the business of selective taxation, less access, more cost, and more bureaucracy. That is what we have with the Affordable Care Act right now. That is what is untenable.

I wish Ms. Burwell the best. I intend to be very aggressive and active in my work on the Health, Education, Labor, & Pensions Committee and the Finance Committee in trying to get to the bottom of some of the questions that have gone unanswered from the Department. I wish her the best, and I hope I get the answers to those questions when she is confirmed as the new Secretary of HHS.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

(The remarks of Mr. ROBERTS pertaining to the introduction of S. 2430 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ROBERTS. I yield the floor.

Mr. President, I note 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 Indiana.

Mr. COATS. Mr. President, I ask unanimous consent that the quorum call be rescinded.

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

ENERGY REGULATION

Mr. COATS. Mr. President, this last fall Environmental Protection Agency Administrator Gina McCarthy embarked upon a national listening tour to gather feedback on possible new energy regulations that could be ordered by the Environmental Protection Agency's regulatory power. Notably absent from her tour across the Nation were the major coal-producing or user States.

Now, my State of Indiana was notably absent from that despite our request that she listen to what Hoosiers had to say about their source of energy, what it does for the state's economy, how it helps attract jobs to our State, and how it helps our residents to keep utility bills in line. So we were very disappointed that we were not included in that listening tour. Other States, surprisingly—or maybe not surprisingly—which are also coal-producing energy States were also bypassed. Apparently, they didn't want to hear from us.

I think on Monday we found out exactly why it was done that way, because in the latest installment of the administration's ongoing ''war on coal'' as it is described, Administrator McCarthy announced that the EPA is putting forward new rules on existing fossil fuel powerplants. These new proposed regulations are essentially an energy tax that will damage our national economy as well as the economy of Indiana and hike electric bills for every Hoosier.

As the seventh highest coal-producing State in the Nation, Indiana relies on coal-fired electricity to meet well over 80 percent of its energy needs. Our industry provides thousands of jobs and contributes three-quarters of a billion dollars to the Indiana economy. Because of this, the EPA proposed rule will place a choke hold on Indiana's primary and most affordable energy source, driving up utility costs, and putting our State at a disadvantage in competing with other States to lure companies and to attract residents.

It is worth noting that the EPA's announcement ignores the progress the utility industry has made in recent years, and, in fact, in recent decades. Energy providers in Indiana and across the country have spent billions of dollars to control air pollution that has resulted in significant declines in emissions. In fact, we have significantly cleaned our air and water through environmental regulation and through capital investment to produce an environment that is the envy of many nations. This has been done at a competitive disadvantage to our companies, because we are competing in a global economy and we know that nations such as China and India and others have not made the same commitment that Americans have in controlling their emissions.

We have also been a leader in Indiana in reclamation and restoration on the mining front. So those who say it is a desecration of the land to extract coal need to come and see what we have done in terms of reclamation. Instead of barren hillsidesbarren of grass and trees, you will find lush pastures and scenic views where you would never have known mining had taken place.

Penalizing Hoosier energy producers with unattainable environmental restrictions, I believe, is the wrong approach. In effect it is a backdoor way

for unelected bureaucrats to impose regulations similar to the cap-and-trade scheme previously pushed by the White House. Not only did a totally Democratic-controlled Congress fail to pass this similar proposal in 2010, I think it is clear that there will not even be 50 votes for the EPA's proposed regulations in the Senate today, much less the 60 votes required for passage. I think the President realizes this.

So what does he do? He bypasses Congress, which I think is an unconstitutional means of enforcing what ought to be done through legislation—debated and passed by those who are elected and are responsible to the people who elected them—and bypasses that by essentially moving it to an agency and saying: You do it by rulemaking. Then unelected bureaucrats make the decisions that we ought to be making in this Congress.

This is not the first time that one country has had to limit one type of energy to the detriment of economic growth and the pocketbooks of hardworking families. These new sweeping rules on coal-fired powerplants brought to mind my friends in Western Europe. As U.S. Ambassador to Germany from 2001 to 2005, I had a front row seat for the similar transition away from fossil fuels that most Germans now regret.

When the German legislature passed a renewable energy law in 2000, Germany gave solar and wind producers 20 years of fixed high prices and preferable access to the country's electricity grid. Following a fashionable green wave of the moment, the main political parties in Germany reached a hasty decision to phase out all 17 of that country's nuclear power plants. German leaders vowed to eliminate clean nuclear power while simultaneously aiming to reduce carbon emissions from 80 to 95 percent by 2050. These overly ambitious and seemingly contradictory targets they said would be achieved by an extravagant government plan to encourage the development of renewable energy production methods.

Under the plan the so-called ''energiewende'' or ''energy transition'' renewables, mostly solar and wind, would supply—they said—80 percent of Germany's electricity and 60 percent of the country's total energy requirements. If those goals look impossible, it is because it has been impossible for them to reach and they realize that. Germany's ongoing subsidization of alternative energy means Germans pay significantly higher prices for energy than the global average, putting their industries at a competitive disadvantage. Their consumers pay some of the highest electric rates in the world.

Earlier this year the German government revealed that nearly 7 million families—and they only have 80 million in the country—are in ''energy poverty,'' meaning they have to receive major subsidies from the government in order to pay their electric bills. Today German citizens and their businesses and manufacturing entities complain loudly about these extra costs that Americans and most other European nations do not face. It has triggered a potential crisis from an economic standpoint. Companies are threatening to move offshore, elsewhere in Europe or to the United States or to other places. Users and residents are complaining loudly about the fact that they are subsidizing an unworkable plan.

While the government subsidies finance inefficient technologies and the government obsesses about emissions goals, Germany has ramped up its coal use, ironically, to 45 percent of total electricity generation.

Think about this for a minute.

A government plan to mandate and subsidize alternative energy sources, to close their nuclear plants, to cease using coal-fired plants to provide power has now put Germany in a situation where 45 percent of its energy is provided by the import of coal—high sulfur coal with high emissions, because that is what burns the hottest.

Now the question here is: Can we learn some lessons from this? What we are embarking on here essentially is a plan very similar to what has already been tried and failed. This is a cost too high for our economy in the United States. Without a course correction, I think President Obama's war on coal will receive the same results as Germany's or perhaps even worse, higher prices and real potential for electricity supply disruptions.

I talked to a number of the electric companies that derive from coal a source of energy that provides a very reliable base load. Base load is what you absolutely have to have to keep the lights on and to run the factories and to keep energy flowing. Their concern is that the current plan will disrupt that base load to the point where we cannot guarantee energy will reach homes at a time when a polar vortex has put people at subzero freezing temperatures or when the temperatures climbs to triple digits during the summer. These baseloads cannot be reached by turning windmills, and many days—particularly in my State and others—the Sun is not shining. That is not a dependable source for providing the baseload that is necessary, particularly at times of stress on the system.

President Obama has often seen elements of European socialism as something he would like to impose on Americans. Well, this is one time when I think the President should learn from European socialism and European mistakes and avoid duplicating the situation in Germany by simply letting proven energy providers do their jobs and produce the energy that is needed.

Once again, I have to say the United States has a pretty commendable record of addressing the issues of emissions. We all want clean air, we all want clean water, and we all want to have a safe environment for ourselves, our children, and the future.

Hundreds of billions, if not trillions, of dollars have been spent over the years trying to control those emissions, and we have a pretty good record. Can we go farther? Absolutely. Can we do more? Absolutely. Can we put ourselves on a much more sustainable path to a cleaner environment with less emissions? Absolutely. But setting a mandatory number in terms of percentage and a mandatory deadline in terms of reaching something that has proven to be unreachable and threatens our ability to provide sustained energy to our businesses and residents is something we need to take careful assessment of before we rush into arbitrarily setting a rule that bypasses the debate that would take place in Congress, bypasses the positions of our elected Members of this Congress, and done through a process the Constitution has established in terms of how we make decisions.

I urge my colleagues and the President to take a second look at what the possible consequences could be. It is nothing but pie in the sky, ideologically driven rules and regulations that are driving this. We have a model of a major industrial nation that has taken similar steps and has seen those steps fail.

Again, I urge my colleagues to look very carefully at what is happening through this proposed rule, and I trust we will be able to effectively address this situation in a responsible and reasonable way.

I see my colleague from Tennessee is prepared to remark on perhaps this or something else, but there is probably no one better suited to talk about alternative energy and its consequences than my colleague Senator ALEXANDER.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I am delighted to be on the floor to hear the distinguished Senator from Indiana, and former Ambassador to Germany, tell the story of Germany, which has gotten itself into what can only be described as an energy mess.

He summed it up pretty well. They basically adopted the policies the President seems to be suggesting. Where did they end up? They closed their nuclear plants and they are buying their nuclear power from France. They subsidized wind and solar, and now they are buying natural gas from Russia—of all unreliable people. As a result of all this, they ended up having to build coal plants.

I think I was with the Ambassador in Germany, and I said to the Economic Minister: This has produced a situation where you have nearly the highest electricity prices in the European Union. What do you tell a manufacturer when they say they want to come to Germany? The minister said: I tell them to go somewhere else.

Well, somewhere else is the United States today, and we want those jobs.

I thank the Senator for his experience.

I come to the floor on another subject. Tomorrow we will vote on the nomination of Sylvia Matthews Burwell to be the Secretary of Health and Human Services. I intend to vote yes on the nomination. Ms. Burwell has a reputation for competence, and she is going to need it. She is being asked to oversee a big mess this administration has created in health care and so far has lacked the leadership to clean up. Republicans know how to clean it up. We want to take our health care system in a different direction, and we need to be able to work with Ms. Burwell to do it.

In a few minutes, I am going to spell out two things: first, what Ms. Burwell can do to avoid the mistakes of her predecessor in working with Congress and serving the American people, and second, what Republicans would like to do with our health care system. I have five items to suggest for her to work on with us.

No. 1, end the secrecy. Last year I said the NSA could have learned something from Secretary Sebelius because getting information about the ObamaCare exchanges was next to impossible for Members of Congress.

The administration owes the American taxpayers and their elected representatives under the Constitution information about how the administration is spending our money. We should not have to rely on anonymous news sources.

No. 2, work with Congress. This administration has made at least 22 unilateral changes in the new health care law, many of which should have been made by Congress. At this rate, the President may be invited to speak at the next Republican convention for having done the most to change his own health care law.

Our Founders did not want a king. Some Presidents have stepped over the line the Founders intended, but I don't think any President has gone as far as this one. He has appointed more czars than the Romanovs. He made recess appointments when the Senate was in session. He turned his Education Secretary into the chairman of the national school board. This President has swung the furthest from the kind of elected leaders our Founders envisioned, George Washington modeled, and our Constitution prescribed.

Will Ms. Burwell follow the President's steps or will she seek to work within the framework of the Constitution? I hope she chooses the latter.

No. 3, please don't solicit from companies you regulate. This is pretty simple, but the former Secretary solicited from companies she regulated, and she should not have. This kind of behavior should leave with her.

No. 4, be a good steward of taxpayer dollars. Apparently the government is set to spend more than 1 billion Federal tax dollars in technology costs on the ObamaCare Web site. We know that nearly $½ billion was wasted on four failed State exchanges. This kind of waste makes American taxpayers furious. They earned those dollars, paid those taxes, and don't deserve to see that money flushed down the drain by Washington bureaucrats who didn't care enough to see that things were done right.

No. 5, show Americans some respect. That means don't announce major policy changes in blog posts. When Congress asks if you are in trouble, don't pretend everything is fine. If Secretary Sebelius had been upfront about the Web site problems before the rollout, we might have saved Americans precious time and money.

Most importantly, recognize that the majority of Americans disapprove of the new health care law and start taking a look at Republican health care proposals as a way to repair the damage done by ObamaCare.

At Ms. Burwell's hearing before the Senate HELP Committee, where I am the ranking Republican, I laid out again what Republicans would do if we could—what we would like to do with our health care system. We have been saying this since 2009 when the legislation was first introduced.

When I was a boy, my grandfather was a railroad engineer in Newton, KS. He drove a big steam locomotive. He would drive a switch engine into a roundhouse and onto a turntable. It might have been headed to Santa Fe, and then he would turn it around and head it off to another direction, maybe to Denver or Houston. It is hard to turn a big train, so that is what they had the turntables for.

Ms. Burwell understands this. She is from a railroad town in West Virginia, as it turns out, and that is what Republicans would like to do with our health care system, we would like to turn it around and head it off in a different direction—not back but in a different direction. We want to repair the damage ObamaCare has done, and we want to prevent future damage as responsibly and rapidly as we can. We would like to move in a different direction to put in place health care proposals that would increase freedom, increase choices, and lower costs. We trust Americans to make those decisions themselves, and we believe that is the American way.

Four years ago Congress and the President made what we believe was an historic mistake. Congress passed a 2,700-page bill. Republicans said we don't believe in trying to rewrite the whole health care system. Let's instead go step by step to create more freedom, more choices, and lower costs.

Let me take you back for a moment to the health care summit at the Blair House 4 years ago. The President invited three dozen Members of Congress. He spent 6 hours with us, all on national television. I was asked to speak first for the Republicans. I said what I thought was wrong with the President's plan. I said it would increase health care costs, and it has.

USA Today reported that health care spending in the first quarter of this year rose at the fastest pace in 35 years. The Hill newspaper reported that insurance executives say premiums in the new exchanges will double or triple in parts of the country the next year. Even with subsidies, many Americans are finding that deductibles, copayments, and out-of-pocket expenses are so high they can't afford health insurance.

We said people would lose their choice of doctors, and many have. We said ObamaCare would cancel policies, and it has. At least 2.6 million Americans have had their individual plans outlawed by ObamaCare. I remember that Emilie from Lawrenceburg, TN, had a $52-a-month policy. She has lupus, and her policy fit her needs and her budget. It was canceled. Now she is in the exchange, and it costs about $400 a month. She says it is more coverage than she needs and she can't afford it.

Millions more Americans who get their health care through small businesses will find the same thing will happen to them later this year.

We said jobs would be lost, and they have. The President of Costa Rica is hosting jobs fairs and welcoming medical device companies that have been driven out of the United States by the onerous 2.3-percent tax on revenues.

We said Medicare beneficiaries would be hurt, and they have. The average cut for a Medicare Advantage beneficiary will be $317 between this year and next.

We said the only bipartisan thing about the bill would be opposition to it, and it is. A recent Gallup poll says that 54 percent of Americans are opposed to the law.

During the debate, I said every Senator who voted for the new health care law ought to be sentenced to go home and serve as Governor in their home State and try to implement it. There are 16 Governors struggling with that today who won't implement the Medicaid expansion because they are worried about costs down the road, and they should.

When I was Governor of Tennessee, Medicaid costs were 8 percent of the State budget, and that was in the 1980s. Today it is about 30 percent. These Governors are wondering what costs will be in 10 years.

