when they are hurt, when they are devastated by natural disaster, the people of the United States rally and help out.

That is the ethic of my State. When a farmer gets sick and can't harvest his crop, the neighbors pitch in. When a barn burns down, the neighbors pitch in. That is the best of community spirit. That is the best of America. We are going to be relying on that generosity of spirit in the days ahead.

Madam President, I yield the floor and note the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Madam President, I ask unanimous consent that the quorum call be rescinded.

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

The Senator from Washington.

MILITARY SUPPORT

Mrs. MURRAY. Madam President, we are going to hear tonight from President Obama about his plans for changes to troop levels in Afghanistan.

Last week I joined with a bipartisan group of my Senate colleagues on a letter to the President urging him to begin a sizeable and sustained reduction in troop levels, and I hope he takes the opportunity to do that tonight. But with all the talk about troop levels, I want to make sure we remember this isn't just about numbers. It is about real people with real families, men and women who are fighting to defend our country and are depending on us to do the right thing for them now and when they come home.

As chairman of the Senate Veterans' Affairs Committee, I have an inside look into something that too often doesn't make the front pages: the unseen costs of war, the costs that come after our men and women take off that uniform.

We all hear about how expensive war is while we are fighting it. But for so many of our servicemembers what happens on the battlefield is just the beginning.

We are seeing suicide rates that are much higher among Active-Duty servicemembers and veterans than among civilians. We are finding they are having trouble accessing the mental health care so many of them desperately need. We are watching as these men and women are sent out on tour after tour. Too often they are having a tough time finding a job when they come home. We owe it to them and their families to do everything we can to get them the support and services they need.

Far too many of our servicemembers have sacrificed life and limb overseas, and we must honor them and their sacrifices by making sure we take care of them and their caregivers not just today, not just when they come home, but for a lifetime. This is going to be expensive, and I am going to fight to make sure it happens. I think it ought to be considered as we think now about the war in Afghanistan.

The enemy we face is real. The Taliban and al-Qaida have demonstrated through their actions and their words they mean us great harm. I was sitting in the Capitol on September 11, 2001, when I saw the smoke rising from the Pentagon. It is a moment and a day I will never forget.

As Americans, we know what this enemy is capable of, and we need to do everything we can to make sure something like that never, ever happens again. That is why I believe American forces need to be prepared to fight terror and terrorists wherever they may be.

After September 11, Afghanistan was providing safe haven for them, and we are absolutely right to go in and take them out. But we know terrorism isn't a country; it is a network and a threat that exists around the world. We have seen that our terrorist enemies are not tied to a specific location. They are not bound by lines on a map. They are in Afghanistan, but they are also in Yemen, in Iraq, in Pakistan, and elsewhere. In fact, our top target in the war against terrorism, Osama bin Laden, was just killed in a brave operation in a safe house in Pakistan.

It is absolutely critical we have a military that is prepared to take on our threats wherever they may be. So as we consider the wars we are fighting now in Afghanistan and in Iraq, we need to make sure we aren't overextending the servicemembers we are counting on; that we continue to have the financial resources available to defend ourselves against the very real threat of terrorism that continues to exist; and that the costs and resources of boots on the ground for years on end doesn't inhibit our ability to go after terrorists wherever they are. We need to know our military and intelligence operations are nimble and have the resources they need to keep our Nation safe from all threats.

We have been fighting in Afghanistan for 10 years. I voted for that war. It was the right thing to do. Our brave men and women in uniform have done everything we have asked of them, including finding Osama bin Laden. But we need to make sure today that our strategies are adapted to meet the threats of today. Leaving large levels of troops in Afghanistan is not the best use of our resources, especially in these tough economic times. It is time to redeploy, rebuild our military, and focus on the broader war on terror.

I am hopeful President Obama will make an announcement tonight that reflects those current realities, and I am going to keep working with this administration, the Pentagon, the Department of Veterans Affairs, and all others so that as we fight to keep America safe and to take care of our servicemembers coming home, we do it right.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

PRESIDENTIAL APPOINTMENT EFFICIENCY AND STREAMLINING ACT OF 2011

Mr. REID. Madam President, I ask unanimous consent that the cloture motion with respect to the motion to proceed to Calendar No. 75 be vitiated and the Senate adopt the motion to proceed to Calendar No. 75, S. 679, the Presidential Appointment Efficiency and Streamlining Act.

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

Mr. REID. Will the clerk report the bill, please.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 679) to reduce the number of executive positions subject to Senate confirmation.

The Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Presidential Appointment Efficiency and Streamlining Act of 2011''.

SEC. 2. PRESIDENTIAL APPOINTMENTS NOT SUBJECT TO SENATE APPROVAL.

(a) AGRICULTURE.—

(1) ASSISTANT SECRETARY OF AGRICULTURE FOR CONGRESSIONAL RELATIONS AND ASSISTANT SECRETARY OF AGRICULTURE FOR ADMINISTRATION.—Section 218(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6918(b)) is amended—

(A) by striking ''subsection (a)'' and inserting ''subsection (a)(3)'';

(B) by striking subsection (c); and

(C) by redesignating subsection (d) as subsection (c).

(2) RURAL UTILITIES SERVICE ADMINISTRATOR.—Section 232(b)(1) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6942(b)(1)) is amended—

(A) by striking '', by and with the advice and consent of the Senate'';

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(3) COMMODITY CREDIT CORPORATION.—Section 9(a) of the Commodity Credit Corporation

Charter Act (15 U.S.C. 714g(a)) is amended in the third sentence by striking ''by and with the advice and consent of the Senate''.

(b) COMMERCE.—

(1) ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS.—The provisions of the Act entitled ''An Act to provide for the appointment of one additional Assistant Secretary of Commerce, and for other purposes'', approved July 15, 1947 (15 U.S.C. 1505), section 304 of title III of the Departments of State, Justice, and Commerce and the United States Information Agency Appropriation Act, 1955 (15 U.S.C. 1506), and the Act entitled ''An Act to authorize an additional Assistant Secretary of Commerce'', approved February 16, 1962 (15 U.S.C. 1507), that require the advice and consent of the Senate shall not apply with respect to the appointment of the Assistant Secretary for Congressional Relations.

(2) CHIEF SCIENTIST; NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—Section 2(d) of Reorganization Plan No. 4 of 1970 (5 U.S.C. App. 1) is amended by striking '', by and with the advice and consent of the Senate,''.

(c) DEPARTMENT OF DEFENSE.—

(1) ASSISTANT SECRETARIES OF DEFENSE FOR LEGISLATIVE AFFAIRS, PUBLIC AFFAIRS, AND NETWORKS AND INFORMATION INTEGRATION.—Section 138(a) of title 10, United States Code, as amended by section 901(b)(4)(A) of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011, is further amended by striking paragraph (2) and inserting the following:

''(2)(A) Except as provided in subparagraph (B), the Assistant Secretaries of Defense shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

''(B) The Assistant Secretary of Defense referred to in subsection (b)(5), the Assistant Secretary of Defense for Public Affairs, and the Assistant Secretary of Defense for Networks and Information Integration shall each be appointed from civilian life by the President.''.

(2) COMPTROLLER OF THE ARMY.—

(A) IN GENERAL.—Section 3016 of title 10, United States Code, is amended—

(i) by striking the section heading and inserting the following:

''§3016. Assistant Secretaries of the Army; Comptroller of the Army'';

(ii) in subsection (a), by striking ''five'' and inserting ''four'';

(iii) in subsection (b)—

(I) by striking paragraph (4); and

(II) by redesignating paragraph (5) as paragraph (4); and

(iv) by adding at the end the following:

''(c) There is a Comptroller of the Army, who shall be appointed from civilian life by the President. The Comptroller shall perform such duties and exercise such powers as the Secretary of the Army may prescribe. The Comptroller shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Army, including financial management functions. The Comptroller shall be responsible for all financial management activities and operations of the Department of the Army and shall advise the Secretary of the Army on financial management.''.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) TABLE OF SECTIONS.—The table of sections for chapter 303 of title 10, United States Code, is amended by striking the item relating to section 3016 and inserting the following:

''3016. Assistant Secretaries of the Army; Comptroller of the Army.''.

(ii) FINANCIAL MANAGEMENT.—Section 3022 of title 10, United States Code, is amended—

(I) in subsection (a), by striking ''Assistant Secretary of the Army for Financial Management'' and inserting ''Comptroller of the Army''; and

(II) in subsection (d), by striking ''Assistant Secretary of the Army for Financial Management'' and inserting ''Comptroller of the Army''.

(3) COMPTROLLER OF THE NAVY.—

(A) IN GENERAL.—Section 5016 of title 10, United States Code, is amended—

(i) by striking the section heading and inserting the following:

''§5016. Assistant Secretaries of the Navy; Comptroller of the Navy'';

(ii) in subsection (a), by striking ''four'' and inserting ''three'';

(iii) in subsection (b)—

(I) by striking paragraph (3); and

(II) by redesignating paragraph (4) as paragraph (3); and

(iv) by adding at the end the following:

''(c) There is a Comptroller of the Navy, who shall be appointed from civilian life by the President. The Comptroller shall perform such duties and exercise such powers as the Secretary of the Navy may prescribe. The Comptroller shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Navy, including financial management functions. The Comptroller shall be responsible for all financial management activities and operations of the Department of the Navy and shall advise the Secretary of the Navy on financial management.''.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) TABLE OF SECTIONS.—The table of sections for chapter 503 of title 10, United States Code, is amended by striking the item relating to section 5016 and inserting the following:

''5016. Assistant Secretaries of the Navy; Comptroller of the Navy.''.

(ii) FINANCIAL MANAGEMENT.—Section 5025 of title 10, United States Code, is amended—

(I) in subsection (a), by striking ''Assistant Secretary of the Navy for Financial Management'' and inserting ''Comptroller of the Navy''; and

(II) in subsection (d), by striking ''Assistant Secretary of the Navy for Financial Management'' and inserting ''Comptroller of the Navy''.

(4) COMPTROLLER OF THE AIR FORCE.—

(A) IN GENERAL.—Section 8016 of title 10, United States Code, is amended—

(i) by striking the section heading and inserting the following:

''§8016. Assistant Secretaries of the Air Force; Comptroller of the Air Force'';

(ii) in subsection (a), by striking ''four'' and inserting ''three'';

(iii) in subsection (b)—

(I) by striking paragraph (3); and

(II) by redesignating paragraph (4) as paragraph (3); and

(iv) by adding at the end the following:

''(c) There is a Comptroller of the Air Force, who shall be appointed from civilian life by the President. The Comptroller shall perform such duties and exercise such powers as the Secretary of the Air Force may prescribe. The Comptroller shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Air Force, including financial management functions. The Comptroller shall be responsible for all financial management activities and operations of the Department of the Air Force and shall advise the Secretary of the Air Force on financial management.''.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) TABLE OF SECTIONS.—The table of sections for chapter 803 of title 10, United States Code, is amended by striking the item relating to section 8016 and inserting the following:

''8016. Assistant Secretaries of the Air Force; Comptroller of the Air Force.''.