The most important thing we said was what we would do if we could. We said: Let's go step by step in a different direction. Our Democratic friends said: Wait a minute, that is not a comprehensive plan. We said: You are right; we don't believe in comprehensive. If you are expecting MITCH MCCONNELL to wheel in a wheelbarrow with a 2,700-page Republican health care bill on it, you will wait until the Moon turns blue because we are policy skeptics. We don't believe we are wise enough to write a 2,700-page bill that will change the whole system, but we believe we can go step by step in the right direction, and we outlined our steps.

Senator JOHNSON has a proposal that would allow more Americans to keep

their insurance plans, as the President promised.

Senator MCCAIN has a proposal that allows you to buy insurance in another State if it fits your budget and your needs.

Senator ENZI has a proposal for a small business employer so that he or she can combine purchasing power with other employers and offer employees lower cost insurance.

Senators BURR, COBURN, and HATCH have a proposal to allow to you buy a major medical plan to ensure you against a catastrophe and a health savings account to pay for everyday expenses.

I have a proposal to make it easier, not harder, for employers to reward employees who live a healthy lifestyle. That is what we mean by doing what my grandfather did with that train and turning it around and heading it off in a different and correct direction.

As rapidly and responsibly as we can, we would like to repair the damage ObamaCare has done. We would like to prevent future damage. We want to move in a different direction that provides more freedom, more choices, and lower costs. We trust Americans to make decisions for themselves. That is the American way.

Since President Obama will still be in office for the next 2 years, if Ms. Burwell is confirmed, as I fully expect she will be by a good vote, we will need her help to accomplish that.

I thank the Presiding Officer, and I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

VA CHALLENGES

Mr. VITTER. Mr. President, I rise to discuss important veteran and VA issues—issues we are all properly focused on like a laser beam right now—and I will be joined over the next several minutes by Senators RUBIO, INHOFE, and HELLER, who share all of my concerns.

I have been coming to the floor pretty relentlessly—because apparently that is what is necessary—to talk about one specific priority with regard to veterans in Louisiana; that is, moving—there is no good reason we can't move—on expanding outpatient clinics that are overdue in 27 locations and in 18 States, including 2 new expanded outpatient clinics in Louisiana, specifically in Lafayette and Lake Charles. These clinics have been planned for, on the books, and paid for for several years now. They are not being built, they are not being moved into purely because of an administrative glitch at the VA that delayed the whole process by a year. Then, in that intervening year, a so-called new scoring issue came up on Capitol Hill at the CBO. We have blown through all of that. We have solved those problems, finally, after a lot of delay. We have solved those problems, and now there is absolutely no reason to not take up a bill that has been passed by the House, put a simple amendment on the bill and pass it through the Senate, and get on with building these new and necessary expanded VA clinics at 27 locations around the country, in 18 States, obviously including the State of Louisiana. There are two locations there, as I mentioned—in Lafayette and Lake Charles.

I again take the floor in the context of this much broader VA scandal to urge us to come together and act in this simple but important way. I have been coming to the floor to urge this action for months now—well before this current VA scandal erupted. But I think that new context of this national VA scandal makes bipartisan action on this and anything else we can agree on more necessary than ever. So I again urge all of my colleagues to come together to get this simple but important work done and to continue to work on all of the other very necessary changes we need at the VA.

In terms of these 27 outpatient clinics, there is no disagreement about this. A bill has been passed through the House—with one dissenting vote—to get this done. It sits in the well of the Senate. There is no objection to the merits of the bill as long as we add one perfecting amendment that has been worked out with every Member of the Senate. There is no substantive objection to that. However, it has been held up and objected to by Senator SANDERS, the head of the veterans committee, purely because he wants to use it as leverage to pass his much broader veterans bill on a host of other topics.

As I have said many times before, those other topics are very important. Those broader topics have only been underscored in the last few weeks with this developing VA scandal. We need to address many areas, but we shouldn't hold veterans hostage and we shouldn't hold up progress in any area we can agree on simply to create a hostage to try to forge movement in these other areas.

In fact, in terms of that general proposition, I think Senator SANDERS agreed with me. Back on November 19 of 2013, Senator SANDERS adopted and endorsed this approach with regard to other matters. There was another set of work on other veterans issues, and issues were worked out so that a specific proposal could move forward by unanimous consent. Senator SANDERS came to the floor and basically said: Yes, let's agree on what we can agree on. Let's move forward with what we can move forward on.

I am happy to tell you that I think that was a concern of his.

He was speaking about another Senator on this other veterans issue.

> We got that UC'd last night. So we moved that pretty quickly, and I want to try to do those things. Where we have agreement, let's move it.

Senator SANDERS was urging us, particularly in the context of the overall VA scandal and VA mess: Let's start acting. And where we have agreement, let's move it.

We are not going to solve every veterans problem in one bill overnight, but we can start. A bite at a time, a step at a time, we can start to do positive work, and these 27 clinics in 18 States are very positive, very concrete.

So where we have agreement—and we have complete agreement in this area—''let's move it''—a direct quote from Senator SANDERS from late last year. I am sorry to say that Senator SANDERS is not allowing us to move it. We have absolute agreement on the substance of these clinics. We can call that bill off the calendar right now. We can put the perfecting amendment on it. There is absolutely universal agreement on the substance of that bill with that amendment. But we are not moving it, apparently because he wants to use that as some sort of leverage for other VA proposals. I want to work on those proposals, but where we have agreement, let's move it.

Veterans want us to come together in a bipartisan way. They want us to act not in a month or a year, not after more and more studies, they want us to start to act now where we can, where we have agreement.

I think it is very important that we act. It is very important that we do so in a bipartisan way. This is one focused area where that is possible immediately, today, so I urge us all to do that.

There are other areas where we need to act. Senator SANDERS is in discussions with many of us, being led on the Republican side by Senators BURR and MCCAIN. I hope that broader agreement comes together. I hope it comes together very soon. I have been assured by both sides—by Senator SANDERS on the Democratic side and Senators BURR and MCCAIN on the Republican side—that certainly this clinic issue will be included in any such agreement. But let's come together here and now where we have agreement—and we do on these clinics. Let's act for veterans as soon as we can, and we can right now with regard to these clinics.

I urge us to adopt that positive, commonsense approach: Act where we have agreement, immediately. Build consensus and continue to work on those areas where there is continuing discussion, and act and build agreement and build consensus as quickly as we can in those other areas. I urge us to do that as soon as we can, wherever we can, whenever we can, and that can start today—if Senator SANDERS will let us—with regard to these 27 expanded outpatient clinics in 18 States.

I see Senator HELLER has joined us on the floor, and I will defer to him. I look forward to the comments of Senators RUBIO and INHOFE as well about the broader veteran and VA challenges as well as this specific clinics issue.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. HELLER. Mr. President, I first wish to thank my good friend from Louisiana for putting together a proposal that would ultimately increase

veterans access to care. As does he, I believe our veterans are entitled to a VA system that provides them with the services they were promised—not only promised but to receive them in a timely manner. As my colleague from Louisiana mentioned, I support his efforts to authorize 27 VA clinics, and I cannot understand why the Senate is not acting on this commonsense proposal.

I would also like to thank my other friends; for example, Senator RUBIO from Florida, who is fighting to bring some sort of accountability to the VA. His bipartisan, bicameral proposal is a much needed step in the right direction to give the VA the tools to fire VA executives who are not doing their jobs.

Unfortunately, after talking extensively with veterans in Nevada, I believe these problems of management, of accountability, and of efficiency extend well beyond the Veterans Health Administration. The Veterans Benefits Administration continues to struggle to eliminate the veterans disability claims backlog as it operates in what I consider to be a 1940s system here in the 21st century. There are more than 3,600 veterans in Nevada and nearly 300,000 nationwide who are stuck in a VA disability claims backlog. My home State of Nevada has the longest wait in the Nation at 348 days for a claim to be processed.

What veterans need is for Congress to take action to reform a broken, outdated claims-processing system. That is why Senator CASEY and I came together a year ago to address this issue with a targeted approach to fix the claims process. So here is what we introduced. It is the ''VA Backlog Working Group March 2014 Report.'' These solutions we are speaking about are included in our 21st-century Veterans Benefit Delivery Act, which Senator CASEY and I introduced in March.

Our legislation addresses three main areas of the claims process: submission, VA regional office practices, and the agency's response to VA requests. I recognize that the claims process is complex, and there is no silver bullet that will solve this problem, but the VA's current efforts will not eliminate this backlog.

I think my colleagues here today would agree this is a bipartisan issue. There isn't a Member of the Senate whose State is not impacted by the VA claims backlog. Yet this bipartisan legislation remains in the backlog of bills yet to be considered by the Senate.

It is past time for Congress to give this issue the attention it deserves. Congress needs to reform the VA and when doing so cannot ignore the problems that plague its benefits administration.

Thank you, Mr. President.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I wish to applaud the work of the Senator from Nevada and echo his sentiments. I am a member of this bipartisan working group on the claims backlog. I am a coauthor of the bipartisan legislation he helped spearhead, along with Senator CASEY. It is another very good example of a bipartisan consensus where we can act. We can move it. So let's come together and let's act in a responsible, bipartisan way, and let's move it. That is what veterans want. That is what veterans tell me all across Louisiana. That is what the veterans service organizations are saying.

This crisis demands action. It demands bipartisan action. This is an area where we can act now and act effectively. We should. The clinics I spoke about are an area where we can act now and act effectively in a bipartisan way. We should.

I also applaud Senator INHOFE, who may be coming to the floor, for his leadership on this clinics issue. We need to authorize those and move on with them and get that done.

I also thank Senator RUBIO, who will be speaking later about the legislation he has that has already passed the House to give the leadership—the new leadership, thank goodness—of the VA the authority they need to take dramatic action when necessary, to clean house when necessary, and get people in place who are going to make a difference in that broken bureaucracy.

So let's act now, in a bipartisan way, where we can. Again, that is absolutely possible in these areas, including these 27 outpatient clinics in 18 States, the 2 in Louisiana that I discussed.

We have complete agreement in the Senate on the substance of these clinics. We have legislation that has already passed the House. So please, Senator SANDERS, release your obstacle, release your blockade. Let's move forward. Let's agree where we can agree. Let's act where we can act, here and now, and continue to work on those other vital areas where we also need agreement.

There is a common saying: Time is money. Well, in terms of what we are talking about, time can be lost lives. We have seen cases of that, documented cases of that with regard to veterans who were waiting for so long they died. Time in health care can be lost lives.

This past week, as I traveled in Louisiana, I had a townhall meeting in New Orleans, among other places, and a New Orleans police officer—a female police officer—came and told me about the case of her father who, because of a lack of attention and time lapsed in the VA system, died, literally died directly related to that. Her name is Gwen Moity Nolan, and although she has lost her father, she wants to make sure that does not happen to any other veteran's family, that what happened to Richard Moity does not happen to others. Her case was looked at by the VA, and they admitted fault, they admitted negligence, and they actually reached a substantial settlement with her over their lack of attention to her father. But she really wants to make sure that does not happen to any other veteran's family. She came to me pleading: Can you make sure they have taken the necessary steps to fix those problems in the New Orleans VA?

So I have written to the VA and said: I want to see the results of that investigation with regard to Richard Moity. You say you have taken corrective action? I want to understand exactly what that corrective action is.

Time is money? No. In this case, time can be lost lives—the life of Richard Moity, the lives of veterans in Arizona, the lives of veterans around the country for whom inattention, delay, and lack of responsiveness in the VA system meant lost lives.

So let's not delay here in the Senate. Where we have agreement, let's move, let's act. We have agreement on these clinics. We have agreement on action to address the VA backlog Senator HELLER talked about. Let's act. Let's move because delay can lead to serious consequences in health care, even the loss of life.

I thank Senators INHOFE and RUBIO, who may be coming to the floor later to talk about these issues, for their determined work. I look forward to moving on this issue. I look forward to Senator SANDERS hopefully reaching agreement on a broader set of proposals, including this clinics issue, in the very near future, and if not, I will be back to the floor demanding action on these clinics within a few days.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The Senator from Vermont is recognized.

(The remarks of Mr. LEAHY relating to the introduction of S. 2428 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. LEAHY. Mr. President, I do not see anybody seeking recognition, so 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. WHITEHOUSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

CLIMATE CHANGE

Mr. WHITEHOUSE. Mr. President, I am here for the 69th straight consecutive week that the Senate has been in session to try to wake us up to the harm that carbon pollution causes to our oceans, to our communities, to our ecosystem, and to our health.

The effects of climate change are all around us, from melting glaciers in our national parks, to drought-stricken land across the American Southwest, to rising seas along my eastern seaboard. In Washington, DC, the iconic cherry blossoms are blooming earlier. Snook, native to South Florida, are being caught off the coast of Charleston; tarpon and grouper off the coast of Rhode Island.

This is all happening now—not tomorrow, not sometime in the distant future but now—right now. Projections show that it will get much worse in the coming years unless we wake up and take real action. Happily, this week, the Environmental Protection Agency used its Clean Air Act authority as established by Congress and affirmed by the Supreme Court to propose carbon pollution standards for the country's existing powerplants.

Before this, there were no carbon pollution limits—believe it or not—none. As you can see on this chart, the 50 dirtiest U.S. powerplants—this is the whole U.S. powerplant fleet. These are the 50 dirtiest powerplants. They put out more carbon than Korea, which is a pretty industrialized country. They put out more carbon than Canada, our neighbor to the north.

I congratulate the administration on developing these smart, sensible limits that will put our Nation on a better path economically and on a better path environmentally. Thank you to the scientists, the engineers, the staffers, the attorneys, and the experts who invested so much time and energy in developing this historic standard. Through an unprecedented public engagement, EPA held more than 300 public meetings, working with stakeholders of all kinds and all across the political spectrum.

The result: EPA has put the States in the driver's seat to come up with their own plans to meet State-specific targets. States and power companies will have a wide variety of options to achieve carbon reductions, like boosting renewable energy, establishing energy savings targets, investing in efficiency or joining one of the existing cap-and-trade programs. States can develop plans that create jobs, plans that cut electricity cost by boosting efficiency, plans that achieve major pollution reduction.

What is not to like? Already, a diverse array of groups support the new EPA pollution standard. The U.S. Conference of Catholic Bishops in a letter to Administrator McCarthy wrote: ''These standards should protect the health and welfare of all people, especially children, the elderly, as well as poor and vulnerable communities, from harmful pollution emitted from power plants and from the impacts of climate change.''

The Catholic bishops went on to point out that ''the best evidence indicates that power plants are the largest stationary source of carbon emissions in the United States, and a major contributor to climate change.''

We are also hearing from 600 State and local elected officials who recently sent a letter to the President in support of the EPA plan. These are the mayors, council members, and State legislators for whom climate change is a day-to-day reality at home right there in their communities.

The letter is signed by officials from both red States and blue, including Texas, Iowa, Arizona, and the ground zero of climate change in this country, the State of Florida. The business community has weighed in. Over 125 companies including American giants like Nike, Levi's, and Starbucks sent a letter of support for the new rule.

> Our support is firmly grounded in economic reality. The new standards will reinforce what leading companies already know: climate change poses real financial risks and substantial economic opportunities and we must act now.

VF Corporation is an American apparel manufacturer in North Carolina whose brands include North Face, Timberland, Wrangler, and many others. ''As a company that makes innovative apparel and footwear for people who love the outdoors, we know how important addressing climate change is to our consumers, and therefore, our business,'' said Letitia Webster, VF's director of global sustainability. ''Today's rules provide the long-term certainty that VF needs to continue to invest in clean energy solutions so that we can do our part to reduce the impacts of climate change.''

Major utilities are behind the new rule. Tom King, the President of National Grid, which serves my home State of Rhode Island, said:

> The Obama administration, through the good work of EPA Administrator Gina McCarthy and her staff has worked in a transparent manner to craft regulation that promotes environmental and human health through a host of clean energy options. Rather than picking winners, this proposed rule supports market-based solutions.

Major public health groups agree. Here is what Harold Wimmer, national president and CEO of the American Lung Association had to say: ''For the 147 million—nearly half of all Americans—already living in areas with unhealthy levels of ozone or particle pollution, curbing carbon pollution emissions is a critical step forward for protecting public health from the impacts of climate change happening today.''

As widespread and broad as the support is for this rule, not everyone is applauding. Big polluters have enjoyed a long and happy holiday from responsibility for the carbon pollution they have dumped into our atmosphere and oceans. This free pollution they have enjoyed emitting is a market failure, a market failure recognized even by groups as conservative as the American Enterprise Institute—a market failure which allowed these polluters to dump billions of dollars in costs and harm on their fellow Americans.

They did this to their fellow Americans without apparent shame or regret, and they are fighting desperately to preserve this loophole. They do not want you to know that we can achieve these reductions responsibly. They do not want you to know that we can do this and help our economy. Indeed, before the proposed rule was even available to examine, the climate deniers at the so-called U.S. Chamber of Commerce said it would cost electricity customers hundreds of billions of dollars and zap the U.S. economy of tens of billions in GDP and hundreds of thousands of jobs.

Do not believe it. These claims are exaggerated at best and flat out false at worst. Do not just take my word for it. Republicans, citing the chamber's report—of course some of our colleagues jumped to cite that report. When they did, they earned a PolitiFact ''false'' and four Pinocchios from the Washington Post fact checker.

The problem with the big polluters is that they only look at one side of the ledger. They ignore the costs of carbon pollution on the rest of us. These costs are real. People see them in their lives, in real lives at home in our communities—damage to coastal homes, roads, and businesses from rising seas and erosion; asthma attacks in children triggered by smog, sending them to the emergency room; forests dying from beetle infestations and swept by unprecedented wildfire seasons; farms ravaged by worsened drought and flooding. Our side of the ledger counts too.

If the big polluters were accountants and they filed financial statements that only looked at one side of the ledger, they would go to prison. But this is politics, so without consequence or shame or regret, they ignore the harm they cause the rest of us.

If the Chamber of Commerce and the big polluters want to talk about jobs, let's not forget about the jobs they hurt by their carbon pollution. Fishermen in Rhode Island have seen their winter flounder catch nearly disappear in recent decades as the water temperature in our Narragansett Bay has risen 3 to 4 degrees. That is an ecosystem shift for these species.

Actually, there are now more jobs in clean, green energy than in oil and gas, more jobs in solar than in coal mining.

This rule is a job creator in innovation and clean energy. The polluters just won't count that side of the ledger.

It is an old story: tobacco, seatbelts in cars, acid rain, lead paint, ozone depletion, and more. Same old strategy: Muddle the science, manufacture doubt, manufacture cost, exaggerate the costs, and ignore the economic benefits.

The Clean Air Act, according to a 2011 EPA assessment, will benefit Americans more than it costs by a ratio of 30 to 1, $30 of value in preventing hospital visits and premature deaths, avoiding missed work and school days, improving environmental quality, helping people live healthier, more productive lives—$30 of value to Americans for every $1 they had to pay in cleanup costs.

Opponents of clean air standards have been proven wrong time and again. Here is the bottom line: Excessive carbon pollution is bad for our health, bad for our environment, and bad for our economy, even bad for our

national security, if you read the Department of Defense's own Quadrennial Defense Reviews.

The largest source of carbon pollution in the United States is powerplants. Until now there were no limits on the carbon pollution these plants could spew into our atmosphere and oceans. This week changes that. If the big polluters don't like the change, many of us will work with them on a legislative alternative. Perhaps as many Republicans support an economywide price on carbon pollution, which could generate a financial benefit for taxpayers and even provide transition assistance to affected industries. But they can't just keep dumping their pollution on the rest of us. Doing so might be free for them, but the costs are too high for us. Their long holiday from responsibility has to come to an end. It is time for them to wake up.

A number of my Republican colleagues have come to the Senate floor to respond to the administration's proposal. Those of us seeking to stave off the worst effects of climate change welcome this opportunity to engage in a bipartisan discussion on the challenges of climate change.

In the past, Republican colleagues have coauthored and voted for bipartisan climate change legislation. They have spoken out in favor of a carbon fee and, of course, our Republican colleagues represent States such as Florida that are every bit at risk from the effects of climate change as States represented by Democrats. So we think our Republican colleagues could have a lot to offer if they wish to join us in exploring solutions.

A number of us have requested that time after votes on Monday, June 9, next Monday, be reserved for us to engage in a robust, bipartisan exchange of views about carbon pollution. We invite all our colleagues, Republican and Democrats, to join us then on the floor. We hope to find the Republican Party in the Senate is not a uniform monolith of climate denial.

We earnestly believe the costs of failing to exercise American leadership and solve this carbon pollution problem are very high, terribly high, with ramifications for our health, safety, economic well-being, our food and water supplies, and our national security and standing.

I look forward to a vigorous discussion on Monday. I hope my colleagues show up.

I yield the floor and 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. SESSIONS. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SESSIONS. Today I would like to discuss the nomination of Sylvia Burwell to be Secretary of Health and Human Services. I am going to make some criticisms of her performance and the background she lacks in taking on this huge agency.

I have met with her, worked with her some as OMB Director. I like her, and she is courteous and capable, so I am not talking personally in any bad way about her, but this is an important agency, one of the most important agencies in our Nation. The Secretary of Health and Human Services oversees several of the largest programs in the entire Federal Government. Crucially, the Secretary is also the person tasked with implementing the President's health care law. It is essential that anyone who fills this position possess great skill, relevant experience, proven managerial experience, and who will act with independence and in the best interests of the American public—one who, at this critical time, puts country over politics. They cannot be a political loyalist, but they must be someone of stature, integrity, and sound judgment who is willing to tell the President no if asked to circumvent the law, provide false information, or otherwise act against the public interest.

From the President's own perspective, he needs desperately someone who is able to evaluate these major programs such as ObamaCare with wisdom and tell him and help him—and particularly tell the American people the truth.

Ms. Burwell does not have the background one associates with a position of this magnitude. She just does not. Nor does she possess the specific skills critically needed today. The OMB office she now holds has 500 employees. HHS has 72,000.

Aside from her short tenure at the Office of Management and Budget, which has just been 13 months, she is just now beginning to find her way around, presumably, that office. She has never run any major department, any major health care department, a department or an agency, a major business, a significant city, or a State. There are many very capable people in this country who would be much more ready to assume the august responsibilities of this job.

It appears her most significant health care role prior to this was serving as a board member—part-time board member—of a local university medical center.

In fact, 2 months ago in a Budget Committee hearing, Ms. Burwell declined to answer a basic health care question until she said she would seek Secretary Sebelius's expertise on the matter, but she never provided that answer anyway.

Her time as Director of the Office of Management and Budget was controversial. The budget plan she submitted to Congress plainly violated the spending caps Congress and the President agreed to and passed into law. She produced a budget plan that would increase spending by nearly $791 billion over 10 years. That is above the Ryan-Murray agreement that passed in Congress that set these spending limits just a few weeks before, including, in that budget, a proposal to increase spending by $56 billion over the budget next year.

As the ranking Republican on the Budget Committee, I have been involved in this and observing it. To my dismay, she went to enormous lengths during her testimony before the committee to try to conceal this increase in spending. It was very amazing to me.

On the day the President's budget was submitted, the Associated Press reported that the plan Ms. Burwell authored ''lays waste to the spending caps that the White House and Congress agreed to late last year.''

Also at the same time The Hill reported the budget this way—Obama's ''$3.9T budget busts spending limits.''

Remember, Ms. Burwell was the Director of Office of Management and Budget. Her staff produces the budget and defended the budget.

It goes on to say in the first paragraph the truth of the situation in The Hill. The article is by Erik Wasson.

> President Obama on Tuesday released a $3.9 trillion election-year budget blueprint that would bust the bipartisan budget ceiling agreed to in December with $56 billion in new stimulus spending.

This was 10 weeks after they had agreed to one level of spending. She walks in and produces a budget that is $700-, $800 billion almost more in spending over the budget of 10 years, and $56 billion more the next year.

When I asked her about that, apparently it was politically sensitive. Apparently they had decided they didn't want to admit they were spending more money. The Associated Press says they did. Politico said they did. The budget they submitted that was in law—laid before the Budget Committee—plainly demonstrated it spent more than they agreed to spend.

I asked her about it. It went something like this. It was a very long exchange. It was frustrating for me. I will quote from some of them, because I think we need to understand these issues. I asked her about the spending excess:

> Mr. SESSIONS. So you're proposing that we alter Ryan-Murray [that is the law that set new spending limits, allowed more spending than we previously agreed to, but it continued to set some limits] so you can spend $56 billion more next year alone. Yes or no; is that correct?
>
> Ms. BURWELL. We propose a paid-for [initiative] . . .
>
> Mr. SESSIONS. Can't you answer that question simply? Yes or no? Do you propose to spend $56 billion more than Ryan-Murray allows?
>
> Ms. BURWELL. Senator, we do propose a change in the law that would be fully paid for that would invest in things that we believe are necessary for the economic health of the nation.
>
> Mr. SESSIONS. Do you want to spend more than the President agreed to when he signed the Ryan-Murray 10 weeks ago?
>
> Ms. BURWELL. Senator, we signed Ryan-Murray . . .

Mr. SESSIONS. Now, I'm just asking, yes or no; are you [spending] more or less?

Ms. BURWELL. Senator, I think there are some questions that are not simply yes or no questions . . .

Mr. SESSIONS. This one is a yes or no question. You're refusing to answer it . . .

I simply asked a public servant who is paid by the taxpayers: Are you spending more money than the Ryan-Murray budget had agreed to and the President signed? And she refused to answer. It was really frustrating. But I think it is indicative of the fact that they were allowing politics to interject itself here—because the White House didn't want to admit, and she stood up for the White House and wouldn't admit it. But, as Politico says, it plainly was true that they were spending more.

So rather than acting as an independent steward of taxpayer dollars and simply telling the plain truth to a simple question, she acted as an extension of the President's campaign arm—advancing their spin without honestly acknowledging the clear and plain facts to the American public asked by a representative of the people of the United States. There was no doubt that they spent more money than Ryan-Murray would allow, but they never acknowledged it because she politically did not want to admit it.

The Director of the Office of Management and Budget is more than a political position. The Director serves the President, yes, but it is at bottom an important public servant, and the person who holds that job must act as a disciplined manager of taxpayers' dollars and do so with clarity and openness. The Director is managing the world's largest budget.

However, Ms. Burwell submitted a financial plan—a budget—that would have increased spending more than $700 billion above the current, agreed-upon, in-law budget levels while, amazingly, suggesting her plan reduced spending. It was a tax-and-spend budget that would have added $8 trillion to our debt while doing virtually nothing to reform the entitlement programs heading for impending insolvency. It completely busted the budget law the President signed. It was a grossly irresponsible plan.

According to Ms. Burwell's own budget submission, the plan would have caused interest payments on the debt to nearly quadruple, from $221 billion in interest paid last year alone to more than $800 billion 10 years from now. So this is really a serious matter. There is no attempt to balance the budget in her plan even over 10 years. Indeed, it flatly rejected the very idea of a balanced budget.

Additionally, despite her public commitment during her confirmation that she would deliver the budget in accordance with the legal deadlines, the President's budget was again delivered more than a month late.

Importantly, Ms. Burwell failed to comply with Federal law requiring her to submit Medicare improvement legislation after the Medicare trustees issued their funding warning. Medicare is heading to financial ruin. The law says that if Medicare reaches a point where its future is financially in doubt, it must notify the President, and the President, through his Office of Management and Budget Director, is supposed to submit to Congress a plan to get Medicare off the path to disaster. It was submitted to President Bush. He submitted a plan to Congress to fix Medicare. But this President has steadfastly refused to do so, and so did Mrs. Burwell as his Office of Management and Budget Director.

It states that within 2 weeks of the budget submission, legislation must be sent to Congress to comply with this so-called Medicare trigger. It requires a plan to fix the program. During her confirmation as OMB Director, she was asked about this duty she was going to have, and she made a commitment to respond and produce the Medicare trigger. Specifically, she said she would ''do everything in her power'' to comply with the Federal law, bringing an end, in effect, to the administration's several-years-long defiance of plain law.

As the President's Budget Director, under 31 USC, 1105, Sylvia Burwell was the person responsible for complying with the Federal law. Having willfully violated this requirement, it is ironic now that, if confirmed as Health and Human Services Secretary, she will serve on the board of trustees of the Medicare trust fund, she will be responsible for overseeing their finances, and she will be issuing to her former office—OMB—the same funding warnings that the administration received and ignored while she served as budget director.

Ms. Burwell has also violated law and denied Congress needed transparency with respect to the President's troubled health care law. Specifically, the Omnibus appropriations bill signed into law in January required HHS to include in its fiscal year 2015 budget a detailed accounting of spending to implement the health law. Fair enough. But neither the budget Ms. Burwell delivered nor the agency justification that later joined it satisfied the requirements set in law. They should do that. They are public servants. They should tell us how to handle the problems of financing in health care law.

As OMB Director—the budget submitted to the Congress by Ms. Burwell reclassified the budgetary treatment of the ObamaCare risk corridor program without statutory authority to do so. Under this approach, it appears HHS attempts to escape congressional accountability for its use of certain funds. So this is a clear violation of the congressional power to appropriate money, and it is pretty clear that to fund this program they are going to have to ask Congress to fund it. But by moving this around, they are attempting to spend money without asking Congress to appropriate it—against the Constitution.

Regrettably, it seems Ms. Burwell followed a consistent pattern. Rather than using OMB as the central agency to reform this massive, out-of-control spending government, to stop wasteful spending and tame the debt—as former OMB Directors such as Mitch Daniels and ROB PORTMAN did; now-Senator PORTMAN submitted a balanced budget when he was OMB Director under President Bush—she has not submitted any reforms to bring our government under control in OMB.

One of the concerns I had about her appointment was that it is such a critical part of our government, we have to have a strong OMB Director to control this massive government and control wasteful spending. That is the President's right arm. That is the person who brings the Cabinet Secretaries in to say: You are spending money. I hear complaints about waste. I hear about duplication. The President wants you to fix this.