(ii) FINANCIAL MANAGEMENT.—Section 8022 of title 10, United States Code, is amended—

(I) in subsection (a), by striking ''Assistant Secretary of the Air Force for Financial Management'' and inserting ''Comptroller of the Air Force''; and

(II) in subsection (d), by striking ''Assistant Secretary of the Air Force for Financial Management'' and inserting ''Comptroller of the Air Force''.

(5) TECHNICAL AND CONFORMING AMENDMENTS RELATING TO LEVEL IV POSITIONS ON THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended as follows—

(A) by striking the item relating to Assistant Secretaries of the Air Force (4) and inserting the following:

''Assistant Secretaries of the Air Force (3)'';

(B) by striking the item relating to Assistant Secretaries of the Army (5) and inserting the following:

''Assistant Secretaries of the Army (4)'';

(C) by striking the item relating to Assistant Secretaries of the Navy (4) and inserting the following:

''Assistant Secretaries of the Navy (3)''; and

(D) by inserting at the end the following:

''Comptroller of the Air Force

''Comptroller of the Army

''Comptroller of the Navy''.

(6) INAPPLICABILITY TO CERTAIN INDIVIDUALS SERVING ON DATE OF ENACTMENT.—

(A) IN GENERAL.—Notwithstanding the amendments made by this subsection, the individual serving in a position described in subparagraph (B) on the date of enactment of this Act may continue to serve in such position as if such amendments had not been enacted.

(B) POSITIONS.—The positions specified in this subparagraph are the following:

(i) The Assistant Secretary of the Army for Financial Management.

(ii) The Assistant Secretary of the Navy for Financial Management.

(iii) The Assistant Secretary of the Air Force for Financial Management.

(7) MEMBERS OF NATIONAL SECURITY EDUCATION BOARD.—Section 803(b)(7) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1903(b)(7)) is amended by striking ''by and with the advice and consent of the Senate,''.

(8) DIRECTOR, OFFICE OF SELECTIVE SERVICE RECORDS.—The first section of the Act entitled ''An Act to establish an Office of Selective Service Records to liquidate the Selective Service System following the termination of its functions on March 31, 1947, and to preserve and service the Selective Service records, and for other purposes'', approved March 31, 1947 (50 U.S.C. 321; 61 Stat. 31) is amended by striking '', by and with the advice and consent of the Senate''.

(d) DEPARTMENT OF EDUCATION.—

(1) ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL AFFAIRS AND ASSISTANT SECRETARY FOR MANAGEMENT.—Section 202(e) of the Department of Education Organization Act (20 U.S.C. 3412(e)) is amended by inserting after the first sentence the following: ''Notwithstanding the previous sentence, the appointments of individuals to serve as the Assistant Secretary for Legislation and Congressional Affairs and the Assistant Secretary for Management shall not be subject to the advice and consent of the Senate.''.

(2) COMMISSIONER, REHABILITATION SERVICES ADMINISTRATION.—Section 3(a) of the Rehabilitation Act of 1973 (29 U.S.C. 702(a)) is amended by striking ''by and with the advice and consent of the Senate''.

(3) COMMISSIONER, EDUCATION STATISTICS.—Section 117(b) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9517(b)) is amended by striking '', by and with the advice and consent of the Senate,''.

(e) DEPARTMENT OF ENERGY.—Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended in the first sentence by striking ''Senate;'' and inserting ''Senate (except that the Assistant Secretary for Congressional and Intergovernmental Affairs of the Department may be appointed by the President without the advice and consent of the Senate);''.

(f) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

(1) ASSISTANT SECRETARY FOR PUBLIC AFFAIRS.—Notwithstanding any other provision of law, the appointment of an individual to serve as the Assistant Secretary for Public Affairs within the Department of Health and Human Services shall not be subject to the advice and consent of the Senate.

(2) ASSISTANT SECRETARY FOR LEGISLATION.—Notwithstanding any other provision of law, the appointment of an individual to serve as the Assistant Secretary for Legislation within the Department of Health and Human Services shall not be subject to the advice and consent of the Senate.

(3) COMMISSIONER, ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES.—Section 915(b)(2) of the Claude Pepper Young Americans Act of 1990 (42 U.S.C. 12311(b)(2)) is amended by striking '', by and with the advice and consent of the Senate,''.

(4) COMMISSIONER, ADMINISTRATION FOR NATIVE AMERICANS.—Section 803B(c) of the Native American Programs Act of 1974 (42 U.S.C. 2991b–2(c)) is amended by striking '', by and with the advice and consent of the Senate''.

(g) DEPARTMENT OF HOMELAND SECURITY.—

(1) DIRECTOR OF THE OFFICE FOR DOMESTIC PREPAREDNESS; ASSISTANT ADMINISTRATOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, GRANT PROGRAMS.—Section 430(b) of the Homeland Security Act of 2002 (6 U.S.C. 238(b)) is amended by striking '', by and with the advice and consent of the Senate''.

(2) ADMINISTRATOR OF THE UNITED STATES FIRE ADMINISTRATION.—Section 5(b) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2204(b)) is amended by striking '', by and with the advice and consent of the Senate,''.

(3) DIRECTOR OF THE OFFICE OF COUNTER-NARCOTICS ENFORCEMENT.—Section 878(a) of the Homeland Security Act of 2002 (6 U.S.C. 458(a)) is amended by striking '', by and with the advice and consent of the Senate''.

(4) CHIEF MEDICAL OFFICER.—Section 516(a) of the Homeland Security Act of 2002 (6 U.S.C. 321e(a)) is amended by striking '', by and with the advice and consent of the Senate''.

(h) HOUSING AND URBAN DEVELOPMENT; ASSISTANT SECRETARY FOR CONGRESSIONAL AND INTERGOVERNMENTAL RELATIONS, AND ASSISTANT SECRETARY FOR PUBLIC AFFAIRS.—Section 4(a) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(a)) is amended—

(1) by inserting ''(1)'' after ''(a)'';

(2) by striking ''eight'' and inserting ''6''; and

(3) by adding at the end the following:

''(2) There shall be in the Department an Assistant Secretary for Congressional and Intergovernmental Relations, and an Assistant Secretary for Public Affairs, each of whom shall be appointed by the President and shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time.''.

(i) DEPARTMENT OF JUSTICE.—

(1) ASSISTANT ATTORNEY GENERAL, LEGISLATIVE AFFAIRS.—

(A) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended—

(i) in section 506, by striking ''11 Assistant Attorneys General'' and inserting ''10 Assistant Attorneys General''; and

(ii) by inserting after section 507A the following:

''§ 507B. Assistant Attorney General for Legislative Affairs

''The President shall appoint an Assistant Attorney General for Legislative Affairs to assist the Attorney General in the performance of the duties of the Attorney General.''.

(B) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 31 of title 28, United States Code, is amended by inserting after the item relating to section 507A the following:

''507B. Assistant Attorney General for Legislative Affairs.''.

(2) DIRECTOR, BUREAU OF JUSTICE STATISTICS.—Section 302(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732(b)) is amended by striking '', by and with the advice and consent of the Senate''.

(3) DIRECTOR, BUREAU OF JUSTICE ASSISTANCE.—Section 401(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3741(b)) is amended by striking '', by and with the advice and consent of the Senate''.

(4) DIRECTOR, NATIONAL INSTITUTE OF JUSTICE.—Section 202(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722(b)) is amended by striking '', by and with the advice and consent of the Senate''.

(5) ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b)) is amended by striking '', by and with the advice and consent of the Senate,''.

(6) DIRECTOR, OFFICE FOR VICTIMS OF CRIME.—Section 1411(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10605(b)) is amended by striking '', by and with the advice and consent of the Senate''.

(j) DEPARTMENT OF LABOR.—

(1) ASSISTANT SECRETARIES FOR ADMINISTRATION AND MANAGEMENT, CONGRESSIONAL AFFAIRS, AND PUBLIC AFFAIRS.—Notwithstanding section 2 of the Act of April 17, 1946 (29 U.S.C. 553), the appointment of individuals to serve as the Assistant Secretary for Administration and Management, the Assistant Secretary for Congressional Affairs, and the Assistant Secretary for Public Affairs within the Department of Labor, shall not be subject to the advice and consent of the Senate.

(2) DIRECTOR OF THE WOMEN'S BUREAU.—Section 2 of the Act of June 5, 1920 (29 U.S.C. 12) is amended by striking '', by and with the advice and consent of the Senate''.

(k) DEPARTMENT OF STATE; ASSISTANT SECRETARY FOR LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS, ASSISTANT SECRETARY FOR PUBLIC AFFAIRS, AND ASSISTANT SECRETARY FOR ADMINISTRATION.—Section 1(c)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a(c)(1)) is amended—

(1) by striking '', each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and''; and

(2) by adding at the end the following: ''Each Assistant Secretary of State shall be appointed by the President, by and with the advice and consent of the Senate, except that the appointments of the Assistant Secretary for Legislative and Intergovernmental Affairs, the Assistant Secretary for Public Affairs, and the Assistant Secretary for Administration shall not be subject to the advice and consent of the Senate.''.

(l) DEPARTMENT OF TRANSPORTATION.—

(1) ASSISTANT SECRETARIES.—Section 102(e) of title 49, United States Code, is amended—

(A) by striking ''(e) THE DEPARTMENT'' and all that follows through ''An Assistant Secretary'' and inserting the following:

''(e) ASSISTANT SECRETARIES; GENERAL COUNSEL.—

''(1) APPOINTMENT.—The Department has 5 Assistant Secretaries and a General Counsel, including—

''(A) an Assistant Secretary for Aviation and International Affairs and an Assistant Secretary for Transportation Policy, who shall each be appointed by the President, with the advice and consent of the Senate;

''(B) an Assistant Secretary for Budget and Programs and Chief Financial Officer and an Assistant Secretary for Governmental Affairs, who shall each be appointed by the President;

''(C) an Assistant Secretary for Administration, who shall be appointed in the competitive service by the Secretary, with the approval of the President; and

''(D) a General Counsel, who shall be appointed by the President, with the advice and consent of the Senate.

''(2) DUTIES AND POWERS.—The officers set forth in paragraph (1) shall carry out duties and powers prescribed by the Secretary. An Assistant Secretary''.

(2) DEPUTY ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION.—Section 106 of title 49, United States Code, is amended—

(A) in subsection (b), by striking ''. The Administration has a Deputy Administrator. They are appointed'' and inserting '', who shall be appointed''; and

(B) in subsection (d)(1), by striking ''The Deputy Administrator must'' and inserting ''The Administration has a Deputy Administrator, who shall be appointed by the President. In making an appointment, the President shall consider the fitness of the appointee to efficiently carry out the duties and powers of the office. The Deputy Administrator shall''.

(m) DEPARTMENT OF THE TREASURY.—

(1) ASSISTANT SECRETARIES FOR LEGISLATIVE AFFAIRS, PUBLIC AFFAIRS, AND MANAGEMENT.—Section 301(e) of title 31, United States Code, is amended—

(A) by striking ''10 Assistant Secretaries'' and inserting ''7 Assistant Secretaries''; and

(B) by inserting ''The Department shall have 3 Assistant Secretaries not subject to the advice and consent of the Senate who shall be the Assistant Secretary for Legislative Affairs, the Assistant Secretary for Public Affairs, and the Assistant Secretary for Management.'' after the first sentence.

(2) TREASURER OF THE UNITED STATES.—Section 301(d) of title 31, United States Code, is amended—

(A) by striking ''2 Deputy Under Secretaries, and a Treasurer of the United States'' and inserting ''and 2 Deputy Under Secretaries'', and

(B) by inserting ''and a Treasurer of the United States appointed by the President'' after ''Fiscal Assistant Secretary appointed by the Secretary''.

(3) DIRECTOR OF THE MINT.—Section 304(b)(1) of title 31, United States Code, is amended—

(A) by striking '', by and with the advice and consent of the Senate''; and

(B) by striking ''On removal, the President shall send a message to the Senate giving the reasons for removal.''.

(n) DEPARTMENT OF VETERANS AFFAIRS.—Section 308(a) of title 38, United States Code, is amended—

(1) by striking ''There shall'' and inserting ''(1) There shall'';

(2) in paragraph (1), as designated by paragraph (1) of this subsection, by striking ''Each Assistant'' and all that follows through the period at the end; and

(3) by adding at the end the following new paragraphs:

''(2) Except as provided in paragraph (3), each Assistant Secretary appointed under paragraph (1) shall be appointed by the President, by and with the advice and consent of the Senate.

''(3) The following Assistant Secretaries may be appointed without the advice and consent of the Senate:

''(A) The Assistant Secretary for Management.

''(B) The Assistant Secretary for Human Resources and Administration.

''(C) The Assistant Secretary for Public and Intergovernmental Affairs.

''(D) The Assistant Secretary for Congressional and Legislative Affairs.

''(E) The Assistant Secretary for Operations, Security and Preparedness.''.

(o) APPALACHIAN REGIONAL COMMISSION; ALTERNATE FEDERAL CO-CHAIRMAN.—Section 14301(b)(1) of title 40, United States Code, is amended by striking ''by and with the advice and consent of the Senate''.

(p) COUNCIL OF ECONOMIC ADVISERS, MEMBERS.—Section 10 of the Employment Act of 1946 (15 U.S.C. 1023) is amended by striking subsection (a) and inserting the following:

''(a) CREATION; COMPOSITION; QUALIFICATIONS; CHAIRMAN AND VICE CHAIRMAN.—

''(1) CREATION.—There is created in the Executive Office of the President a Council of Economic Advisers (hereinafter called the 'Council').

''(2) COMPOSITION.—The Council shall be composed of three members, of whom—

''(A) 1 shall be the chairman who shall be appointed by the President by and with the advice and consent of the Senate; and

''(B) 2 shall be appointed by the President.

''(3) QUALIFICATIONS.—Each member shall be a person who, as a result of training, experience, and attainments, is exceptionally qualified to analyze and interpret economic developments, to appraise programs and activities of the Government in the light of the policy declared in section 2, and to formulate and recommend national economic policy to promote full employment, production, and purchasing power under free competitive enterprise.

''(4) VICE CHAIRMAN.—The President shall designate 1 of the members of the Council as vice chairman, who shall act as chairman in the absence of the chairman.''.

(q) CORPORATION FOR NATIONAL AND COMMUNITY SERVICE; MANAGING DIRECTOR.—Section 194(a)(1) of the National and Community Service Act of 1990 (42 U.S.C. 12651e(a)(1)) is amended by striking '', by and with the advice and consent of the Senate''.

(r) NATIONAL COUNCIL ON DISABILITY MEMBERS, INCLUDING CHAIRPERSON.—Section 400(a)(1)(A) of the Rehabilitation Act of 1973 (29 U.S.C. 780(a)(1)(A)) is amended by striking '', by and with the advice and consent of the Senate''.

(s) NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES; NATIONAL MUSEUM AND LIBRARY SERVICES BOARD; MEMBERS.—Section 207(b)(1) of the Museum and Library Services Act (20 U.S.C. 9105a(b)(1)) is amended—

(1) in subparagraph (D), by striking '', by and with the advice and consent of the Senate''; and

(2) in subparagraph (E), by striking '', by and with the advice and consent of the Senate''.

(t) NATIONAL SCIENCE FOUNDATION; BOARD MEMBERS.—Section 4(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(a)) is amended by striking '', by and with the advice and consent of the Senate,''.

(u) OFFICE OF MANAGEMENT AND BUDGET; CONTROLLER, OFFICE OF FEDERAL FINANCIAL MANAGEMENT.—Section 504(b) of title 31, United States Code, is amended by striking '', by and with the advice and consent of the Senate,''.

(v) OFFICE OF NATIONAL DRUG CONTROL POLICY; DEPUTY DIRECTORS.—Section 704(a)(1) of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1703(a)(1)) is amended to read as follows:

''(1) IN GENERAL.—

''(A) DIRECTOR.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, and shall serve at the pleasure of the President.

''(B) DEPUTY DIRECTORS.—The Deputy Director of National Drug Control Policy, Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Deputy Director for State and Local Affairs shall each be appointed by the President and serve at the pleasure of the President.

''(C) DEPUTY DIRECTOR FOR DEMAND REDUCTION.—In appointing the Deputy Director for Demand Reduction under this paragraph, the President shall take into consideration the scientific, educational, or professional background of the individual, and whether the individual has experience in the fields of substance abuse prevention, education, or treatment.''.

(w) OFFICE OF NAVAJO AND HOPI RELOCATION; COMMISSIONER.—Section 12(b)(1) of Public Law 93–531 (25 U.S.C. 640d–11(b)(1)) is amended by striking ''by and with the advice and consent of the Senate''.

(x) UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.—

(1) ASSISTANT ADMINISTRATOR FOR LEGISLATIVE AND PUBLIC AFFAIRS.—Notwithstanding section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a)), the appointment by the President of the Assistant Administrator for Legislative and Public Affairs at the United States Agency for International Development shall not be subject to the advice and consent of the Senate.

(2) ASSISTANT ADMINISTRATOR FOR MANAGEMENT.—Notwithstanding section 624(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2384(a)), the appointment by the President of the Assistant Administrator for Management at the United States Agency for International Development shall not be subject to the advice and consent of the Senate.

(y) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION FUND; ADMINISTRATOR.—Section 104(b)(1) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4703(b)(1)) is amended by striking '', by and with the advice and consent of the Senate''.

(z) DEPARTMENT OF TRANSPORTATION; ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION; ADMINISTRATOR.—Subsection (a) of section 2 of the Act of May 13, 1954, referred to as the Saint Lawrence Seaway Act (33 U.S.C. 982(a)) is amended by striking '', by and with the advice and consent of the Senate,''.

(aa) MISSISSIPPI RIVER COMMISSION; COMMISSIONER.—Section 2 of the Act of June 28, 1879 (33 U.S.C. 642), is amended in the first sentence by striking '', by and with the advice and consent of the Senate,''.

(bb) GOVERNOR AND ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT BANK.—

(1) IN GENERAL.—Section 1333(a) of the African Development Bank Act (22 U.S.C. 290i–1(a)) is amended by striking '', by and with'' and all that follows through ''Bank'' and inserting ''shall appoint a Governor and an Alternate Governor''.

(2) CONFORMING AMENDMENTS.—Section 1334 of such Act (22 U.S.C. 290i–2) is amended—

(A) by striking ''The Director or Alternate Director'' and inserting the following:

''(b) The Director or Alternate Director''; and

(B) by inserting before subsection (b), as redesignated, the following:

''(a) The President, by and with the advice and consent of the Senate, shall appoint a Director of the Bank.''.

(cc) GOVERNOR AND ALTERNATE GOVERNOR OF THE ASIAN DEVELOPMENT BANK.—Section 3(a) of the Asian Development Bank Act (22 U.S.C. 285a(a)) is amended by striking '', by and with'' and all that follows through the end period and inserting ''shall appoint—''

''(1) a Governor of the Bank and an alternate for the Governor; and

''(2) by and with the advice and consent of the Senate, a Director of the Bank.''.

(dd) GOVERNORS AND ALTERNATE GOVERNORS OF THE INTERNATIONAL MONETARY FUND AND THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT.—Section 3 of the Bretton Woods Agreements Act (22 U.S.C. 286a) is amended—

(1) in subsection (a), by striking '', by and with the advice and consent of the Senate, shall appoint a governor of the Fund who shall also serve as governor of the Bank, and an executive director'' and inserting ''shall appoint a governor of the Fund who shall also serve as governor of the Bank and, by and with the advice and consent of the Senate, an executive director''; and

(2) in subsection (b), by striking '', by and with the advice and consent of the Senate,'' the first place it appears.

(ee) GOVERNOR AND ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT FUND.—Section 203(a) of the African Development Fund Act (22 U.S.C. 290g–1(a)) is amended by striking '', by and with the advice and consent of the Senate,''.

(ff) NATIONAL BOARD FOR EDUCATION SCIENCES; MEMBERS.—Section 116(c)(1) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9516(c)(1)) is amended by striking '', by and with the advice and consent of the Senate''.

(gg) NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD; MEMBERS.—Section 242(e)(1)(A) of the Adult Education and Family Literacy Act (20 U.S.C. 9252(e)(1)(A)) is amended by striking ''with the advice and consent of the Senate''.

(hh) INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT; MEMBER, BOARD OF TRUSTEES.—Section 1505 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4412(a)(1)(A)) is amended by striking ''by and with the advice and consent of the Senate''.

(ii) FEDERAL COORDINATOR FOR ALASKA NATURAL GAS TRANSPORTATION PROJECTS.—Section 106(b)(1) of the Alaska Natural Gas Pipeline Act (division C of Public Law 108–324; 15 U.S.C. 720d(b)(1)) is amended by striking '', by and with the advice and consent of the Senate,''.

(jj) PUBLIC HEALTH SERVICE COMMISSIONED OFFICER CORPS.—

(1) APPOINTMENT.—Section 203(a)(3) of the Public Health Service Act (42 U.S.C. 204(a)(3)) is amended by striking ''with the advice and consent of the Senate''.

(2) PROMOTIONS.—Section 210(a) of the Public Health Service Act (42 U.S.C. 211(a)) is amended by striking '', by and with the advice and consent of the Senate''.

(kk) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS.—

(1) APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES.—Section 226 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3026) is amended by striking '', by and with the advice and consent of the Senate''.