We saw none of that under her leadership. Her tenure at OMB evidenced no drive to even tackle the magnitude of our financial challenges. She proposed to bust the spending caps that Congress and the President agreed while trying to suggest otherwise. She ignored the Medicare trigger. She tried to put a positive spin on a dangerous financial plan instead of trying to actually solve the serious financial challenges facing our country today.

With ObamaCare in chaos and disarray, threatening the very economy and the health care of Americans by the millions, what we desperately need in this key position is someone who will be independent, forthright, and honest, someone who will resist political pressure from the White House, and someone who knows what they are doing. This position demands that we find one of the best and most respected health care experts in the world. That is what we should be looking for. Ms. Burwell, as nice as she is, sadly, is just not that person. She does not have those skills.

ObamaCare was passed into law on a series of egregious falsehoods. The American people intuitively recognized that this was an overreach and would not work, and the American people are now paying the steepest of prices for this complex, failed piece of legislation. One of the falsehoods was that it would not add to the debt—not a dime, the President said. Well, we now know it would add more than $6 trillion to the long-term debt of the United States. That is a huge amount of money.

A Secretary of Health and Human Services must tell the American people the truth about the law's finances. If they fail to do so, if the Secretary will not acknowledge the truth and the challenges that our finances face, then the entire future, financially, of America will be at risk.

So I believe Ms. Burwell is a good and well-meaning person. Senators MANCHIN and ROCKEFELLER from West

Virginia like her, and Senator WYDEN of the Finance Committee and I like her. But I cannot support her bid to control the health care future of millions of hard-working Americans by placing her in charge of this massive agency that so desperately needs mature, aggressive, strong leadership—somebody who understands these issues before they take the job. I will vote no on her nomination as Secretary of Health and Human Services.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Massachusetts is recognized.

(The remarks of Ms. WARREN pertaining to the introduction of S. 2432 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. WARREN. I yield the floor.

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

CONCERN FOR VETERANS

Mr. BROWN. Mr. President, during Memorial Day and last week, I spent much of the time traveling Ohio with Michael Fairman, a retired Navy corpsman and a Columbus resident, who served with the Marines in Afghanistan from 2007 to 2011. His son Zack is a third-generation Navy corpsman serving with the Marine Corps First Tank Battalion deployed in the Middle East.

Based on his own combat experiences and his concern for other veterans and the suicide of a friend, a fellow veteran, Mr. Fairman came to my office with an idea of how we can help both servicemembers and veterans—veterans like Alexander Powell, a student at the University of Toledo who joined us in Northwest Ohio. Mr. Powell was deployed in Iraq in 2006 when his gun truck was struck by an IED. He had no physical or visible injuries. He went back to duty the next day, but he began experiencing blackouts and dizzy spells. It wasn't until 2009 that he was diagnosed with a traumatic brain injury and hospitalized to begin treatment.

Mr. Powell is not alone. The VA reports that some 300,000 veterans struggle with post-traumatic stress. The Defense Department reports that out of 300,000 TBI injuries, there are 25,000 cases of what they call mild traumatic brain injuries because mild TBI is an invisible injury. Think of an NFL player getting a concussion or a series of concussions over a period of a career. Think of a soldier getting what a number of soldiers said to me—marines and air men and women and soldiers and sailors talk about getting their ''bell rung'' when they get a head injury. It is an injury that is not serious enough for an NFL player to sit down, not serious enough for a soldier to be sent home, perhaps not serious enough for a soldier to get any medical treatment at all, but one of a series of concussive events of invisible or minor head injuries can lead to problems a number of years later.

So when veterans or servicemembers seek service-connected disabilities for related injuries, they often don't have the necessary documents needed to establish the connection between their military service and their claim with the VA. That was the case for Mr. Powell. He told me last week:

> It was my job [after returning home] to gather up any proof that I had to show that my truck was hit by an IED and gather statements from people who were there to corroborate my story. That is a task, if not done immediately after the incident, that is almost impossible to accomplish.

So 5 years, 6 years, 7 years later, Mr. Powell is back in Ohio trying to piece together the series of head injuries he sustained, what exactly happened, finding witnesses, his unit commander, and comrades to be able to prove to the VA that his disability is earned and warranted and trying to explain to his doctor what his head injuries might have entailed. The burden is on the veteran to provide the VA with information establishing the connection between their claim and their service. This can lead to denied claims. It can lead to improper medical care. It increases the disability claims backlog.

We are all concerned—even though the VA has shrunk that backlog by 50 percent in the last year or so, we also know that one of the reasons for the backlog at the VA is it takes so much more time for the VA employee and the soldier to try to piece together the record of injuries that might have taken place 5 years ago, a decade ago, a decade and a half ago. That is why I introduced the Significant Event Tracker Act, which Mr. Fairman helped to create. This bill will improve the claims process for veterans and servicemembers. Mr. Fairman visited a number of House and Senate offices. The only one who responded was actually Senator CORNYN's office, from Texas. He and I have talked about this bill, and we both understand how important this can be to veterans. Let me explain the bill.

First, it would allow unit commanders to document events, such as a roadside bombing, that each servicemember in their command is exposed to and which might later be connected to these ''invisible injuries.''

Second, recording this information on an individual basis will help military medical officers better diagnose and treat military members who have mental health concerns.

Finally, for veterans and military retirees, this act will help them file better initial claims—claims with supporting documentation from DOD. In other words, veterans should be able to focus on their recovery, not on having to prove the cause of their injury.

Let me say that again. A soldier going to the VA in Dayton, OH, or Cincinnati or to a veterans clinic in Mansfield should be able to focus on her recovery and not having to prove the cause of her injury. This bill puts the responsibility on the Army, on the Marines, on the Defense Department, not on the veteran, to track and connect significant events to individual servicemembers that would later potentially lead to post-traumatic stress or to traumatic brain injury. Commanders already report major injuries. We want commanders to report about individual servicemembers who were involved in any kind of a minor or ''invisible'' head injury.

This was a big idea that came to me from Michael Fairman. He visited a number of Senate offices and House offices. Senator CORNYN showed interest in it. My office has written the legislation with Michael Fairman. This Nation is rightfully proud of our veterans. This idea came from a veteran. This idea deserves to be seriously entertained by this Senate and, frankly, by the Defense Department, if we can work with them, on finding ways to implement some of these ideas.

25TH ANNIVERSARY OF TIANANMEN SQUARE

Mr. President, I rise to commemorate an event that happened 25 years ago today not just in Beijing, China, but in other places in China when millions of people across that country, in Tiananmen Square and other places, rallied in support of democracy, human rights, and an end to official corruption.

Like many Americans, I was inspired. At the time, I wasn't a Member of Congress. Living in Ohio, I was inspired by the courage and pursuit of individual fundamental freedoms—freedoms that we hold dear in this country and sometimes take for granted, that are not always granted in other countries around the world. I recall the optimism of that moment and how it was crushed when the tanks rolled in.

Today we assess what the last 25 years meant to the Chinese but also, more importantly, to U.S.-China relations and what our policy should be. China has made tremendous leaps forward in the past 40 years since normalization, but following Tiananmen Square we have missed opportunity after opportunity to integrate China into the global rule-based community of nations to protect our economic interests and to move China in the right direction on political reform.

It is not an easy task, but 25 years later China is still fundamentally undemocratic. It too often refuses to play by the rules—rules that would benefit China short term and long term. The question now is whether China will address the challenge facing it or will it continue to take a more doctrinaire and hardline stance, one that undermines the progress China has made and, because of China's influence, could undermine the global system and regional stability.

In many respects China has reaped the benefits of open trade with the rest of the world while avoiding many of its obligations. Our trade deficit with China at the time of Tiananmen Square 25 years ago stood at $6 billion; that is, we bought from China $6 billion in goods more than we sold to China. Last year it grew to 50 times that

amount—$318 billion—the highest ever. That means almost every single day of the year on the average, every single day of the year, we buy from China $900 million more in goods than we sell to China. That trade deficit and China's currency manipulation has cost Americans millions of jobs and significantly reduced our Federal budget.

I know what unbalanced, unfair, and not playing on a level playing field trade with China has done to places such as Springfield, OH, Marion, OH, and Chillicothe and Lima, and my hometown of Mansfield, and Ravenna, OH, all over my State, all over the Midwest, all over the country. In the end, we compromised as a nation too much. We bought into the myth that China's economic integration after Tiananmen Square would bring about human rights and respect for the United States and international rules. That is not what has happened.

Through the commission I chair, the Congressional Executive Commission on China, we have tried to honor the memory of Tiananmen Square by making sure that China's obligations toward human rights and the rule of law are not forgotten.

The commission highlighted many concerns: cyber theft threats to democracy in Hong Kong, illegal, unfair trade practices, denial of visas, or threats of denial of visas to foreign journalists, food safety, environmental, and public health concerns, a crackdown on human rights activists, including Ilham Tohti, a peaceful activist for the Uyghur minority group in Tibet.

It is my hope we have an open and transparent debate about our China policy. Whether it be on trade agreements, where we continue to be on the short end every single year, or whether it is about growing Chinese foreign investment in this country, this debate must be given proper weight rather than ignoring our concerns over human rights, the rule of law, labor, public health, and the environment.

Above all, the debate about U.S. policy toward China must include all segments of our society and not the way we typically do trade agreements in this country, supported by newspaper publishers, economists at Harvard, but not fundamentally supported by the American people and the public.

Our workers and small businesses need to be included, NGOs and human rights groups, instead of being led by powerful interest groups such as large corporations. Debate needs to be inclusive and it needs to draw on the interests and aspirations of all parts of American society.

More must be done as we honor 25 years in the memory of Tiananmen Square. The world must continue to seek improvements on China's record of human rights and the rule of law. More must be done. Only by recognizing the legitimate aspirations of its people and the obligations of the international system can China assume the role to fit its history and its size.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

FREEDOM OF SPEECH

Mr. CORNYN. Mr. President, in the wake of some recent Supreme Court decisions touching on our system of campaign finance, there has arisen in the Senate, frankly, this bizarre notion that we are going to amend the Constitution to undo the Bill of Rights, and particularly the First Amendment and its protection of the freedom of speech.

Of course, the proponents don't describe it that way. To hear the majority leader, who testified before the Senate Judiciary Committee yesterday, he said: They are merely trying to keep what he called dark money out of American politics.

By giving Congress the ability to regulate political speech and the means by which that is paid for and disseminated, this amendment would invite all manner of partisan mischief and abuses and effectively dismantle one of the most fundamental liberties secured by our Constitution which makes America the envy of the world, and in many ways unique in that we protect freedom of speech without regard to the content of the speech and without regard to the identity of the speaker, whether they be rich, poor, or a member of the middle class. Whether that opinion is informed or not necessarily well-informed, we believe in the marketplace of ideas where the American people are the only judge as to what they believe the truth is. We don't try to stifle or squelch speakers, particularly in the political process.

As our good friend the Republican leader said yesterday:

> If incumbent politicians were in charge of political speech, a majority could design the rules to benefit itself and diminish its opponents. And when roles reversed, you could expect a new majority to try to disadvantage the other half of the country. And on it would go.

So this power the majority leader has proposed in amending the Constitution so Congress could regulate political speech could be an instrument of incumbent protection where the party in power could use that as a weapon against the minority trying to persuade the country that they should be restored to the majority rather than linger as a minority.

Is this really the kind of system our colleagues who are proposing this constitutional amendment want? Well, you have to ask whether they have any realistic belief that this will actually become law. And of course it would have to pass both Houses of the Congress by a two-thirds vote, and it would have to be ratified by three-quarters of the States. I don't think it is an overstatement to say they have no chance of this becoming law.

Why in the world is such an outlandish proposal being made by somebody such as the distinguished majority leader of the Senate and other folks in his party? Well, it is no exaggeration to say this proposed amendment would undermine American democracy as we know it, so there has to be some other reason other than the substance of the amendment they are trying to get at.

Lest we forget the whole purpose of the First Amendment is to ensure that all political speech—as a matter of fact all speech, period—is protected from government interference, and that is why it is in the Bill of Rights, at the time our country was founded there was a serious debate about whether we needed an explicit Bill of Rights or whether the very structure of our government with its checks and balances and our shared power between the judicial, executive, and legislative branches would itself provide that protection. But the Federalists said, no, we are not going to settle for that. We want an explicit protection of those rights that are not derived from government but which precede government—which don't come from government but come from our Creator.

Under the logic used by the proponents, the government should change this provision in the Bill of Rights that has been the law of the land for more than 200 years and now start regulating how much money newspapers, magazines, and Web sites are allowed to spend on articles concerning politics and public policy. After all, when media outlets publish this information, they are using their financial advantage over ordinary citizens to be able to get their views out to the public. And, of course, they are trying to persuade citizens and voters and trying to affect political outcomes, both in terms of public policy choices and elections.

The majority leader, if he were on the floor, might say: Well, we have a provision in here that we will not grant Congress the power to abridge freedom of the press. If you could turn off and on the money by which the press disseminates its point of view, if you can regulate perhaps even to the point of zero on the part of political actors and their ability to disseminate their views in the public or influence voters before the election, this carveout is effectively meaningless.

It would most certainly grant Congress the power to abridge the free speech of individuals and groups as disparate as the American Civil Liberties Union, the National Rifle Association, and the Sierra Club, which obviously have different views but enjoy and are entitled to the same freedom to speak their views and persuade people to their point of view as much as anybody else. It would also grant Congress the power to abridge other freedoms in the First Amendment, such as freedom of assembly and freedom to petition government for the redress of grievances, and it would allow State governments to ride roughshod even over freedom of the press.

You have to wonder why in the world would intelligent, highly educated, experienced Senators—people who are

knowledgeable about all of the matters I have talked about—propose such a wrongheaded idea and one they know will never become the law of the land?

Well, unfortunately, this is part of an effort to intimidate and stigmatize people from participating in the political process. We know the majority leader comes out to the floor and talks daily about the Koch brothers, whom he happens to disagree with, and he disagrees with their right and ability to participate in the political process and to affect elections. He doesn't talk about other political actors, such as organized labor, which has essentially been carved out of the limitations on political contributions and political spending. He doesn't talk about people such as Tom Steyer, a former hedge fund manager who says he will spend $100 million against anyone who supports the Keystone Pipeline or anyone who opposes his views on climate change.

This cherry-picking in terms of trying to intimidate people and to squelch political speech is pretty apparent. It becomes apparent because obviously the majority leader is very worried about the upcoming midterm election and what might happen when we see the pushback from voters in the Senate races all across the country over the last 5 years, and this great, huge growth in government and its intrusiveness in their lives.

Here is the bottom line: Free speech is free speech, period. To quote a recent Supreme Court decision:

> There is no right more basic in our democracy than the right to participate in electing our political leaders.

As they said, there is nothing more basic.

As I mentioned a moment ago, thankfully the Founders were wise enough not only to give us the Bill of Rights and our Constitution but to make it very difficult to amend it in the first place, so we know the majority leader's amendment has no chance of actually passing. Yet its mere introduction, the fact that a major political party and a majority in the Senate apparently believes in shrinking the First Amendment in order to weaken their political opponents, should be a cause of broadspread concern in the country. People ought to ask the question: Why in the world would you propose to do something as draconian and as damaging as that?