(2) POSITIONS OF IMPORTANCE AND RESPONSIBILITY.—Section 228(d)(1) of such Act (33 U.S.C. 3028(d)(1)) is amended by striking '', by and with the advice and consent of the Senate''.

(3) TEMPORARY APPOINTMENTS AND PROMOTIONS GENERALLY.—Section 229 of such Act (33 U.S.C. 3029) is amended—

(A) by striking ''alone'' each place it appears; and

(B) in subsection (a), in the second sentence, by striking ''unless the Senate sooner gives its advice and consent to the appointment''.

(ll) CHIEF FINANCIAL OFFICER POSITIONS.—Section 901 of title 31, United States Code, is amended—

(1) in subsection(a)(1), by striking subparagraphs (A) and (B) and inserting the following:

''(A) be appointed by the President; or

''(B) be designated by the President, in consultation with the head of the agency, from among officials of the agency who are required by law to be appointed by the President, whether or not by and with the advice and consent of the Senate;'';

(2) in subsection (b)(1), striking subparagraph (Q); and

(3) in subsection (b)(2), inserting at the end:

''(H) The National Aeronautics and Space Administration.''.

SEC. 3. APPOINTMENT OF THE DIRECTOR OF THE CENSUS.

(a) IN GENERAL.—Section 21 of the title 13, United States Code, is amended to read as follows:

''§21. Director of the Census; duties

''(a) APPOINTMENT.—

''(1) IN GENERAL.—The Bureau shall be headed by a Director of the Census, appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation.

''(2) QUALIFICATIONS.—Such appointment shall be made from individuals who have a demonstrated ability in managing large organizations and experience in the collection, analysis, and use of statistical data.

''(b) TERM OF OFFICE.—

''(1) IN GENERAL.—The term of office of the Director shall be 5 years, and shall begin on January 1, 2012, and every fifth year thereafter. An individual may not serve more than 2 full terms as Director.

''(2) VACANCIES.—Any individual appointed to fill a vacancy in such position, occurring before the expiration of the term for which such individual's predecessor was appointed, shall be appointed for the remainder of that term. The Director may serve after the end of the Director's term until reappointed or until a successor has been appointed, but in no event longer than 1 year after the end of such term.

''(3) REMOVAL.—An individual serving as Director may be removed from office by the President. The President shall communicate in writing the reasons for any such removal to both Houses of Congress not later than 60 days before the removal.

''(c) DUTIES.—The Director shall perform such duties as may be imposed upon the Director by law, regulations, or orders of the Secretary.''.

(b) TRANSITION RULES.—

(1) APPOINTMENT OF INITIAL DIRECTOR.—The initial Director of the Bureau of the Census shall be appointed in accordance with the provisions of section 21(a) of title 13, United States Code, as amended by subsection (a).

(2) INTERIM ROLE OF CURRENT DIRECTOR OF THE CENSUS AFTER DATE OF ENACTMENT.—If, as of January 1, 2012, the initial Director of the Bureau of the Census has not taken office, the officer serving on December 31, 2011, as Director of the Census (or Acting Director of the Census, if applicable) in the Department of Commerce—

(A) shall serve as the Director of the Bureau of the Census; and

(B) shall assume the powers and duties of such Director for one term beginning January 1, 2012, as described in section 21(b) of such title, as so amended.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Not later than January 1, 2012, the Secretary of Commerce, in consultation with the Director of the Census, shall submit to each House of the Congress draft legislation containing any technical and conforming amendments to title 13, United States Code, and any other provisions which may be necessary to carry out the purposes of this section.

SEC. 4. WORKING GROUP ON STREAMLINING PAPERWORK FOR EXECUTIVE NOMINATIONS.

(a) ESTABLISHMENT.—There is established the Working Group on Streamlining Paperwork for Executive Nominations (in this section referred to as the ''Working Group'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Working Group shall be composed of—

(A) the chairperson who shall be—

(i) except as provided under clause (ii), the Director of the Office of Presidential Personnel; or

(ii) a Federal officer designated by the President;

(B) representatives designated by the President from—

(i) the Office of Personnel Management;

(ii) the Office of Government Ethics; and

(iii) the Federal Bureau of Investigation; and

(C) individuals appointed by the chairperson of the Working Group who have experience and expertise relating to the Working Group, including—

(i) individuals from other relevant Federal agencies; and

(ii) individuals with relevant experience from previous presidential administrations.

(c) STREAMLINING OF PAPERWORK REQUIRED FOR EXECUTIVE NOMINATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Working Group shall conduct a study and submit a report on the streamlining of paperwork required for executive nominations to—

(A) the President;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Rules and Administration of the Senate.

(2) CONSULTATION WITH COMMITTEES OF THE SENATE.—In conducting the study under this section, the Working Group shall consult with the chairperson and ranking member of the committees referred to under paragraph (1) (B) and (C).

(3) CONTENTS.—

(A) IN GENERAL.—The report submitted under this section shall include—

(i) recommendations for the streamlining of paperwork required for executive nominations; and

(ii) a detailed plan for the creation and implementation of an electronic system for collecting and distributing background information from potential and actual Presidential nominees for positions which require appointment by and with the advice and consent of the Senate.

(B) ELECTRONIC SYSTEM.—The electronic system described under subparagraph (A)(ii) shall—

(i) provide for—

(I) less burden on potential nominees for positions which require appointment by and with the advice and consent of the Senate;

(II) faster delivery of background information to Congress, the White House, the Federal Bureau of Investigation, Diplomatic Security, and the Office of Government Ethics; and

(III) fewer errors of omission; and

(ii) ensure the existence and operation of a single, searchable form which shall be known as a ''Smart Form'' and shall—

(I) be free to a nominee and easy to use;

(II) make it possible for the nominee to answer all vetting questions one way, at a single time;

(III) secure the information provided by a nominee;

(IV) allow for multiple submissions over time, but always in the format requested by the vetting agency or entity;

(V) be compatible across different computer platforms;

(VI) make it possible to easily add, modify, or subtract vetting questions;

(VII) allow error checking; and

(VIII) allow the user to track the progress of a nominee in providing the required information.

(d) REVIEW OF BACKGROUND INVESTIGATION REQUIREMENTS.—

(1) IN GENERAL.—The Working Group shall conduct a review of the impact of background investigation requirements on the appointments process.

(2) CONDUCT OF REVIEW.—In conducting the review, the Working Group shall—

(A) assess the feasibility of using personnel other than Federal Bureau of Investigation personnel, in appropriate circumstances, to conduct background investigations of individuals under consideration for positions appointed by the President, by and with the advice and consent of the Senate; and

(B) consider the extent to which the scope of the background investigation conducted for an individual under consideration for a position appointed by the President, by and with the advice and consent of the Senate, should be varied depending on the nature of the position for which the individual is being considered.

(3) REPORT.—Not later than 270 days after the date of enactment of this Act, the Working Group shall submit a report of the findings of the review under this subsection to—

(A) the President;

(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Rules and Administration of the Senate.

(e) PERSONNEL MATTERS.—

(1) COMPENSATION OF MEMBERS.—

(A) FEDERAL OFFICERS AND EMPLOYEES.—Each member of the Working Group who is a Federal officer or employee shall serve without compensation in addition to that received for their services as a Federal officer or employee.

(B) MEMBERS NOT FEDERAL OFFICERS AND EMPLOYEES.—Each member of the Working Group who is not a Federal officer or employee shall not be compensated for services performed for the Working Group.

(2) TRAVEL EXPENSES.—The members of the Working Group shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Working Group.

(3) STAFF.—

(A) IN GENERAL.—The President may designate Federal officers and employees to provide support services for the Working Group.

(B) DETAIL OF FEDERAL EMPLOYEES.—Any Federal employee may be detailed to the Working Group without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) NON-APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Working Group established under this section.

(g) TERMINATION OF THE WORKING GROUP.—The Working Group shall terminate 60 days after the date on which the Working Group submits the latter of the 2 reports under this section.

SEC. 5. EFFECTIVE DATE.

(a) PRESIDENTIAL APPOINTMENTS NOT SUBJECT TO SENATE APPROVAL.—The amendments made by section 2 shall take effect 60 days after the date of enactment of this Act and apply to appointments made on and after that effective date, including any nomination pending in the Senate on that date.

(b) DIRECTOR OF THE CENSUS AND WORKING GROUP.—The provisions of sections 3 and 4 (including any amendments made by those sections) shall take effect on the date of enactment of this Act.

Mr. REID. Madam President, I ask unanimous consent that the committee substitute amendment be agreed to and considered original text for the purpose of further amendment; that there be a period of debate only on the bill until 3 p.m. today; that following the debate-only time, it be in order for any Senator to call up any relevant filed amendment, including a managers' amendment to be offered by Senators ALEXANDER and SCHUMER; that no amendment offered to the bill be divisible; further, that in addition to relevant amendments offered to the bill, the amendments listed here also be in order: Vitter, relating to czars; DeMint, which relates to IMF bailouts; and Coburn, which relates to duplications; further, that the DeMint and Vitter amendments be subject to a 60-vote threshold and the Coburn amendment be subject to a two-thirds vote threshold; that upon the disposition of the amendments, the bill be read a third time and the Senate proceed to vote on passage of the bill, as amended, if amended; that the vote on passage be subject to a 60-vote threshold; and that if the bill does not achieve that threshold, the bill be returned to the calendar; that upon disposition of this matter, the Senate proceed to the immediate consideration of Calendar No. 45, S. Res. 116, a resolution providing for expedited consideration of certain

nominations; that only relevant amendments be in order; and that upon disposition of the amendments to the resolution, the Senate proceed to vote on the adoption of the resolution, as amended, if amended.

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

Mr. REID. Madam President, this means Senators will not need to obtain unanimous consent prior to setting aside the pending amendments for amendments to be called up.

I would also say—I wanted to hold up saying anything about this until we got this agreement—the work done on this bill by Senators SCHUMER and ALEXANDER has been work that has been ongoing for years and took their partnership, working together as the two men who run the Rules Committee, to move this forward. It has been very hard to get from here to there. I have every bit of confidence that we are going to move forward and do, for the first time in decades, a streamlining of how Presidential nominations are approved. This is good. This is what we talked about doing at the beginning of this year, and we need to continue doing that.

I also express my appreciation to the chairman and ranking member of the Homeland Security Committee, Senators LIEBERMAN and COLLINS, for doing additional hard work in sorting through what the committees should do in approving nominations. They have done a good job because virtually every committee chair says: Are you sure you want to do all these? If we were back where we had been in years past, we would wind up getting nothing done because the chairs simply thought they needed to have a hand in everything that went on with all these nominations. Senators LIEBERMAN and COLLINS did a good job getting us to this point.

When this is done, we will move to some rules changes that Senators SCHUMER and ALEXANDER have approved.