Well, it is the kind of amendment we would expect to see not in the greatest deliberative body in the world, and certainly not in the Senate, but maybe some banana republic or some country that does not have our experience or our foundation in constitutional self-government. Therefore, it is not merely enough to reject this amendment and then quickly move on to something else. We need to send a clear, unambiguous message that the Bill of Rights is not up for debate. We need to send a clear, unambiguous message that our First Amendment freedoms represent the bedrock of American democracy, and we will not agree to undermine that, damage it, or otherwise impair it on our watch.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, if my friend from Wyoming wishes to speak, we will go through the process for 3 or 4 minutes, and we will put the Senator on what we call automatic pilot if he cares to speak.

Mr. BARRASSO. I will be less than 2 minutes.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding rule XXII, on Thursday at 1:45 p.m., all postcloture time be expired and the Senate proceed to vote on the confirmation of Calendar No. 798; further, that following the vote on that nomination, which is Burwell, the Senate proceed to the consideration of Calendar No. 519, and the Senate proceed to vote on the confirmation of the nomination; further, that if confirmed, the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nominations; that any statements related to the nomination be printed in the RECORD, and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. With this agreement, there will be two rollcall votes beginning at 1:45.

Mr. President, we are moving this up because we have 10 or so Senators who are going to the 70th anniversary of Normandy.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we proceed to morning business with Senators being allowed to speak up to 10 minutes each.

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

STUDENT LOAN

Mr. LEVIN. Mr. President, in the fall of last year, Adrian College in Adrian, MI, made an announcement that received national attention. Adrian, one of the finest private liberal arts colleges in America, made a promise to prospective students: Beginning this fall, incoming students who graduate from Adrian carrying student loan debt and are unable to find a job that pays above a set income will be eligible for support from the college to pay part or all of that student's loan payments. The program, known as AdrianPlus, will ensure that students who are not able to find good-paying jobs after graduation will still be able to begin their work careers without facing crushing debt payments all alone.

This announcement was notable for two reasons. The first is that it represents a visionary choice on the part of President Jeffrey Docking and the rest of Adrian's leadership. I am grateful to them for showing the kind of leadership that makes Adrian a proud example of my State's outstanding higher education institutions. Adrian has long been recognized not just for the quality of its instruction, but for its efforts to make that education accessible and affordable, and this is just the latest example of the school's forward thinking.

The second reason this announcement was so notable is that it was so necessary.

As President Docking said in announcing the program, ''Student debt load continues to be a national concern.'' That is surely the case. According to the Project on Student Debt, nearly two-thirds of graduates from Michigan colleges and universities leave school with student debt. They owe an average of more than $28,000. The rising tide of student loan debt threatens to overwhelm the financial futures of these graduates before they can even get their working lives started. And the looming prospect of heavy loan debt threatens to keep many young people from even reaching a college campus.

Adrian College's program will not completely erase this problem, but it is a good start. Likewise, no single piece of legislation will make college more affordable, increase access to education for middle-class families, or eliminate the mountain of debt many students carry. But it is time for us to start taking some steps in the right direction. A number of Senators have introduced or are working on student loan legislation, including legislation allowing students to refinance their debt at lower interest rates. I believe the Senate should take up, debate and pass legislation to lighten the all-too-formidable load. We should explore other ways to ensure that college education is indeed affordable to all.

Study after study shows that a college education makes an enormous difference in allowing Americans to pursue rewarding careers. But if we can not ensure that all Americans have access to higher education, we shut off access to the American dream. We cannot let the disturbing trends in student debt and college costs continue unabated, and I hope that, inspired by the Adrian College example, we will act to halt and reverse those trends.

VOTE EXPLANATION

Mr. UDALL of Colorado. Mr. President, due to unavoidable family commitments, I was unable to cast votes relative to rollcall vote Nos. 164 through 170 on Monday, June 2, and Tuesday, June 3, 2014. Had I been present, I would have voted yea in each instance.

many over the years. Who will benefit at the end of the day are our workforce and our employers and our country.

I thank again my counterpart Senator ISAKSON for working with me to get this done.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. I want to associate myself with the remarks of Senator HARKIN and Senator PATTY MURRAY from Washington. I reiterate what I said in my opening statement about how much regard and respect I have for Senator MURRAY, for the job she has done. We would not be here today if it were not for PATTY MURRAY. I am grateful for her support and her kind words.

I want to reiterate all of the names she said, all the thanks that we have. But I want to particularly thank my staff who have made me once again look good. That is a difficult job to do sometimes. I thank Tommy Nguyen, Amanda Maddox, Michael Black, Brett Layson. I appreciate all they have done; Joan Kirchner, my chief of staff, who came to our aid last week and pulled a rabbit out of the hat in the Republican conference that allowed us to be here.

We all get a lot of credit as Members of the Senate. But it is our staff who make or break what we do. We are very grateful to our staff or the Workforce Innovation and Opportunity Act would not become law, would not get to the President's desk.

So to PATTY MURRAY, to Senator HARKIN, to Senator ALEXANDER, thank you. And to all of our staff, thank you for day in and day out doing the real work of the Senate and for the people of the United States of America.

The PRESIDING OFFICER. Under the previous order, H.R. 803, as amended, having passed, amendment No. 3382 to the title is agreed to and the motion to reconsider is considered made and laid upon the table.

The amendment (No. 3382) was agreed to, as follows:

(Purpose: To amend the title)

Amend the title so as to read: ''An Act to amend the Workforce Investment Act of 1998 to strengthen the United States workforce development system through innovation in, and alignment and improvement of, employment, training, and education programs in the United States, and to promote individual and national economic growth, and for other purposes.''.

EXECUTIVE SESSION

NOMINATION OF JESSICA GARFOLA WRIGHT TO BE UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS

NOMINATION OF JAMIE MICHAEL MORIN TO BE DIRECTOR OF COST ASSESSMENT AND PROGRAM EVALUATION

NOMINATION OF THOMAS P. KELLY III TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF DJIBOUTI

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

The legislative clerk reported the nominations of Jessica Garfola Wright, of Pennsylvania, to be Under Secretary of Defense for Personnel and Readiness; Jamie Michael Morin, of Michigan, to be Director of Cost Assessment and Program Evaluation; and Thomas P. Kelly III, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

VOTE ON WRIGHT NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Jessica Garfola Wright, of Pennsylvania, to be Under Secretary of Defense for Personnel and Readiness?

The nomination was confirmed.

VOTE ON MORIN NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Jamie Michael Morin, of Michigan, to be Director of Cost Assessment and Program Evaluation?

The nomination was confirmed.

VOTE ON KELLY NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Thomas P. Kelly III, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti?

The nomination was confirmed.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

BIPARTISAN SPORTSMEN'S ACT OF 2014—Continued

The PRESIDING OFFICER. Under the previous order, equal time until 4:30 shall be divided between the two leaders or their designees.

The PRESIDING OFFICER. The Senator from Rhode Island.

CLIMATE CHANGE

Mr. WHITEHOUSE. Mr. President, I have come here every week now for 72 consecutive weeks that the Senate has been in session to urge colleagues to wake up to the growing threat of climate change. Today I have the pleasure and honor of being joined by my friend and colleague Senator JOE MANCHIN of West Virginia.

I ask unanimous consent that the Senator from West Virginia and I be allowed to engage in a colloquy for the time we have been allotted.

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

Mr. WHITEHOUSE. Senator MANCHIN and I come from very different parts of the country. We are the Ocean State, he is the Mountain State. We both came here today to say that climate change is real, that human activities, including the burning of fossil fuels, are causing dramatic changes to the Earth's atmosphere and oceans, and to seek responsible solutions that will ensure reliable, sustainable energy for the United States and protect our local communities and economies from the worst effects of a changing climate, recognizing, as we must, that fossil fuels will be part of America's fuel mix for decades.

The recent National Climate Assessment showed many effects of climate change are already being seen across the United States. In my home State of Rhode Island, we have Narragansett Bay, more than 3 degrees warmer in the winter than it was 50 years ago. Measurements at the Newport tide gauge show that as the seawater warms and expands, the sea level is up almost 10 inches against our shores since the 1930s.

Extreme weather depends a lot on natural variability, but climate change increases the odds that heat waves and heavy rain bursts will occur. As the climate has warmed, some types of extreme weather have become more frequent and severe. Here on this chart we see that in the northeast, up here, the area which includes both Rhode Island and West Virginia, between 1958 and 2010, the amount of rain coming in those big downpours has gone up by 70 percent.

Let's remember how climate change affects the economy and jobs. For example, fishermen in Rhode Island have seen their winter flounder catch from Narragansett Bay nearly disappear in the recent decades as the bay has warmed. These are not distant climate model projections, this is now. This is happening to Rhode Island.

The people of West Virginia have Senator MANCHIN fighting for them every day in Washington. I know he believes that we need to find economically responsible answers to environmental problems. I am proud to stand with him today as his friend and colleague.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. MANCHIN. I thank the Chair.

I am pleased to join my friend Senator WHITEHOUSE from the great State of Rhode Island to talk about this important subject. In the past, we may not always have agreed on how to approach this problem, but at least we have come together to work on a solution together. That is very important. That is a rare thing in Washington, as the Presiding Officer knows. We are determined to see if we can find common ground to move forward.

As the Senator suggested, the way we produce and consume energy in our States is quite different. I am the Mountain State, he is the Ocean State. Nonetheless, we both agree we need to strike a balance between the economy and the environment. One cannot go it alone. It takes a balance, if you will, in about anything we do in life, one that acknowledges the reality of the climate change, while also understanding that fossil fuels, more specifically coal that we produce so much of in our State, is such a part of our economy, is a vital part of our energy mix for decades to come. That is by the Department of Energy, the EAI's own claim.

There is no doubt that 7 billion people have impacted our world's climate. Those who deny that I believe are wrong. A lot of them are my friends. I believe we have had an impact and we have a responsibility. But we need to know what is going on and the facts we are dealing with in the world today.

There are more than 8 billion tons of coal consumed around the world each year. This gives an outline of where most of that coal is consumed. Currently China burns more than 4 billion tons per year. They are not stopping or letting up. If anything, they are increasing their consumption and building more coal-fired plants as we speak, while the United States and Europe each burn less than 1 billion tons. So the United States of America, you could say, uses less than one-eighth of the coal consumed annually in the world. If we stopped burning every kind of coal, would that really clean up the climate? But if we find ways to do it better, can we help the rest of the world clean up the climate? That is what we are here to talk about.

There is a broad agreement in the scientific community that carbon emissions and other human contributions are causing substantial changes to the Earth's climate. According to the West Virginia State Climatologist's Office, five of the six wettest years have occurred since 1989; four have occurred since 1990.

Just as I do not deny the existence of climate change, my friend Senator WHITEHOUSE does not deny that eliminating coal from the energy mix would hurt the reliability of our grid. He knows that you cannot do it. We have got to work together to keep the reliability in the system, which is so vital to people all over this country.

Without coal, the northeast United States would have suffered severe and enduring power outages during last winter's polar vortex. If our reliability had failed during the polar vortex we came through this past year, there is no question people would have died—no question at all.

Importantly, during that period of time, coal provided 92 percent of the increase in energy needed to survive that disaster.

Coal was able to go online to back up the grid. Ninety-two percent of it was driven by coal because it is dependable, reliable, and affordable.

This chart shows basically the portion of increase in U.S. electricity generation by fuel, January-February 2014, the times we needed it most to keep the grid systems up and running. You can see coal—92 percent—and natural gas fell because of distribution problems we had. It will increase, it will get better as distribution and infrastructure is built.

Oil, nuclear, hydro, renewable—you can see they weren't able to pick up the demand that was needed or the load that was needed to keep the system moving.

Nick Akins is the CEO of American Electric Power. He said this about the polar vortex: ''This country did not just dodge a bullet—it dodged a cannon ball''

We need to address climate change, but we need to do it while maintaining the reliability of our electricity system. Senator WHITEHOUSE and I both realize that coal will remain a vital part of our Nation's general portfolio for the foreseeable future.

According to the President's own Energy Information Administration—the EIA—coal generated about 40 percent of all U.S. electricity in 2011. In 2040 coal will still generate more than 30 percent of the domestic electricity that is needed.

This chart basically shows where we are going in the foreseeable future. This is 2040. By 2040 natural gas will be at 35 percent, and coal will still be at 32 percent—both, it can be said, out of fossil, so you have 67 percent. Renewals increase to 16 percent. Nuclear is going down to 16 percent, and I believe we have to reengage our efforts there. I really do. So coal will assume the dominant world markets for the foreseeable future.

According to EIA, coal provided 69 percent of China's energy consumption in 2011. This chart gives a little bit of an idea of where we are. China used four times the amount of coal used in the United States that year. Coal supplied 41 percent of India's total energy consumption. During that period of time, India used roughly the same amount of coal as we did in the United States. By 2040 China will produce 62 percent of its electricity from coal, while India will produce 56 percent. During the next few years, some 1,200 new coal plants are going to be built across 59 countries; 363 are going to be built in China and 455 in India alone.

It is unbelievable when you look at more than 8 billion tons of coal that are consumed around the world each year. China currently burns more than 4 billion tons per year, while the United States and Europe burn less than 1 billion tons. Use in these countries and in other parts of the world is projected to grow dramatically for decades to come.

The United States has already been a leader in proving to the world that we can produce coal cleaner today. Traditional pollutants—sulfur, mercury, nitrogen, and particulates—have been cut 80 percent in the last several years. What is less known is that technologies are being developed—and some already exist—that dramatically lower coal plant carbon emissions.

With smarter investments from the public and private sectors, we will not only finish the first generation of carbon capture, storage, and utilization plants but also develop the second generation of these technologies. When that happens in the not so distant future, we will lead the world toward utilization of fossil fuels in a way that produces negligible or zero harmful emissions.

With the right policies and the right coordination between the public and private sectors, we can lead by example and show the world that we can burn fossil fuels cleaner than ever. Most importantly, we can do all of this while protecting consumers, creating jobs, and growing our economy.

Mr. WHITEHOUSE. I agree with my friend from West Virginia that we must address climate change in a way that protects jobs in all sectors and ensures grid stability.

Fossil fuels such as coal and natural gas are indeed going to be an important part of America's energy mix for decades. So we need to invest, as Senator MANCHIN has suggested, in reducing the carbon pollution we generate from these sources.

We also need to adapt our power infrastructure to withstand the effects of climate change. Extreme weather has become the main cause of blackouts in the United States.

The President's Council of Economic Advisers and the Department of Energy counted 679 widespread outages between 2003 and 2012 due to severe weather. Fifty-eight percent of power outages since 2002 and 87 percent of outages affecting 50,000 or more customers were caused by severe weather such as thunderstorms, hurricanes, and blizzards. The average annual cost of power outages caused by severe weather is between $18 billion and $33 billion per year. The U.S. Energy Information Administration compiled data that is plotted on this chart showing that weather-related power outages are already on the rise since just the early nineties.

Addressing climate change is also important to grid stability.