I see my friend, the Senator from Tennessee, on the floor. Again, as he does on virtually everything—he is a very thoughtful person—he is always trying to work for the betterment of this body. I am grateful he and Senator SCHUMER have been able to do the good work they have on this legislation.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I thank the majority leader and the Republican leader, Senator MCCONNELL, for the way they worked on this legislation. Not just on this bill, but when they were the respective whips of their parties several years ago, each of them working on trying to help improve the Senate's ability to do its oversight by doing a better job with our advice-and-consent responsibility. That is one of our better known responsibilities. It is a constitutional responsibility. It is in Article II, Section 2. But as a part of that advice-and-consent responsibility, the Senate has the opportunity to define which other positions the President may appoint. That is what this is about.

Senator COLLINS and Senator LIEBERMAN have also worked for many years, and they will be here in a few minutes to open the debate. Senator SCHUMER and I will come to the floor about at 2:40 and make our statements on behalf of the Rules Committee.

I thank the majority leader and Republican leader for doing this because this is not the most glamorous piece of legislation. What I am about to say is not so glamorous either. But this bill has come to the floor by unanimous consent. That means there were 100 Members of this body who could have objected, and none have.

I thank the Senators—many of whom have very different views on this bill—for agreeing to this agreement by which we are proceeding. We are not proceeding under a cloture vote; we are proceeding the way the Senate really ought to work day-in and day-out. Members have the opportunity to offer relevant amendments. I am sure many will. I thank the Republican leader and the majority leader for their forbearance in that way. We have to have an element of trust for each other.

I am going to do my best to make sure the relevant amendments that come before us, Democratic or Republican, are voted on.

I thank all those involved. I hope Senators will be preparing their relevant amendments if they are not already filed and were not already enumerated in the agreement.

I will refrain from making my remarks until my colleague, Senator SCHUMER, the chairman of the Rules Committee, comes to the floor at 2:40. We will await the arrival of Senator COLLINS and Senator LIEBERMAN, who are the chairman and ranking member of the committee that reported the bill to the Senate.

I yield the floor.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Connecticut.

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

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

Mr. LIEBERMAN. Mr. President, it is my honor now to rise as chairman of the Homeland Security and Governmental Affairs Committee to speak on behalf of S. 679, the Presidential Appointment Efficiency and Streamlining Act of 2011, and I do so with great gratitude toward Senator ALEXANDER, who is now on the Senate floor, Senator SCHUMER, and others who worked together to clear away procedural obstacles to focus on this piece of legislation.

This is a noble effort that has been tried before and failed, but I am confident this time, with the support of our leaders—really our bipartisan leadership, Senator REID, Senator MCCONNELL, Senator ALEXANDER, Senator SCHUMER, not to mention Senator COLLINS and me—we are going to, in our committee role, get this passed. This is a bipartisan effort to solve a problem, or at least help solve part of a problem, that has been growing for a long time in Washington in our government—certainly since the Kennedy administration—which is, it takes too long for an incoming President and a sitting President to get their team in place, and there are too many vacancies throughout the course of an administration, as I will indicate during my remarks.

The average is 25 percent, one-quarter of the positions in the administration, are empty at any one time because of the length of the process, the delays that occur in the executive branch, the White House, and in the Senate, and this is a direct attempt to try to lessen that problem. One of my favorite descriptions of our current nomination and confirmation process—I have used this so often I forgot who said it; the gentleman in the chair might have said it—described the current confirmation and nomination process as ''nasty and brutish without being short.'' So, hopefully, this will make the process at least less nasty and brutish and shorter as well.

Mr. President, 100 days into President Obama's administration only 14 percent of the full-time Senate-confirmed positions had been filled—only 14 percent. After 18 months, 25 percent of key policymaking positions were still vacant. This is not an unusual circumstance. Presidents Clinton and George W. Bush faced similar difficulties. It is a problem that does have, however, a serious national and economic security implication because crucial offices go unfilled for months and months.

President Bush actually did not have his national security team, including critical subcabinet officials, confirmed and on the job until at least 6 months after he took office. The 9/11 Commission pointed out how dangerous this was and recommended steps to speed up the process for national security appointments, some of which were adopted as part of the 9/11 Commission Act of 2004.

At the height of the financial crisis, which we are still working our way out of, Secretary of the Treasury Geithner was actually home alone, with no other Senate-confirmed positions at the Treasury Department filled for over 3 months. That is an outrageous result.

So what would the bill before the Senate now do? It would eliminate the need for Senate confirmation for about 200 positions out of about 1,200 that now need Senate confirmation. Of these 200 positions, most of them are in the areas of legislative and public affairs, internal management positions,

such as, chief financial officers who report to others up the chain of command, directors, commissioners, or administrators at or below the Assistant Secretary level who, again, will report to another Senate-confirmed official, and the members of a number of part-time advisory boards which, under the current state of the law, have to go through full vetting and then full Senate consideration and confirmation.

The proposal before us is not by any means a radical proposal. Removing these positions from the need for Senate confirmation would free up both the Senate and future administrations to concentrate more fully on the nominations for those key positions where public policy is made. I want to note, again, the bipartisan nature of these proposals.

In January, Majority Leader REID and Minority Leader MCCONNELL decided the nomination and confirmation process had become too slow and cumbersome. That was in January of this year. They established a working group on executive nominations and asked leaders SCHUMER and ALEXANDER to be in charge of that. Chairman and ranking member, respectively, of the Rules Committee, Senator COLLINS and I were also privileged to be part of that group as chair and ranking member of the Homeland Security and Governmental Affairs Committee.

The reforms proposed by Senators SCHUMER and ALEXANDER in our group have really been carefully crafted, and I cannot thank them enough for both their legislative intellectual work on this but also for sticking with it right to this moment. They introduced their legislation on March 30; that is, SCHUMER and ALEXANDER, with a bipartisan group of 15 cosponsors. On April 13, our Homeland Security and Governmental Affairs Committee, again, on a bipartisan vote, reported the bill favorably to the Senate.

Senators SCHUMER and ALEXANDER are also proposing an important Senate Resolution, S. Res. 116, that would streamline the confirmation process for approximately 200 other Presidential appointments that receive Senate confirmation by allowing their nominations to bypass the committee process and come directly to the Senate floor as long as no Senator objects. This is an important companion proposal.

So if all goes well, we will have 400 of the current 1,200 positions—that is about one-third of the current nominations requiring full Senate consideration, Senate proposal, committee consideration, et cetera—to be in a different status. These 200 positions that will be the subject of S. Res. 116 come from 30 bipartisan Federal advisory groups and councils, such as the Social Security Advisory Board and the IRS Advisory Board.

This is the way the Senate should work. A problem is identified, both sides of the aisle work together to craft a solution, then bring it to the floor for debate. Hopefully, it is a model for what we can and should do in a lot of other areas that are pressing not just on the Senate but on the country and the people of the country.

On March 2, Senator COLLINS and I—just speaking a bit more in detail—held a hearing which we called ''Eliminating the Bottlenecks: Streamlining the Nominations Process.'' We heard from a group of former executives, really White House officials, both parties, and from some experts in the private sector. They made a compelling case for change, and here is some of what we learned.

When President Kennedy entered office in 1961, there were 850 Senate-confirmed positions that the President had to fill. By the time President George W. Bush took office, that had increased to 1,143. When President Obama was sworn in just 8 years later, that was already up to 1,215. Not surprisingly, with more positions it takes longer to fill them. The delay is not, fortunately, at the Cabinet level. Between 1987 and 2005, it took Presidents an average of only 17 days from the time of a vacancy to nominate a Cabinet Secretary, and the Senate took an average of just 16 days to confirm the nominee. But it is at the critical subcabinet level where things slow to a crawl.

It took Presidents an average of 95 days—that is, of course, more than 3 months—to nominate Deputy Cabinet Secretaries, and the Senate took 62 days to confirm them, another 2 months. Now we are up to more than 5 months for Deputy Cabinet Members which are critical to the functioning of their departments. Noncabinet agency heads waited an average of 173 days for nomination and 63 additional days for confirmation. So we are up to over 230 days, over 7 months, approaching 8 months. Noncabinet agency deputy heads fared even worse, an average of 301 days before nomination and 82 days before confirmation. That is more than a year to go through this process while those offices are effectively unfilled, and the people's business is not being done.

Part of the problem is a large number of appointments that need to be made at the outset of an administration can overwhelm the resources available within the executive branch and the Senate to review and vet these nominees. So eliminating the requirement for Senate confirmation for nonpolicymaking or lower level positions should allow an incoming administration and the Senate, as well as the FBI and the Office of Government Ethics, which do the vetting, to focus on more important policymaking positions, speeding up the process.

Other problems contributing to the delay are the numerous duplicative and time-consuming forms that potential nominees are required to fill out. Most nominees actually submit to at least four reviews, each represented by a separate packet of government forms, including a White House personnel data statement, questionnaires from the FBI, Office of Government Ethics, and at least one questionnaire from the Senate committee of jurisdiction.

There is a very interesting study done by Professor Terry Sullivan at the University of North Carolina that found half the questions asked in those four reviews for each nominee are redundant. They are repetitive. This act would establish, therefore, an executive branch working group to study and report to the President and the Congress the best ways to streamline all this paperwork, along with a detailed plan for creating and implementing a smart reform. An example would be an electronic system for collecting and distributing background information for nominees requiring Senate confirmation. With a ''smart form'' such as this, a nominee could answer a question once and the information would be filled in for all of the relevant forms.

The need for reforms in the Federal appointments process is not a new topic. Over the past three decades, an abundance of commissions, think tanks, good government groups, and individual academics have turned their sights on this problem.

I will not list them all, but here are just a few: the National Academy of Public Administration in 1983 and 1985; the President's Commission on the Federal Appointments Process in 1990; the Twentieth Century Fund in 1996; the Brookings Institution's Presidential Appointee Initiative, cochaired by former Senator Nancy Kassebaum and former Director of the Office of Management and Budget Franklin Raines in 2001; and the bipartisan National Commission on the Public Service, headed by Paul Volcker, in 1989 and 2003.

The Senate has looked into making changes as well. In 2001, our committee—then called the Governmental Affairs Committee and chaired by former Senator Fred Thompson—held a 2-day hearing titled ''The State of the Presidential Appointment Process,'' which looked at many of the ideas we are considering today.

The committee also reported out a bill—''The Presidential Appointments Improvement Act of 2002''—that sought to make modest improvements to the appointments process, including streamlining financial disclosure requirements. But the full Senate never considered it.

Then, as I mentioned, Congress passed the 2004 Intelligence Reform and Terrorism Prevention Act, which included some improvements to help speed up the consideration of critical members of a new President's national security team.

Now it is time to take a modest next step. We have reasonable, bipartisan legislation in front of us and it is time—in fact, past time—to act.

Now let me address the question that seems to be of concern to some of our colleagues, which is: Is the Senate, in limiting by 200, and in some sense limiting another 200, giving away its

power to advise and consent? I say the answer is a resounding no, and I wish to explain why. Let me read directly from article 2 of the Constitution:

[The President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by Law.