We also should expand and modernize our electric grid. A smarter grid will make it easier to respond to and recover from extreme weather events,

will boost efficiency within the system, will help lower utility bills, and will bring more renewable energy online.

In both our States, Senator MANCHIN and I realize it is in America's interest to be leaders in the research, development, and deployment of energy efficiency tools; in cleaner fossil fuel research; and in renewable energy technologies—particularly ones we can export. I know Senator MANCHIN has some of these technologies being rolled out in his State.

Mr. MANCHIN. When I was Governor of West Virginia, we set and have now achieved an alternative where we are going to reduce our carbon footprint by 25 percent by using coal in a cleaner fashion and also some of the other things we do, which I will explain. Not only did we do it, we did it 10 years earlier than we had targeted. In 2013, 4.1 percent of West Virginia's energy already came from hydroelectric and wind energy. Mount Storm Wind Farm—so many people don't know what we have done in our little State because we are all in; we want to do it all, and we are trying everything we have—is the second largest wind farm east of the Mississippi, 17 miles across the beautiful landscape.

I also agree with Senator WHITEHOUSE on the importance of energy efficiency. With our friend Senator HOEVEN of North Dakota, I have introduced the All-Of-The-Above Federal Building Energy Conservation Act, legislation that would improve the energy efficiency of all Federal buildings and set an example for the private sector.

This legislation takes a commonsense, all-of-the-above approach to the issue of Federal energy efficiency. I believe that by encouraging the use of innovative technologies and practices, instituting reasonable goals, and allowing building managers flexibility, we can achieve better environmental stewardship in a cost-effective manner.

As Governors, Senator HOEVEN—a Republican from North Dakota—and I relied on common sense to guide our State policies, and this bill applies that much needed common sense to Federal policies. We should be using all of our abundant resources, including coal, to power our Nation in the most efficient way possible. Our bill accomplishes this goal and proves the Federal Government can lead the way in using fossil fuels to achieve greater energy efficiency in a much cleaner fashion.

While efficiency and renewables are important, let me say again that it is most important to reduce emissions from coal plants while keeping them running well into the future. Advances in coal-use technologies will continue to develop with help from the public sector.

Enhanced oil recovery is already developing into a valuable tool for augmenting domestic oil production. We need Federal investments for technology such as EOR.

Research is ongoing for the use of coal and CO_2 for a multitude of new energy and consumer products, including fertilizers, liquid fuels, and plastic materials.

I just had a gentleman come to my office who basically makes carbon out of coal which cleanses the water we drink.

So there are so many things. Senator WHITEHOUSE is right. There are so many things that we are using, and we can do a lot more.

Mr. WHITEHOUSE. Efficiency is something we take seriously in Rhode Island as well.

In 2013 the American Council for an Energy-Efficient Economy ranked Rhode Island as the sixth most energy efficient State in the country. The Energy Information Administration in 2011 ranked Rhode Island the lowest in energy consumption—which, as the Presiding Officer from the small State of Delaware can understand, we have a bit of an unfair advantage—but we were also the sixth lowest in total energy costs per capita. We do our part to save energy, avoid emissions, lower costs, and reduce the demand and stress on the electric grid.

Rhode Island and eight other States participate in the Regional Greenhouse Gas Initiative—we call it ''Reggi''—which caps carbon emissions and sells permits to emit greenhouse gases to powerplants. One of the ways Rhode Island has been able to drive down our energy consumption and our utility bills is by investing the money generated through RGGI into energy efficiency. Rhode Island invests over 91 percent of its RGGI proceeds in energy efficiency projects and improvements, helping residents save money on their utility bills and making small businesses more competitive.

Rhode Island is also poised to gain scores of jobs from the development of offshore wind. I think we have the advantage on West Virginia in offshore wind. Our private developer of offshore wind, Deepwater Wind, has received its first major environmental permit to begin deployment in the Block Island wind farm area.

The price of wind energy has decreased over 90 percent since the early 1980s and is now competitive in the energy markets. I am working to make wind energy more a part of our energy portfolio.

At the Federal level, our energy policy must use the best science available to improve the way we use fossil fuels, and our Tax Code should help address climate change while leveling the playing field for various energy sources.

I believe carbon-driven climate change hurts our economy, damages our infrastructure, and harms public health. Yet those costs are not factored into the cost of fossil fuels. That means the cost of the pollution has been borne by the public. I believe we should adopt a carbon fee to correct this market failure and return all its revenue to the American people—what Republican supporters of a carbon fee call revenue neutral.

On a smaller scale, Congress can also extend the renewable energy tax credits and other measures that are supported by Members on both sides of the aisle, helping renewable energy in West Virginia and a bipartisan array of States.

Mr. MANCHIN. The Senator and I disagree on a few things, but I adamantly disagree with my dear friend Senator WHITEHOUSE regarding the wisdom of a carbon fee or so-called carbon tax. But I do agree that we can use the Tax Code and other Federal tax incentives to help clean up fossil fuels. That is why we are here together to find a pathway.

First, the DOE must approve $8 billion in loan guarantees for advanced fossil fuel projects that they have had available since 2005. None of it has been invested to try to help use the fuel that we depend on—coal—in a much better, cleaner fashion. Also, I found out that we also have $3.2 billion from the stimulus money to be used for shovel-ready coal projects that is still sitting and hasn't been invested. So there is a lot we can do without appropriating any new money, just using the money that is there for the purpose it was intended.

New tax incentives could be employed to incentivize providers to update sub-critical plants to the super- and ultra-super-critical configurations that pave the way for CCS.

Finally, we need to incentivize the second generation of CCS technology, the one that holds the future for promise of coal use with negligible emissions.

What are we talking about? Carbon capture sequestration, just being used for that purpose, if you don't have a secondary source to where you can put it and sell it for enhanced oil recovery, as we call it—the technology that we could use in the shale that maybe can enhance the gas from the shale, the Utica and Marcellus that we have in West Virginia—so much could have been done that we haven't done. Maybe we could solidify the carbon and use it as a spent fuel. These are things we need to get to, and this money lying right now in the Department of Energy for almost 10 years needs to be invested.

With the help of Senator WHITEHOUSE, I can only think that we can move forward and find a solution.

Mr. WHITEHOUSE. I agree with the distinguished Senator from West Virginia that the Department of Energy's advanced fossil projects loan guarantee program has not yet lived up to, at this time, its potential.

I will work with him to push the administration to accelerate its use.

I wish to close my share of this colloquy by noting something very basic; that is, that America has long stood before the world as an exceptional country and deservedly so. America proved the case for popular sovereignty

with no need of kings or crowns. America took our balanced market capitalism and rose to international economic dominance. America has long been the vanguard of civil and human rights for our people and around the globe. When American military power must be used, we don't conquer and rule. We come home. This exceptional nature confers upon us a responsibility to lead, to be an example, to be, as President Reagan said, ''a shining city on a hill.''

Our generation will be judged by whether we were responsible about climate change, whether we listened, and whether we led.

Senator MANCHIN and I are both committed to the idea that American innovation can create the clean energy technologies of the future, so that when it comes to addressing the biggest problems facing our world, the United States should be out front, and we are committed to working together to find responsible solutions to the climate crisis.

We also realize we have different perspectives on what those solutions should look like. I live in a State that is harmed by carbon pollution, and Senator MANCHIN is from a State that sees economic benefit from coal. We believe we could both learn more about those different perspectives. So I am committing to travel with Senator MANCHIN to West Virginia to see the coal plants that power many parts of our country and meet the people there working to curb pollution and improve efficiency, and I invite Senator MANCHIN to Rhode Island to see how climate change is taking its toll on our shorelines and marine industries.

America is still a beacon to the world because ultimately we have the ability to work through disagreements to common ground on a shared platform of fact. With the commitment of serious leaders such as Senator MANCHIN, I am confident we can move forward to an energy future that preserves the economy and quality of life in West Virginia, in Rhode Island, and for all Americans.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that Senator MANCHIN have such time as he needs to conclude his colloquy.

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

Mr. MANCHIN. Mr. President, I thank the Senator. Again, I say to my good friend Senator WHITEHOUSE from Rhode Island, I look forward to coming to his beautiful State of Rhode Island and seeing all of what they are doing and the efficiencies they have and technology they are incorporating. I also look forward to showing him my State, the beautiful State of West Virginia, and its great people.

We have both visited each other's States before, so we know how good our States are. It is going to be great to revisit.

I thank the Senator also for joining me on the floor as we continue to have this extremely important dialogue. If Senator WHITEHOUSE and I can start looking for a pathway, I am sure friends from both sides of the aisle can join us. That is what we are trying to have happen.

I agree with Senator WHITEHOUSE, the United States of America has long stood before the world as an exceptional country that people look up to. We have reigned as the dominant world power and have played the role of the world's leader for more than 200 years.

Coal use is expanding across the globe, and we need to face that reality—and we must take our position as the world leader and broker solutions, knowing the rest of the world is going to use this product more than ever before. So finding a balance of the environment between our concerns and our economic prosperity is going to happen. We should be that leader also.

The solution for the United States is to develop a technology that will allow us to use the fuels we need cleanly and to export that technology to the world.

Yes, West Virginia and Rhode Island are indeed different in many ways, but most importantly the Senator and I both know they are both part of this great country, and that is what makes America great. We can deliberate and challenge each other's positions on any one issue—and we sure have had our share of dogged debates on the issues of climate change and energy issues—but when it comes to deciding what is best for our future generations and our beautiful Earth, there is always room for reasonable compromise and a way forward.

So as we continue to work diligently in the Senate, I also look forward to visiting again with him, and we will make that happen sooner than later.

Once again, I thank Senator WHITEHOUSE for coming to the table to establish a truly commonsense, all-of-the-above energy policy that acknowledges the vital role coal must play moving forward.

This energy strategy will also help protect good-paying jobs, boost our economy nationwide and around the world, and improve the quality of life of all living things.

We are going to fix this together, not as Democrats or Republicans but as Americans, as the world leaders we always have been. We have been looking to find the balance, and we will find the balance and show not only America but the world that we can look past our differences to better this world. I look forward so much to that. We both have looked at it from this standpoint: We both agree we need to work together and basically agree we have a responsibility in this world and this country to be a leader again in finding a pathway to using the energy the good Lord gave us and find the best balance we can with the economy and environment, cleaning up the environment for which we are responsible.

I thank my good friend, and I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The senior Senator from Texas is recognized.

THE AMENDMENT PROCESS

Mr. CORNYN. Mr. President, before I came to the Senate, I read in the history and civics books that the Senate was called the world's greatest deliberative body, where anybody with a good idea or even a bad idea at least had an opportunity to talk about it, offer an amendment or legislation, and get a vote. That is what was meant by ''the world's greatest deliberative body.''

Unfortunately, the Senate has become virtually unrecognizable to those of us who began our tenure under the previous leadership of the Senate.

Simply put, we have gone from an institution that legislates, that debates the great ideas to solve the problems and challenges of this great democracy to one that has become a killing floor for good ideas.

We have had at least three bipartisan bills in the last few weeks the majority leader has stopped because he has refused the opportunity for Republicans in the minority and the Democrats in the majority to offer any amendments and to get votes.

I think about the Shaheen-Portman bill, the energy conservation bill, the tax extenders bill for the expiring 50 or so tax provisions, and the appropriations bill that recently was on the Senate floor. All of these pieces of legislation enjoy bipartisan support. So one would think, in a dysfunctional Senate, at least those kinds of bills would have the opportunity to get debate, amendment, and passage.

That is not the case because the majority leader insists on a ''my way or the highway'' mentality. In essence, he wants to be the traffic cop who decides whose ideas get to be debated, what amendments get to be offered, and what votes get to occur.

As one Senator from a State that represents 26 million constituents, I refuse to participate in a process where the majority leader from Nevada gets to tell my constituents what kind of amendments I get to offer on their behalf. It is unacceptable. This is not the Senate I joined when I got here nor a Senate any of us should be proud of.

Shortly after I got to the Senate, Republicans became the majority party. I always tell my friends and constituents back home, being in the majority is a lot more fun than being in the minority. But back then it was understood by both parties that the price of being in the majority, and recognizing and respecting the minority did have rights, is that you had to take some tough votes on amendments, but after all that is why we are here. That is part of the price we pay for serving in the Senate—to vote sometimes on things we would prefer not to vote on

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

AMERICAN ELECTRIC POWER CO., INC., ET AL. *v.* CONNECTICUT ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 10–174. Argued April 19, 2011—Decided June 20, 2011

In *Massachusetts* v. *EPA*, 549 U. S. 497, this Court held that the Clean Air Act authorizes federal regulation of emissions of carbon dioxide and other greenhouse gases, and that the Environmental Protection Agency (EPA) had misread that Act when it denied a rulemaking petition seeking controls on greenhouse gas emissions from new motor vehicles. In response, EPA commenced a rulemaking under §111 of the Act, 42 U. S. C. §7411, to set limits on greenhouse gas emissions from new, modified, and existing fossil-fuel fired power plants. Pursuant to a settlement finalized in March 2011, EPA has committed to issuing a final rule by May 2012.

The lawsuits considered here began well before EPA initiated efforts to regulate greenhouse gases. Two groups of plaintiffs, respondents here, filed separate complaints in a Federal District Court against the same five major electric power companies, petitioners here. One group of plaintiffs included eight States and New York City; the second joined three nonprofit land trusts. According to the complaint, the defendants are the largest emitters of carbon dioxide in the Nation. By contributing to global warming, the plaintiffs asserted, the defendants' emissions substantially and unreasonably interfered with public rights, in violation of the federal common law of interstate nuisance, or, in the alternative, of state tort law. All plaintiffs ask for a decree setting carbon-dioxide emissions for each defendant at an initial cap, to be further reduced annually.

The District Court dismissed both suits as presenting nonjusticiable political questions, but the Second Circuit reversed. On the threshold questions, the Circuit held that the suits were not barred by the political question doctrine and that the plaintiffs had ade-

quately alleged Article III standing. On the merits, the court held that the plaintiffs had stated a claim under the "federal common law of nuisance," relying on this Court's decisions holding that States may maintain suits to abate air and water pollution produced by other States or by out-of-state industry, see, *e.g.*, *Illinois* v. *Milwaukee*, 406 U. S. 91, 93 *(Milwaukee I).* The court further determined that the Clean Air Act did not "displace" federal common law.

Held:

1. The Second Circuit's exercise of jurisdiction is affirmed by an equally divided Court. P. 6.

2. The Clean Air Act and the EPA action the Act authorizes displace any federal common-law right to seek abatement of carbon-dioxide emissions from fossil-fuel fired power plants. Pp. 6–16.

(a) Since *Erie R. Co.* v. *Tompkins*, 304 U. S. 64, 78, recognized that there "is no federal general common law," a new federal common law has emerged for subjects of national concern. When dealing "with air and water in their ambient or interstate aspects, there is a federal common law." *Milwaukee I,* 406 U. S., at 103. Decisions of this Court predating *Erie*, but compatible with the emerging distinction between general common law and the new federal common law, have approved federal common-law suits brought by one State to abate pollution emanating from another State. See, *e.g.*, *Missouri* v. *Illinois*, 180 U. S. 208, 241–243. The plaintiffs contend that their right to maintain this suit follows from such cases. But recognition that a subject is meet for federal law governance does not necessarily mean that federal courts should create the controlling law. The Court need not address the question whether, absent the Clean Air Act and the EPA actions it authorizes, the plaintiffs could state a federal common-law claim for curtailment of greenhouse gas emissions because of their contribution to global warming. Any such claim would be displaced by the federal legislation authorizing EPA to regulate carbon-dioxide emissions. Pp. 6–9.

(b) "[W]hen Congress addresses a question previously governed by a decision rested on federal common law the need for such an unusual exercise of law-making by federal courts disappears." *Milwaukee* v. *Illinois*, 451 U. S. 304, 314 *(Milwaukee II).* Legislative displacement of federal common law does not require the "same sort of evidence of a clear and manifest [congressional] purpose" demanded for preemption of state law. *Id.*, at 317. Rather, the test is simply whether the statute "speak[s] directly to [the] question" at issue. *Mobil Oil Corp.* v. *Higginbotham*, 436 U. S. 618, 625. Here, *Massachusetts* made plain that emissions of carbon dioxide qualify as air pollution subject to regulation under the Clean Air Act. 549 U. S., at 528–529. And it is equally plain that the Act "speaks directly" to

emissions of carbon dioxide from the defendants' plants. The Act directs EPA to establish emissions standards for categories of stationary sources that, "in [the Administrator's] judgment," "caus[e], or contribut[e] significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare." §7411(b)(1)(A). Once EPA lists a category, it must establish performance standards for emission of pollutants from new or modified sources within that category, §7411(b)(1)(B), and, most relevant here, must regulate existing sources within the same category, §7411(d). The Act also provides multiple avenues for enforcement. If EPA does not *set* emissions limits for a particular pollutant or source of pollution, States and private parties may petition for a rulemaking on the matter, and EPA's response will be reviewable in federal court. See §7607(b)(1). The Act itself thus provides a means to seek limits on emissions of carbon dioxide from domestic power plants—the same relief the plaintiffs seek by invoking federal common law. There is no room for a parallel track. Pp. 9–11.

(c) The Court rejects the plaintiffs' argument, and the Second Circuit's holding, that federal common law is not displaced until EPA actually exercises its regulatory authority by setting emissions standards for the defendants' plants. The relevant question for displacement purposes is "whether the field has been occupied, not whether it has been occupied in a particular manner." *Milwaukee II,* 451 U. S., at 324. The Clean Air Act is no less an exercise of the Legislature's "considered judgment" concerning air pollution regulation because it permits emissions until EPA acts. The critical point is that Congress delegated to EPA the decision whether and how to regulate carbon-dioxide emissions from power plants; the delegation displaces federal common law. If the plaintiffs in this case are dissatisfied with the outcome of EPA's forthcoming rulemaking, their recourse is to seek Court of Appeals review, and, ultimately, to petition for certiorari.

The Act's prescribed order of decisionmaking—first by the expert agency, and then by federal judges—is yet another reason to resist setting emissions standards by judicial decree under federal tort law. The appropriate amount of regulation in a particular greenhouse gas-producing sector requires informed assessment of competing interests. The Clean Air Act entrusts such complex balancing to EPA in the first instance, in combination with state regulators. The expert agency is surely better equipped to do the job than federal judges, who lack the scientific, economic, and technological resources an agency can utilize in coping with issues of this order. The plaintiffs' proposal to have federal judges determine, in the first instance, what amount of carbon-dioxide emissions is "unreasonable" and what level of reduction is necessary cannot be reconciled with Congress' scheme.

Pp. 12–15.

(d) The plaintiffs also sought relief under state nuisance law. The Second Circuit did not reach those claims because it held that federal common law governed. In light of the holding here that the Clean Air Act displaces federal common law, the availability *vel non* of a state lawsuit depends, *inter alia*, on the preemptive effect of the federal Act. Because none of the parties have briefed preemption or otherwise addressed the availability of a claim under state nuisance law, the matter is left for consideration on remand. Pp. 15–16.

582 F. 3d 309, reversed and remanded.

GINSBURG, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, BREYER, and KAGAN, JJ., joined. ALITO, J., filed an opinion concurring in part and concurring in the judgment, in which THOMAS, J., joined. SOTOMAYOR, J., took no part in the consideration or decision of the case.

SUPREME COURT OF THE UNITED STATES

No. 10–174

AMERICAN ELECTRIC POWER COMPANY, INC., ET AL., PETITIONERS *v.* CONNECTICUT ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[June 20, 2011]

JUSTICE GINSBURG delivered the opinion of the Court.

We address in this opinion the question whether the plaintiffs (several States, the city of New York, and three private land trusts) can maintain federal common law public nuisance claims against carbon-dioxide emitters (four private power companies and the federal Tennessee Valley Authority). As relief, the plaintiffs ask for a decree setting carbon-dioxide emissions for each defendant at an initial cap, to be further reduced annually. The Clean Air Act and the Environmental Protection Agency action the Act authorizes, we hold, displace the claims the plaintiffs seek to pursue.

I

In *Massachusetts* v. *EPA*, 549 U. S. 497 (2007), this Court held that the Clean Air Act, 42 U. S. C. §7401 *et seq.*, authorizes federal regulation of emissions of carbon dioxide and other greenhouse gases. "[N]aturally present in the atmosphere and . . . also emitted by human activities," greenhouse gases are so named because they "trap . . . heat that would otherwise escape from the [Earth's] atmosphere, and thus form the greenhouse effect that

helps keep the Earth warm enough for life." 74 Fed. Reg. 66499 (2009).[1] *Massachusetts* held that the Environmental Protection Agency (EPA) had misread the Clean Air Act when it denied a rulemaking petition seeking controls on greenhouse gas emissions from new motor vehicles. 549 U. S., at 510–511. Greenhouse gases, we determined, qualify as "air pollutant[s]" within the meaning of the governing Clean Air Act provision, *id.*, at 528–529 (quoting §7602(g)); they are therefore within EPA's regulatory ken. Because EPA had authority to set greenhouse gas emission standards and had offered no "reasoned explanation" for failing to do so, we concluded that the agency had not acted "in accordance with law" when it denied the requested rulemaking. *Id.*, at 534–535 (quoting §7607(d)(9)(A)).

Responding to our decision in *Massachusetts*, EPA undertook greenhouse gas regulation. In December 2009, the agency concluded that greenhouse gas emissions from motor vehicles "cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare," the Act's regulatory trigger. §7521(a)(1); 74 Fed. Reg. 66496. The agency observed that "atmospheric greenhouse gas concentrations are now at elevated and essentially unprecedented levels," almost entirely "due to anthropogenic emissions," *id.*, at 66517; mean global temperatures, the agency continued, demonstrate an "unambiguous warming trend over the last 100 years," and particularly "over the past 30 years," *ibid.* Acknowledging that not all scientists agreed on the causes and consequences of the rise in global temperatures, *id.*, at 66506, 66518, 66523–66524, EPA concluded that "compelling" evidence supported the "attribution of observed

---

[1] In addition to carbon dioxide, the primary greenhouse gases emitted by human activities include methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. 74 Fed. Reg. 66499.

climate change to anthropogenic" emissions of greenhouse gases, *id.*, at 66518. Consequent dangers of greenhouse gas emissions, EPA determined, included increases in heat-related deaths; coastal inundation and erosion caused by melting icecaps and rising sea levels; more frequent and intense hurricanes, floods, and other "extreme weather events" that cause death and destroy infrastructure; drought due to reductions in mountain snowpack and shifting precipitation patterns; destruction of ecosystems supporting animals and plants; and potentially "significant disruptions" of food production. *Id.*, at 66524–66535.[2]

EPA and the Department of Transportation subsequently issued a joint final rule regulating emissions from light-duty vehicles, see 75 Fed. Reg. 25324 (2010), and initiated a joint rulemaking covering medium- and heavy-duty vehicles, see *id.*, at 74152. EPA also began phasing in requirements that new or modified "[m]ajor [greenhouse gas] emitting facilities" use the "best available control technology." §7475(a)(4); 75 Fed. Reg. 31520–31521. Finally, EPA commenced a rulemaking under §111 of the Act, 42 U. S. C. §7411, to set limits on greenhouse gas emissions from new, modified, and existing fossil-fuel fired power plants. Pursuant to a settlement finalized in March 2011, EPA has committed to issuing a proposed rule by July 2011, and a final rule by May 2012. See 75 Fed. Reg. 82392; Reply Brief for Tennessee Valley Authority 18.

II

The lawsuits we consider here began well before EPA initiated the efforts to regulate greenhouse gases just described. In July 2004, two groups of plaintiffs filed

---

[2] For views opposing EPA's, see, *e.g.*, Dawidoff, The Civil Heretic, N. Y. Times Magazine 32 (March 29, 2009). The Court, we caution, endorses no particular view of the complicated issues related to carbon-dioxide emissions and climate change.

separate complaints in the Southern District of New York against the same five major electric power companies. The first group of plaintiffs included eight States[3] and New York City, the second joined three nonprofit land trusts[4]; both groups are respondents here. The defendants, now petitioners, are four private companies[5] and the Tennessee Valley Authority, a federally owned corporation that operates fossil-fuel fired power plants in several States. According to the complaints, the defendants "are the five largest emitters of carbon dioxide in the United States." App. 57, 118. Their collective annual emissions of 650 million tons constitute 25 percent of emissions from the domestic electric power sector, 10 percent of emissions from all domestic human activities, *ibid.*, and 2.5 percent of all anthropogenic emissions worldwide, App. to Pet. for Cert. 72a.

By contributing to global warming, the plaintiffs asserted, the defendants' carbon-dioxide emissions created a "substantial and unreasonable interference with public rights," in violation of the federal common law of interstate nuisance, or, in the alternative, of state tort law. App. 103–105, 145–147. The States and New York City alleged that public lands, infrastructure, and health were at risk from climate change. App. 88–93. The trusts urged that climate change would destroy habitats for animals and rare species of trees and plants on land the trusts owned and conserved. App. 139–145. All plaintiffs sought injunctive relief requiring each defendant "to cap

---

[3] California, Connecticut, Iowa, New Jersey, New York, Rhode Island, Vermont, and Wisconsin, although New Jersey and Wisconsin are no longer participating. Brief for Respondents Connecticut et al. 3, n. 1.

[4] Open Space Institute, Inc., Open Space Conservancy, Inc., and Audubon Society of New Hampshire.

[5] American Electric Power Company, Inc. (and a wholly owned subsidiary), Southern Company, Xcel Energy Inc., and Cinergy Corporation.

its carbon dioxide emissions and then reduce them by a specified percentage each year for at least a decade." App. 110, 153.

The District Court dismissed both suits as presenting non-justiciable political questions, citing *Baker* v. *Carr*, 369 U. S. 186 (1962), but the Second Circuit reversed, 582 F. 3d 309 (2009). On the threshold questions, the Court of Appeals held that the suits were not barred by the political question doctrine, *id.*, at 332, and that the plaintiffs had adequately alleged Article III standing, *id.*, at 349.

Turning to the merits, the Second Circuit held that all plaintiffs had stated a claim under the "federal common law of nuisance." *Id.*, at 358, 371. For this determination, the court relied dominantly on a series of this Court's decisions holding that States may maintain suits to abate air and water pollution produced by other States or by out-of-state industry. *Id.*, at 350–351; see, *e.g.*, *Illinois* v. *Milwaukee*, 406 U. S. 91, 93, (1972) (*Milwaukee I*) (recognizing right of Illinois to sue in federal district court to abate discharge of sewage into Lake Michigan).

The Court of Appeals further determined that the Clean Air Act did not "displace" federal common law. In *Milwaukee* v. *Illinois*, 451 U. S. 304, 316–319 (1981) (*Milwaukee II*), this Court held that Congress had displaced the federal common law right of action recognized in *Milwaukee I* by adopting amendments to the Clean Water Act, 33 U. S. C. §1251 *et seq*. That legislation installed an all-encompassing regulatory program, supervised by an expert administrative agency, to deal comprehensively with interstate water pollution. The legislation itself prohibited the discharge of pollutants into the waters of the United States without a permit from a proper permitting authority. *Milwaukee II*, 451 U. S., at 310–311 (citing §1311). At the time of the Second Circuit's decision, by contrast, EPA had not yet promulgated any rule regulating greenhouse gases, a fact the court thought dispositive.

582 F. 3d, at 379–381. "Until EPA completes the rulemaking process," the court reasoned, "we cannot speculate as to whether the hypothetical regulation of greenhouse gases under the Clean Air Act would in fact 'spea[k] directly' to the 'particular issue' raised here by Plaintiffs." *Id.*, at 380.

We granted certiorari. 562 U. S. ___ (2010).

III

The petitioners contend that the federal courts lack authority to adjudicate this case. Four members of the Court would hold that at least some plaintiffs have Article III standing under *Massachusetts*, which permitted a State to challenge EPA's refusal to regulate greenhouse gas emissions, 549 U. S., at 520–526; and, further, that no other threshold obstacle bars review.[6] Four members of the Court, adhering to a dissenting opinion in *Massachusetts*, 549 U. S., at 535, or regarding that decision as distinguishable, would hold that none of the plaintiffs have Article III standing. We therefore affirm, by an equally divided Court, the Second Circuit's exercise of jurisdiction and proceed to the merits. See *Nye* v. *United States*, 313 U. S. 33, 44 (1941).

IV

A

"There is no federal general common law," *Erie R. Co.* v. *Tompkins*, 304 U. S. 64, 78 (1938), famously recognized. In the wake of *Erie*, however, a keener understanding developed. See generally Friendly, In Praise of *Erie*—And of the New Federal Common Law, 39 N. Y. U. L. Rev. 383

---

[6] In addition to renewing the political question argument made below, the petitioners now assert an additional threshold obstacle: They seek dismissal because of a "prudential" bar to the adjudication of generalized grievances, purportedly distinct from Article III's bar. See Brief for Tennessee Valley Authority 14–24; Brief for Petitioners 30–31.

(1964). *Erie* "le[ft] to the states what ought be left to them," *id.*, at 405, and thus required "federal courts [to] follow state decisions on matters of substantive law appropriately cognizable by the states," *id.*, at 422. *Erie* also sparked "the emergence of a federal decisional law in areas of national concern." *Id.*, at 405. The "new" federal common law addresses "subjects within national legislative power where Congress has so directed" or where the basic scheme of the Constitution so demands. *Id.*, at 408, n. 119, 421–422. Environmental protection is undoubtedly an area "within national legislative power," one in which federal courts may fill in "statutory interstices," and, if necessary, even "fashion federal law." *Id.*, at 421–422. As the Court stated in *Milwaukee I*: "When we deal with air and water in their ambient or interstate aspects, there is a federal common law." 406 U. S., at 103.