This part of the quote is crucial:

But the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The very first Congress, in which, of course, many of the Framers of our Constitution sat, did precisely what they authorized in the Constitution when they created the State Department, which was then called the Department of Foreign Affairs. The Secretary—a man by the name of Thomas Jefferson—was subject to Senate confirmation, but the legislation creating the Department also called for the hiring of a ''chief clerk'' who would be second in command—essentially the deputy. That position was not subject to confirmation and Jefferson hired a man named Henry Remsen, who had held the same job under the previous Articles of Confederation.

So right from the beginning—from the Founding Fathers, the drafters of the Constitution—it was clear they understood there had to be limits on the number of offices the Senate would be called on to advise and consent to.

Incidentally, I think it is also worth noting that in that first Congress, on a single day in 1789, the Senate took up 102 nominations sent to it by President Washington 2 days earlier and approved them all but one. Needless to say, President Washington complained about the one nominee whom the Senate did not confirm. But Washington, obviously acknowledged as the Father of our Country, was unique, and no President—appropriately, I would say—has received exactly that kind of deference since. The nominations process can be a rough and tumble one, and that is to be expected under our separation of powers.

This legislation, however, I wish to emphasize, does nothing to change that. In fact, I would argue this legislation enhances the Senate's authority regarding advice and consent by enabling us to focus our energies on the qualifications of those who would shape national policy. If we don't fix this system, which almost everybody regards as broken, I think we risk what has already begun to happen, which is that some of our Nation's most talented people will simply not accept nominations for these important positions because of the time involved, the redundancy involved, and they will go unfilled.

There has been a lot of work done to support this effort, some of which was done by some of our former colleagues, including Senator Bill Frist and Chuck Robb and former White House officials Clay Johnson from the Bush administration and Mack McLarty from the Clinton administration. For the past year, the four of them have headed up a bipartisan commission to reform the Federal appointments process and they have all endorsed this bill as well as S. Res. 116, and so too has the Partnership for Public Service.

I know there is a natural tendency—notwithstanding all the reasons everybody understands to limit the number of nominees that come before the Senate for advice and consent—when we come to that moment where individual chairs of committees and ranking members don't want to yield what seems to be any authority. But, honestly, this is not an authority worth fighting to retain, and it works against the general functioning of the Senate, against the functioning of our government and, in my opinion, actually undercuts the vitality of the advice and consent clause.

I call on my fellow chairmen, ranking members, and of course all of our colleagues on both sides of the aisle to vote yes on this legislation so future Presidents can recruit the best nominees to serve us and the Senate can make sure it does its full job under the advice and consent clause to investigate and confirm them before they take office and deal with the Nation's business.

As always, I have been privileged on the committee to be working with Senator COLLINS as my ranking member, and I yield to her at this time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. 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.

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

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

Ms. COLLINS. Mr. President, I am delighted to join with the chairman of the Homeland Security Committee, my dear friend Senator LIEBERMAN, in rising today in support of the Presidential Appointment Efficiency and Streamlining Act of 2011.

First, let me join Senator LIEBERMAN in commending Senators SCHUMER and ALEXANDER for their leadership on this bill. Senator ALEXANDER, in particular, has worked so hard on this issue. In fact, I am convinced we would not be where we are today without his persistent leadership. He deserves great credit for his patience and his dogged determination to bring this bill and this issue to the floor. Senators REID and MCCONNELL also deserve great credit. They made the commitment in January to make reform of the nominations process a priority.

Finally, I wish to recognize Senator LIEBERMAN, the chairman of the committee, on which I have the privilege of being the ranking member. He and I have also been part of what has truly been a bipartisan effort to craft this bill. It is an effort we need to see more often in this Senate if we are to tackle and actually solve the many problems facing our Nation.

This bill before us addresses shortcomings in the process of confirming Presidential appointees without diminishing the constitutional roles of the President or of the Senate. The fact is this is a very modest bill that takes limited but much needed steps to reform the confirmation process. When we look at the full-time positions that now require Senate confirmation, this bill would eliminate only approximately 85 full-time positions, a truly modest number. These positions were selected because either they do not have significant policymaking authority or funding responsibilities or report directly to a Senate-confirmed official.

To be clear, not included in these numbers are almost 3,000 officer corps positions that would no longer require Senate confirmation under this bill. But let me quickly explain exactly what those officer positions are, because when many people hear the words ''officer positions,'' they are going to think the Department of Defense and that would raise the issue of civilian control of the military. Let me say these are not military or Department of Defense positions. Rather, they are members of the Public Health Service and the National Oceanic and Atmospheric Administration Corps of the Department of Commerce.

Apart from these officer corps positions, more than 83 percent of all currently confirmed positions and more than 90 percent of all the full-time positions will continue to require Senate approval under this bill. Let me emphasize that again because, unfortunately, there is some misinformation about this bill. More than 90 percent of the full-time positions in the Federal Government that have required Senate confirmation will continue to require Senate approval under our bill. Furthermore, nothing in this bill limits the ability of Congress to create new Senate-confirmed positions in the future. It may be that there is a new department created someday or a new position that is very important. The Senate can choose to exercise its will to make those new positions subject to Senate confirmation.

The companion standing order reported by the Rules Committee proposes that some additional 240 positions go through a new expedited confirmation process. Although that resolution is not now before us, it will be, I hope, shortly after we conclude our work on this bill. So I wish to explain briefly what the process would be under that resolution.

That expedited process would still require nominees to respond to all committee questionnaires and would still

provide the opportunity for closer scrutiny of a nominee if requested by a single Senator—any Senator. The confirmation process must be thorough enough for the Senate to exercise its constitutional duty, but it should not be so onerous as to deter qualified people from public service, particularly when they are being asked to serve as a part-time member of an advisory board.

A letter from three of our former colleagues, one House Member and two Senators, put it well. The bipartisan Policy Center in endorsing this bill sent us a letter that is signed by former Congressmen and Secretary of Agriculture Dan Glickman, Senator Pete Domenici, and Senator Trent Lott, who of course served as the majority leader of the Senate. Here is what they said, and here is what we heard over and over at the hearing Senator LIEBERMAN and I conducted before our committee. This is the bipartisan Policy Center's conclusion:

Many public spirited people are discouraged from serving in appointed office because of the length and the extreme adversarial nature of the confirmation process.

This is an issue the Committee on Homeland Security and Governmental Affairs has been working to address for a long time. In fact, in 2001, when Senator Fred Thompson chaired the committee, we held two hearings focusing on the state of the Presidential appointment process. As a result of those hearings, the committee reported favorably reform legislation. A few of the provisions of that bill were later incorporated into the Intelligence Reform and Terrorism Prevention Act of 2004, which I, along with Senator LIEBERMAN, authored.

Let me give our colleagues some more background, some of which has been covered by the chairman of the committee but I think is important to repeat to counter some misimpressions about this bill that somehow it undermines our constitutional obligations. In fact, the Constitution, in the appointments clause, makes the appointment of senior Federal executive officers a joint responsibility of the President and the Senate. The President determines who in his judgment is best qualified to serve in the most senior and critical positions across the executive branch of our government. Then we, the Senate, exercise our independent judgment to determine if these nominees have the necessary qualifications and character to serve our Nation in these important positions of public trust. But at the same time, the Constitution envisions the appointment of lesser officers by the President alone. Specifically, the Constitution provides that ''Congress may by Law vest the Appointment of such inferior officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.'' So that process is spelled out in the Constitution.

The National Commission on the Public Service, commonly known as the Volcker Commission, gathered some very illuminating statistics. They differ a bit from some of the statistics the chairman has given because he is using CRS, but what they show is the enormous increase in the number of positions that are now subject to Senate confirmation and approval.

When President Kennedy came to office, he had just 286 positions to fill that had the titles of Secretary, Deputy Secretary, Under Secretary, Assistant Secretary, and Administrator. But using those titles, there were only 286 when President Kennedy assumed office. By the end of the Clinton administration, there were 914 positions with those titles. Today, according to the Congressional Research Service, there are between 1,200 and 1,400 positions in total that are appointed by the President that require the advice and consent of the Senate. Too often, that large number of positions requiring confirmation leads to long delays in vetting, nominating, and confirming these appointees.

I would also point out that there is a great expense that goes along with this process. Having an FBI background check is expensive. Having our congressional investigators do their own vetting process is expensive. And many a nominee will tell you how expensive it is for the nominee to go through this process. The result of the length of this process is that administrations can go for months without key officials in these many agencies. That is why you will find there is bipartisan support from previous administrations urging us to finally tackle this issue.

The 9/11 Commission found that ''[a]t the sub-cabinet level, there were significant delays in the confirmation of key officials, particularly at the Department of Defense,'' in 2001. It was not until 6 months after President Bush took office that he had his national security team in place. Our enemies take note of that fact. That is what the 9/11 Commission found. And it creates a national security vulnerability that terrorists can and have exploited. We have seen that in the United States, we have seen that in Madrid, that when there is a change in administration, it is a particularly difficult time, particularly if we do not have our appointees in place.

As I have mentioned, Senators SCHUMER and ALEXANDER have been the bipartisan authors of this bill, which has been cosponsored not only by Senator LIEBERMAN and myself but by members of the leadership of the Senate on both sides of the aisle. But I believe, of all members of the working group, Senator ALEXANDER may have the best perspective. In fact, I believe he does have the best perspective because he is one of the few Members of the Senate who have served as a Cabinet Secretary and as a Senator. He has endured the nominations process himself, and I am sure he will explain what he went through in his comments later, but he will talk about how long it was, that it was 9 months before he had a chief financial officer. It took him 6 months, I believe, to be confirmed, and he could not get his team in place because the process was so bogged down.

The nominations reform bill we take up today removes only 203 positions out of an estimated 1,200 to 1,400 from the Senate confirmation requirement, and most of those positions are part-time advisory board members. I would ask my colleagues, should the Senate really spend its time and its resources confirming 10 part-time members of the National Institute for Literacy Advisory Board? I am not in any way denigrating the work of this board or the people who are willing to serve on it. I am just suggesting that I do not think that board requires our confirmation. What about the National Board of Education Sciences or the National Museum and Library Sciences Board, which has 20 part-time members, all of whom have to be confirmed by the Senate?

Again, I would point out there is a cost involved for my colleagues, and that involves everyone here who is concerned about the amount of money we are spending in the Federal Government. There is a cost to an FBI background investigation. There is a cost to having a sufficient number of staff to go out and do the kinds of background checks and vetting that we do. There is a cost to the nominees involved, who have to fill out all these forms, who have to be very careful that they are divesting themselves of certain assets. And it makes sense for the Office of Government Ethics, which already has a system in place to check for those kinds of conflicts, to not have its work duplicated, and that is what happens now far too often.

This legislation will free the Senate and enable us to focus on those nominees whose jobs are absolutely critical to our Nation, who do have significant policy responsibility, who do have significant control over Federal funds, and that will make a difference. It will also enable the Senate to spend more time on the critical work of how can we best create more jobs in this country, how can we reduce our unsustainable $14 trillion debt, how can we strengthen our homeland security, and how can we conduct more effective oversight of the executive branch. Isn't it a better use of our time to be holding oversight hearings to examine the enormous duplication the Government Accountability Office has found across government that wastes hundreds of millions, perhaps billions of taxpayer dollars, rather than spending our time worrying about the confirmation of 20 part-time members of the National Museum and Library Services Board?

Over the years, our committee has continued to hear from experts on the executive nominations process. In April of this year, we received a letter from the bipartisan Commission to Reform the Federal Appointments Process, which is chaired by our former colleagues, Senators Frist and Robb, as

well as we have heard from the former Director of Presidential Personnel for the Bush administration, Clay Johnson, and the former Chief of Staff for the Clinton administration, Mack McLarty. They wrote—and I think this puts it well—that ''[m]ost everyone agrees the federal appointments process is broken.'' They underscored that the bill before us will help the next administration ''to put in place very early in its first year the . . . people that the new Department heads need to get off to a fast start . . . working effectively with Congress.''

I hope we can agree to undertake the modest reforms we have included in this bill. I hope we do not let this legislation and the Rules Committee resolution get caught up in the turf battles and the power struggles that too often sink good government initiatives in this body. This bill is a step in the right direction and a step we should take together by an overwhelming margin.

Mr. President, I ask unanimous consent, if they have not already been printed in the RECORD, that letters endorsing the bill from the Bipartisan Policy Center, the Partnership for Public Service, Senator Fred Thompson, former Defense Secretary Frank Carlucci, and former Senators Bill Frist and Chuck Robb be printed in the RECORD.

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

BIPARTISAN POLICY CENTER,
Washington, DC, June 21, 2011.

Re S. 679 and S. Res. 116—Support.

TO LEGISLATIVE DIRECTORS: As former senators and presidential appointees of both parties, we fully support the Senate's efforts to improve the nomination and confirmation process by reducing the number of political appointees who require senate confirmation, forming a commission to make recommendations for a more efficient financial disclosure and background check process, and streamlining the senate confirmation process for nominees to advisory boards and commissions.

The problem and the solution are truly bipartisan. Presidents of both parties and senates controlled by both parties have seen the increasing difficulties in the presidential appointment and senate confirmation process. With each recent presidency, the length of time to select, nominate and confirm appointees has lengthened. [Many public spirited people are discouraged from serving in appointive office because of the length and extreme adversarial nature of the process.]

In S. 679 and S. Res. 116, the Senate proposes modest improvements in the system. These bills will not alter the fundamental character of the appointment and confirmation process. The president will continue to make nominations and the senate will exercise its advise and consent role for hundreds of appointments. But for some lower level nominees, the senate confirmation process will be eliminated or streamlined and the financial disclosure and background check process will be simplified and improved.

Beyond these immediate measures, we hope that in the future the Senate will continue to work to improve the confirmation process by coordinating senate committee financial disclosure forms with executive branch disclosure forms. And we encourage consultation between the executive and legislative branches to find ways to limit the use of the recess appointment power.

S. 679 and S. Res. 116 are small and important steps in the right direction. We encourage the Senate to pass these two measures.

Best Regards,

SECRETARY DAN GLICKMAN,
Senior Fellow, BPC.
SENATOR PETE DOMENICI,
Senior Fellow, BPC.
SENATOR TRENT LOTT,
Senior Fellow, BPC.

PARTNERSHIP FOR PUBLIC SERVICE,
Washington, DC, June 20, 2011.

Hon. JOSEPH LIEBERMAN,
Hart Senate Office Building, Washington, DC.
Hon. SUSAN COLLINS,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS LIEBERMAN AND COLLINS: I commend you, as Chairman and Ranking Member of the Homeland Security and Governmental Affairs Committee, for your leadership in moving forward legislation to streamline the presidential appointments process. S. 679, the Presidential Appointment Efficiency and Streamlining Act, and S. Res. 116 will contribute to better, more effective government by reducing the number of presidential appointees subject to Senate confirmation and doing much to fix a broken nominations process that takes too long, is too complex and discourages some of our nation's best talent from serving.

This legislation is urgently needed, and I applaud you for your efforts to ensure our federal government has the right talent in place to face our nation's many challenges. The Partnership for Public Service strongly supports S. 679 and S. Res. 116 and urges their swift passage.

Very best wishes.

Sincerely,

MAX STIER,
President and CEO.

HERMITAGE, TN, *April 12, 2011.*

Hon. JOSEPH LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.
Hon. SUSAN COLLINS,
Ranking Republican Member, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR JOE AND SUSAN: In 2001, when I was Chairman of the Senate Committee on Governmental Affairs, we held hearings reviewing the nominations process and potential options for reforms. President George W. Bush had been in office 10 months and only about 60 percent of the government's top political jobs had been filled—which created national security concerns.

That's why I want to commend you for your work on the Presidential Appointment Efficiency and Streamlining Act of 2011 which would eliminate the need for Senate confirmation of approximately 200 relatively low level positions. We tried to fix this problem when I was chairman, and it still needs to be done.

My experience was that our confirmation process led to substantial delay and extraordinary expense for nominees as they are vetted beyond what is necessary even for the least sensitive positions. I believe that this will result in an increasingly narrow pool of potential public servants who are more likely to be wealthy, and already live in the Washington, DC, area.

In 1960, President Kennedy had 286 positions to fill in the ranks of Secretary, Deputy Secretary, Under Secretary, Assistant Secretary, and Administrator and by the end of the Clinton Administration there were 914 positions with these titles. Reform would not diminish oversight. It would make oversight more effective.

Comprehensive reforms throughout the presidential appointment process are needed so that the Senate can spend its time focusing on senior nominations and on major priorities such as national defense and tackling our budget problems.

The Senate should take its advice and consent powers seriously, but the number of nominations have grown and expanded over time—much like the rest of the federal government. I hope your committee will take quick action on this legislation and send the bill to the full Senate for its consideration.

Sincerely,

U.S. SENATOR FRED THOMPSON.

FRANK C. CARLUCCI,
McLean, VA, June 1, 2011.

Hon. HARRY REID,
U.S. Senate, Hart Senate Office Bldg., Washington, DC.
Hon. MITCH MCCONNELL,
U.S. Senate, Russell Senate Office Bldg., Washington, DC.
Hon. CHARLES SCHUMER,
U.S. Senate, Hart Senate Office Bldg., Washington, DC.
Hon. LAMAR ALEXANDER,
U.S. Senate, Dirksen Senate Office Bldg., Washington, DC.

DEAR SENATORS REID, MCCONNELL, SCHUMER AND ALEXANDER: I am writing to commend you for your leadership and bipartisan approach to tackling one of the great challenges facing our government—presidential appointments and nominations reform. There is little dispute that the current nominations process has grown too cumbersome and complicated, and the number of political appointees is too large. S. 679, the Presidential Appointment Efficiency and Streamlining Act, and S. Res. 116 are a promising show of progress, and I encourage all Senators to support this bipartisan legislation.

As former Secretary of Defense (under President Reagan), I know the importance of having high quality leaders in place within an agency. Leaving positions vacant indefinitely as appointees wait to be confirmed is not smart management, and is frankly a threat to our national security. We need strong leaders installed quickly in agencies to ensure our government is ready to meet the many challenges it faces. S. 679 and S. Res. 116 together present a common-sense solution that preserves the important role of the Senate in confirming key nominees, but unburdens the process by relieving the advice and consent requirement for less critical positions.

Congress would be wise to act now, before the politics of the next election cycle get in the way of practical reforms to improve the efficiency and effectiveness of our federal government. I urge the Senate to swiftly pass both S. 679 and S. Res. 116 to ensure our government has its senior leaders in place within agencies to carry out critical missions.

Sincerely,

FRANK CARLUCCI.

JUNE 17, 2011.

Senator SUSAN COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: We write today to encourage your support for the Presidential Appointment Efficiency and Streamlining Act of 2011 (S. 679). Having served in the Senate and participated in this process firsthand, we believe this bill would constructively improve the federal appointments process, which we all know is broken.

We believe that this bill will dramatically improve government operations, especially in the first months of a new administration. S. 679 will make it possible for a new administration to more quickly put into place the roughly 70 vital communication and operations personnel needed by department heads to effectively work and communicate with Congress, the public, and federal employees.

S. 679 will create more time and capacity for the Senate within an administration's early months to confirm or deny the appointment of senior-most, operational and policy-making officials, whose qualifications clearly warrant Senate scrutiny.

Importantly, S. 679 will create a working group to develop a specific plan to improve the efficiency, manner and speed with which background data are collected from potential nominees. The goal is to streamline and better coordinate the now cumbersome process whereby the FBI, Office of Government Ethics, and the Senate receive and consider a nominees' information; vetting would begin sooner, critical especially in the first few months of a new administration. Furthermore, the unnecessary and duplicative data-gathering burden on the individual nominee can be reduced significantly. The Executive Branch will similarly develop a plan to accelerate the process by which they receive nominees' background information, so that nominees can be submitted for Senate approval in a more timely fashion.

We believe the Act does not diminish the institutional influence or Constitutional duties of the Senate, as it will retain the power to advise on and consent to the appointment of some 1200 policy-making and senior officials, including those officials to whim the subject positions of S. 679 report. Through the use of hearings, reports to congress, Inspector General and GAO reports, the Senate will continue to hold responsible offices accountable for performance expectations, regardless of whether or not the appointed individuals in those offices are confirmed by the Senate. The Senate will still maintain the high performance standards sought for all government functions and programs.

Moreover, in no way does the Act diminish the stature of appointed positions that will no longer require Senate confirmation, a process which we all know makes it more difficult to attract highly qualified candidates. Currently a number of comparable positions are Senate confirmed in one agency, yet not in another. We believe there is no evidence to suggest those appointees requiring Senate confirmation are more qualified and talented than those having the same job at other agencies only not requiring Senate confirmation.

It is noteworthy that leaders from both parties have come together to develop this legislation to improve the working of the Senate confirmation process and markedly improve government operations, especially in the first year of a new administration. We highly encourage you to join Senators Reid, McConnell, Schumer, Alexander, Lieberman and Collins to pass S. 679 to make the Senate confirmation process more effective.

Respectfully yours,

WILLIAM H. FRIST, M.D.
CHARLES S. ROBB.

Ms. COLLINS. I thank my colleagues.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the distinguished Senators from Maine and Connecticut not just for their comments today but for their work for nearly a decade on this issue. This is hard, slogging work in the Senate. It is not easy to do. As I mentioned earlier, it is not one bit glamorous, but it helps make the Senate a more effective institution. If we are more effective, then we can deal better with our debt, then we can deal better with Libya, then we can deal better with creating jobs, then we can earn more respect from the people who elect us. So I thank them for their leadership.