Decisions of this Court predating *Erie*, but compatible with the distinction emerging from that decision between "general common law" and "specialized federal common law," Friendly, *supra*, at 405, have approved federal common law suits brought by one State to abate pollution emanating from another State. See, *e.g.*, *Missouri* v. *Illinois*, 180 U. S. 208, 241–243 (1901) (permitting suit by Missouri to enjoin Chicago from discharging untreated sewage into interstate waters); *New Jersey* v. *City of New York*, 283 U. S. 473, 477, 481–483 (1931) (ordering New York City to stop dumping garbage off New Jersey coast); *Georgia* v. *Tennessee Copper Co.*, 240 U. S. 650 (1916) (ordering private copper companies to curtail sulfur-dioxide discharges in Tennessee that caused harm in Georgia). See also *Milwaukee I*, 406 U. S., at 107 (post-*Erie* decision upholding suit by Illinois to abate sewage discharges into Lake Michigan). The plaintiffs contend that their right to maintain this suit follows inexorably from that line of decisions.

Recognition that a subject is meet for federal law gov-

ernance, however, does not necessarily mean that federal courts should create the controlling law. Absent a demonstrated need for a federal rule of decision, the Court has taken "the prudent course" of "adopt[ing] the readymade body of state law as the federal rule of decision until Congress strikes a different accommodation." *United States* v. *Kimbell Foods, Inc.*, 440 U. S. 715, 740 (1979); see *Bank of America Nat. Trust & Sav. Assn.* v. *Parnell*, 352 U. S. 29, 32–34 (1956). And where, as here, borrowing the law of a particular State would be inappropriate, the Court remains mindful that it does not have creative power akin to that vested in Congress. See *Missouri* v. *Illinois*, 200 U. S. 496, 519 (1906) ("fact that this court must decide does not mean, of course, that it takes the place of a legislature"); cf. *United States* v. *Standard Oil Co. of Cal.*, 332 U. S. 301, 308, 314 (1947) (holding that federal law determines whether Government could secure indemnity from a company whose truck injured a United States soldier, but declining to impose such an indemnity absent action by Congress, "the primary and most often the exclusive arbiter of federal fiscal affairs").

In the cases on which the plaintiffs heavily rely, States were permitted to sue to challenge activity harmful to their citizens' health and welfare. We have not yet decided whether private citizens (here, the land trusts) or political subdivisions (New York City) of a State may invoke the federal common law of nuisance to abate out-of-state pollution. Nor have we ever held that a State may sue to abate any and all manner of pollution originating outside its borders.

The defendants argue that considerations of scale and complexity distinguish global warming from the more bounded pollution giving rise to past federal nuisance suits. Greenhouse gases once emitted "become well mixed in the atmosphere," 74 Fed. Reg. 66514; emissions in New Jersey may contribute no more to flooding in New York

than emissions in China. Cf. Brief for Petitioners 18–19. The plaintiffs, on the other hand, contend that an equitable remedy against the largest emitters of carbon dioxide in the United States is in order and not beyond judicial competence. See Brief for Respondents Open Space Institute et al. 32–35. And we have recognized that public nuisance law, like common law generally, adapts to changing scientific and factual circumstances. *Missouri*, 200 U. S., at 522 (adjudicating claim though it did not concern "nuisance of the simple kind that was known to the older common law"); see also *D'Oench, Duhme & Co.* v. *FDIC*, 315 U. S. 447, 472 (1942) (Jackson, J., concurring) ("federal courts are free to apply the traditional common-law technique of decision" when fashioning federal common law).

We need not address the parties' dispute in this regard. For it is an academic question whether, in the absence of the Clean Air Act and the EPA actions the Act authorizes, the plaintiffs could state a federal common law claim for curtailment of greenhouse gas emissions because of their contribution to global warming. Any such claim would be displaced by the federal legislation authorizing EPA to regulate carbon-dioxide emissions.

B

"[W]hen Congress addresses a question previously governed by a decision rested on federal common law," the Court has explained, "the need for such an unusual exercise of law-making by federal courts disappears." *Milwaukee II*, 451 U. S., at 314 (holding that amendments to the Clean Water Act displaced the nuisance claim recognized in *Milwaukee I*). Legislative displacement of federal common law does not require the "same sort of evidence of a clear and manifest [congressional] purpose" demanded for preemption of state law. *Id.*, at 317. "'[D]ue regard for the presuppositions of our embracing federal system . . . as

a promoter of democracy,'" *id.*, at 316 (quoting *San Diego Building Trades Council* v. *Garmon*, 359 U. S. 236, 243 (1959)), does not enter the calculus, for it is primarily the office of Congress, not the federal courts, to prescribe national policy in areas of special federal interest. *TVA* v. *Hill*, 437 U. S. 153, 194 (1978). The test for whether congressional legislation excludes the declaration of federal common law is simply whether the statute "speak[s] directly to [the] question" at issue. *Mobil Oil Corp.* v. *Higginbotham*, 436 U. S. 618, 625 (1978); see *Milwaukee II*, 451 U. S., at 315; *County of Oneida* v. *Oneida Indian Nation of N. Y.*, 470 U. S. 226, 236–237 (1985).

We hold that the Clean Air Act and the EPA actions it authorizes displace any federal common law right to seek abatement of carbon-dioxide emissions from fossil-fuel fired power plants. *Massachusetts* made plain that emissions of carbon dioxide qualify as air pollution subject to regulation under the Act. 549 U. S., at 528–529. And we think it equally plain that the Act "speaks directly" to emissions of carbon dioxide from the defendants' plants.

Section 111 of the Act directs the EPA Administrator to list "categories of stationary sources" that "in [her] judgment . . . caus[e], or contribut[e] significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare." §7411(b)(1)(A). Once EPA lists a category, the agency must establish standards of performance for emission of pollutants from new or modified sources within that category. §7411(b)(1)(B); see also §7411(a)(2). And, most relevant here, §7411(d) then requires regulation of existing sources within the same category.[7] For existing sources, EPA issues emissions

---

[7] There is an exception: EPA may not employ §7411(d) if existing stationary sources of the pollutant in question are regulated under the national ambient air quality standard program, §§7408–7410, or the "hazardous air pollutants" program, §7412. See §7411(d)(1).

guidelines, see 40 C. F. R. §60.22, .23 (2009); in compliance with those guidelines and subject to federal oversight, the States then issue performance standards for stationary sources within their jurisdiction, §7411(d)(1).

The Act provides multiple avenues for enforcement. See *County of Oneida*, 470 U. S., at 237–239 (reach of remedial provisions is important to determination whether statute displaces federal common law). EPA may delegate implementation and enforcement authority to the States, §7411(c)(1), (d)(1), but the agency retains the power to inspect and monitor regulated sources, to impose administrative penalties for noncompliance, and to commence civil actions against polluters in federal court. §§7411(c)(2), (d)(2), 7413, 7414. In specified circumstances, the Act imposes criminal penalties on any person who knowingly violates emissions standards issued under §7411. See §7413(c). And the Act provides for private enforcement. If States (or EPA) fail to enforce emissions limits against regulated sources, the Act permits "any person" to bring a civil enforcement action in federal court. §7604(a).

If EPA does not *set* emissions limits for a particular pollutant or source of pollution, States and private parties may petition for a rulemaking on the matter, and EPA's response will be reviewable in federal court. See §7607(b)(1); *Massachusetts*, 549 U. S., at 516–517, 529. As earlier noted, see *supra*, at 3, EPA is currently engaged in a §7411 rulemaking to set standards for greenhouse gas emissions from fossil-fuel fired power plants. To settle litigation brought under §7607(b) by a group that included the majority of the plaintiffs in this very case, the agency agreed to complete that rulemaking by May 2012. 75 Fed. Reg. 82392. The Act itself thus provides a means to seek limits on emissions of carbon dioxide from domestic power plants—the same relief the plaintiffs seek by invoking federal common law. We see no room for a parallel track.

C

The plaintiffs argue, as the Second Circuit held, that federal common law is not displaced until EPA actually exercises its regulatory authority, *i.e.*, until it sets standards governing emissions from the defendants' plants. We disagree.

The sewage discharges at issue in *Milwaukee II*, we do not overlook, were subject to effluent limits set by EPA; under the displacing statute, "[e]very point source discharge" of water pollution was "prohibited unless covered by a permit." 451 U. S., at 318–320 (emphasis deleted). As *Milwaukee II* made clear, however, the relevant question for purposes of displacement is "whether the field has been occupied, not whether it has been occupied in a particular manner." *Id.*, at 324. Of necessity, Congress selects different regulatory regimes to address different problems. Congress could hardly preemptively prohibit every discharge of carbon dioxide unless covered by a permit. After all, we each emit carbon dioxide merely by breathing.

The Clean Air Act is no less an exercise of the legislature's "considered judgment" concerning the regulation of air pollution because it permits emissions *until* EPA acts. See *Middlesex County Sewerage Authority* v. *National Sea Clammers Assn.*, 453 U. S. 1, 22, n. 32 (1981) (finding displacement although Congress "allowed some continued dumping of sludge" prior to a certain date). The critical point is that Congress delegated to EPA the decision whether and how to regulate carbon-dioxide emissions from power plants; the delegation is what displaces federal common law. Indeed, were EPA to decline to regulate carbon-dioxide emissions altogether at the conclusion of its ongoing §7411 rulemaking, the federal courts would have no warrant to employ the federal common law of nuisance to upset the agency's expert determination.

EPA's judgment, we hasten to add, would not escape

judicial review. Federal courts, we earlier observed, see *supra*, at 11, can review agency action (or a final rule declining to take action) to ensure compliance with the statute Congress enacted. As we have noted, see *supra*, at 10, the Clean Air Act directs EPA to establish emissions standards for categories of stationary sources that, "in [the Administrator's] judgment," "caus[e], or contribut[e] significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare." §7411(b)(1)(A). "[T]he use of the word 'judgment,'" we explained in *Massachusetts*, "is not a roving license to ignore the statutory text." 549 U. S., at 533. "It is but a direction to exercise discretion within defined statutory limits." *Ibid.* EPA may not decline to regulate carbon-dioxide emissions from power plants if refusal to act would be "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." §7607(d)(9)(A). If the plaintiffs in this case are dissatisfied with the outcome of EPA's forthcoming rulemaking, their recourse under federal law is to seek Court of Appeals review, and, ultimately, to petition for certiorari in this Court.

Indeed, this prescribed order of decisionmaking—the first decider under the Act is the expert administrative agency, the second, federal judges—is yet another reason to resist setting emissions standards by judicial decree under federal tort law. The appropriate amount of regulation in any particular greenhouse gas-producing sector cannot be prescribed in a vacuum: as with other questions of national or international policy, informed assessment of competing interests is required. Along with the environmental benefit potentially achievable, our Nation's energy needs and the possibility of economic disruption must weigh in the balance.

The Clean Air Act entrusts such complex balancing to EPA in the first instance, in combination with state regulators. Each "standard of performance" EPA sets must

"tak[e] into account the cost of achieving [emissions] reduction and any nonair quality health and environmental impact and energy requirements." §7411(a)(1), (b)(1)(B), (d)(1); see also 40 C. F. R. §60.24(f) (EPA may permit state plans to deviate from generally applicable emissions standards upon demonstration that costs are "[u]nreasonable"). EPA may "distinguish among classes, types, and sizes" of stationary sources in apportioning responsibility for emissions reductions. §7411(b)(2), (d); see also 40 C. F. R. §60.22(b)(5). And the agency may waive compliance with emission limits to permit a facility to test drive an "innovative technological system" that has "not [yet] been adequately demonstrated." §7411(j)(1)(A). The Act envisions extensive cooperation between federal and state authorities, see §7401(a), (b), generally permitting each State to take the first cut at determining how best to achieve EPA emissions standards within its domain, see §7411(c)(1), (d)(1)–(2).

It is altogether fitting that Congress designated an expert agency, here, EPA, as best suited to serve as primary regulator of greenhouse gas emissions. The expert agency is surely better equipped to do the job than individual district judges issuing ad hoc, case-by-case injunctions. Federal judges lack the scientific, economic, and technological resources an agency can utilize in coping with issues of this order. See generally *Chevron U. S. A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U. S. 837, 865–866 (1984). Judges may not commission scientific studies or convene groups of experts for advice, or issue rules under notice-and-comment procedures inviting input by any interested person, or seek the counsel of regulators in the States where the defendants are located. Rather, judges are confined by a record comprising the evidence the parties present. Moreover, federal district judges, sitting as sole adjudicators, lack authority to render precedential decisions binding other judges, even

members of the same court.

Notwithstanding these disabilities, the plaintiffs propose that individual federal judges determine, in the first instance, what amount of carbon-dioxide emissions is "unreasonable," App. 103, 145, and then decide what level of reduction is "practical, feasible and economically viable," App. 58, 119. These determinations would be made for the defendants named in the two lawsuits launched by the plaintiffs. Similar suits could be mounted, counsel for the States and New York City estimated, against "thousands or hundreds or tens" of other defendants fitting the description "large contributors" to carbon-dioxide emissions. Tr. of Oral Arg. 57.

The judgments the plaintiffs would commit to federal judges, in suits that could be filed in any federal district, cannot be reconciled with the decisionmaking scheme Congress enacted. The Second Circuit erred, we hold, in ruling that federal judges may set limits on greenhouse gas emissions in face of a law empowering EPA to set the same limits, subject to judicial review only to ensure against action "arbitrary, capricious, . . . or otherwise not in accordance with law." §7607(d)(9).

V

The plaintiffs also sought relief under state law, in particular, the law of each State where the defendants operate power plants. See App. 105, 147. The Second Circuit did not reach the state law claims because it held that federal common law governed. 582 F. 3d, at 392; see *International Paper Co.* v. *Ouellette*, 479 U. S. 481, 488 (1987) (if a case "should be resolved by reference to federal common law[,] . . . state common law [is] preempted"). In light of our holding that the Clean Air Act displaces federal common law, the availability *vel non* of a state lawsuit depends, *inter alia*, on the preemptive effect of the federal Act. *Id.*, at 489, 491, 497 (holding that the Clean

Water Act does not preclude aggrieved individuals from bringing a "nuisance claim pursuant to the law of the *source* State"). None of the parties have briefed preemption or otherwise addressed the availability of a claim under state nuisance law. We therefore leave the matter open for consideration on remand.

* * *

For the reasons stated, we reverse the judgment of the Second Circuit and remand the case for further proceedings consistent with this opinion.

It is so ordered.

JUSTICE SOTOMAYOR took no part in the consideration or decision of this case.

SUPREME COURT OF THE UNITED STATES

No. 10–174

AMERICAN ELECTRIC POWER COMPANY, INC., ET AL., PETITIONERS *v.* CONNECTICUT ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[June 20, 2011]

JUSTICE ALITO, with whom JUSTICE THOMAS joins, concurring in part and concurring in the judgment.

I concur in the judgment, and I agree with the Court's displacement analysis on the assumption (which I make for the sake of argument because no party contends otherwise) that the interpretation of the Clean Air Act, 42 U. S. C. §7401 *et seq*., adopted by the majority in *Massachusetts* v. *EPA*, 549 U. S. 497 (2007), is correct.