I thank Senator MCCONNELL and Senator REID for creating the environment in which this can happen.

I thank all my colleagues, many of whom did not exercise all their rights, and allowed the bill to come to the floor in this agreement by unanimous consent. We have not had this privilege very often in the Senate. It is a good way for the Senate to work. It is the right way for the Senate to work. What it means is, over the next day or two, however long it takes, Senators may bring their relevant amendments to the floor and they may call them up without asking unanimous consent to set aside a pending amendment.

Then we will have a debate, and then we will vote on them. When we are through voting, we will vote on the bill. I would encourage my colleagues to prepare to bring their amendments to the floor. I am going to defer my remarks until this afternoon, when Senator SCHUMER, the chairman of the Rules Committee, will come to the floor at 2:40. I will speak following him. We will talk about the resolution, which is the other half of the bill.

But this is legislation about making Senate oversight, as Senator LIEBERMAN said, more effective, not less effective. It is about putting a stop to the trivializing of our constitutional duty for advice and consent. It is about ending the phenomenon of innocent until nominated, which is what happens to distinguished citizens of this country who are asked to serve in the Federal Government and, to their great horror, discover they are heading through a maze of conflicting forms and questionnaires, until finally they are dragged before a tribunal in the Senate and caught in an inadvertent error and made out to be a criminal, when they thought they were an upstanding citizen, having served in their hometowns for a long time.

We should stop that business, and every administration in recent years has asked us to do it. So this is the right thing to do. It is a modest step but an important step. It is a signal that we can do our business well, that we can treat American citizens with respect, that we can focus our attention where it needs to be focused and not focus our attention where it is not.

Senator COLLINS mentioned there are several thousand public health officers and others who are now confirmed by the Senate. That is the rough equivalent of confirming forest rangers or staff members of the Senate or agricultural extension officers. I mean, they are all valuable positions, but did our Founders expect that we would be sending the FBI to ask whether they lived beyond their means before they took their job and then conduct diligent inquiries there and before some committee of the Senate?

Well, of course not. So we are going to end up with about 1,200 nominations from the President, to whom we need to devote advice and consent. One indication of why it is so necessary to do this is, nobody can tell us how many Presidential appointments there are that need advice and consent. The Congressional Research Service at first said 1,200, and then when our staffs began looking at it, it is more like 1,400.

In the last Congress, how many of these important advice-and-consent positions actually deserved a rollcall vote? Three percent. So we only had time to give a rollcall vote to 3 percent of the men and women whom we have decided need the extraordinary constitutional process of advice and consent. We need to elevate the advice-and-consent process back to where it ought to be, do our jobs correctly, treat people who are nominated by the President with dignity and hope the President can staff his government appropriately so we do not have to. As Senator COLLINS said, it has been 6 months while we wait to get the President's defense team in place.

That is partly the President's own fault, but it is partly our fault, and we need to work together. We have a process in this bill where we will work together to try to speed that up. So I am glad I had the opportunity to hear Senator LIEBERMAN and Senator COLLINS. This is not the first time they have tried to do this. But they will succeed in doing this because they have broad bipartisan support and an era of cooperation within the Senate.

We will have some debate. We still have some disagreements about which positions should be in and which positions should be out. That is why we have relevant amendments. That is why we bring them up. That is why we vote on them. That is why we will eventually come to a final result on the bill.

I thank them for their leadership, for their eloquence, and for their public spiritedness.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank our friend and colleague from Tennessee for his statement and even more for the hard work he has done, along with Senator SCHUMER—the hard work, the steadfast work, without which we would not be on the floor right now.

Senator COLLINS and I both agree this is one of those rare cases where I would not say we gave up, but we were beginning to grow pessimistic about our capability to achieve these reforms. It is unusual for us because we are usually so stubbornly persistent.

But Senator ALEXANDER and Senator SCHUMER, working with the encouragement and blessing of the two leaders,

Senators REID and MCCONNELL, have put us in a position to get this done. It would be a real step forward. So I thank the Senator. Obviously, the work begins now.

The floor is open for debate, as of 3 o'clock, for amendment. If either of my colleagues do not have anything more to say, I would suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NORTH DAKOTA FLOODING

Mr. HOEVEN. Mr. President, I rise today to call attention to my home State of North Dakota where we have terrible flooding occurring. We have flooding today on the Souris River and the community of Minot is now in the process of evacuating more than 11,000 people from their homes. In truth, we have had tremendous challenges with flooding all spring, throughout the State of North Dakota—the Red River Valley, Cheyenne River Valley, James River Valley around Devil's Lake, the Missouri River, Bismarck, Mandan area, up and down Missouri, all the points throughout western North Dakota and today it is in north central North Dakota. The Souris River is flooding, not only in the community of Minot but also in communities upstream to the north, small communities, counties, rural areas, and downstream as well, creating real hardship for citizens.

Even as I speak, more than 11,000 people are leaving their homes in and around the community of Minot. The Minot community is something over 40,000 people, so somewhere between a third and a fourth of our citizens in that community and the region will be displaced from their homes and their businesses. Our thoughts and our prayers go out to all of them.

At the same time we must do all we can to help them, both now at this time of need but also in the days coming as we go forward. Minot and the region have been in this flood fight for some time. In fact, together with the Corps of Engineers, with the National Guard, with local contractors, with the local officials, State support, the Federal agencies, the citizens have been fighting a battle against flooding for months this spring. They have built up their defenses. They have built levees along the river, the Souris River that flows through the Minot community and through the region. They built those levees up to an elevation of 1556. They built levees and dikes along the river.

In addition, years ago the community in fact levied a sales tax on itself to help build dams in Canada, Rafferty Dam and Alameda Dam, to try to have permanent flood control in place. This is a community and this is a region of our State that has worked very hard, using its own local dollars along with State and Federal sources, to build permanent flood protection—dams in Canada, as well as levees along the river.

Those defenses have stood for more than 30 years and protected the community and the region from flooding but this time they are not enough. As I say, the elevation is about 1556 on those levees along the river and it looks as though the crest will be 1563, 7 to maybe 10 feet higher than the levees provide defense. That means people have to leave their homes and their businesses and their property.

Ironically, 3 weeks ago with the projections that we had at that time, roughly 10,000 to 11,000 people were forced to leave their homes at that time. But fortunately the crest came in lower than was projected and, with the work they were able to do on the levees, raising the levees yet again, they were able to keep the water within the banks of the Souris River so people were able to return to their homes and their property was not damaged. But unfortunately that is not the case now. Already the water is rising to the very tops of the levees and, as I say, the crest is projected to be well above those levees.

The first priority must be to keep people safe, to protect lives and protect people. The mayor, Mayor Zimbelman, is working with local officials and our Governor, Governor Jack Dalrymple. The National Guard is there. On the order of 500 National Guardsmen are helping with this evacuation process. Local law enforcement, fire emergency responders, they are all engaged. We truly appreciate their help and their efforts.

Minot Air Force base, a major Air Force base for our Nation, is located right near the community. I think there are on the order of 12,000 more people who live at that Air Force base. Some of the air men and women who are stationed at the base of course live in the community. Those men and women of the Air Force are helping the community. Minot Air Force base is providing a place for shelter for our citizens and providing help. I have spoken with the Air Force officials and we truly appreciate their help with manpower, with transportation, and with shelter.

Also Minot State University, our local university, is providing shelter for people who need it in the community. We have the relief organizations there as well, the Red Cross, the Salvation Army, and others.

Of course, in addition to all of that, we have citizens helping each other. That is truly the North Dakota way and they are doing a fine job. As a matter of fact, in the recent evacuation I mentioned several weeks ago, even though more than 10,000 people were evacuated, very few ended up staying in the shelters because friends and family, caring people in the community and in the region, provided a place for so many to stay. Of course, we know that will happen again as people open their homes to help others in a time of need. But clearly more help will be needed and help with recovery will be needed as well. That means Homeland Security, that means FEMA, that means the other Federal agencies as well. Many homes and many businesses will be flooded and those homes and businesses will be likely in floodwaters until into July. That assistance will be very much needed, very much required.

That means programs such as public assistance and individual assistance through FEMA to help with public infrastructure that is damaged, to help individual homeowners with damage to their homes, will be necessary, along with flood insurance, SBA disaster assistance for businesses—because this flood is right through the very central part of the community so it affects not just homes and property but many businesses as well. Of course, it will affect public infrastructure.

To that end, I am already meeting with the Director of FEMA Craig Fugate this afternoon. We must be committed to that process, to help all we can, both in this flood fight and in the ensuing recovery.

It has been a real challenge this year. As you look around the country, look around our State, the flooding I described, not just here in Minot but throughout the State, and as you look around the country with flooding up and down the Missouri, up and down the Mississippi, and you look at the tornadoes and now look at fires occurring in the Southwest—this has been a tough year. It is a challenging year. So we need to pull together and we need to help each other. I know we will, because that is the American way. That is the way we have always done it and I know we will be there to help each other, to help our citizens in Minot, in the Minot region, throughout the State of North Dakota, but in other places around the country as well. As I say, that is the American way. We will prevail in this endeavor.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ENZI. Mr. President, I know the issue before us is to change the way the nominations are handled. I wish to express my appreciation for that act and ask my colleagues to support it. A number of the nominations come through the Health, Education, Labor, and Pensions Committee. I have been the chairman of that committee, and am now the ranking member. There have been times when nearly 350 appointments have come through at one

time, none of which are accompanied by any paperwork. This situation relates to the Public Health Service Corps nominees, which the Committee is required to report and confirm. However, there is no way to check on any of them because HELP Committee rules specifically state that routine paperwork does not need to be filed for these nominees. So it is a waste of time to take these nominees through the committee process and then to the floor. This bill would eliminate that need.

Now, under the proposal, there are about 250 positions where any Senator can call for a nominee to go through regular order. So for these nominees, anybody who has a concern about a nominee the President appoints has the leverage to be able to take a look at that person, to voice their comments, and to have it considered in the regular order.

I do see a great capability for us to be more productive under this new system, and that is what I would like to see. I would like to ask everybody to support the bill.

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

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

Mr. SCHUMER. Mr. President, first, I rise in support of S. 679, a bipartisan effort that will streamline Presidential appointments and reduce the number of Senate confirmations for certain types of positions, and I urge my colleagues to support this bill.

First, I want to praise my colleague and friend, Senator ALEXANDER, who has been a leading, if not the leading, force in this effort. We have worked together well in a bipartisan way to try to come up with a proposal that meets the agreement of the Chamber. He has done a great job, and it has been a pleasure, I would say to my friend from Tennessee, to work with him, as it always is.

I also want to thank, of course, Senator REID, who has encouraged us to get involved in this process and has been right there with us all the way, as well as Republican Leader MCCONNELL, who, again, has from the beginning been on our side and agreed that this is a worthwhile endeavor.

So we formed a bipartisan working group at the behest of Senator REID and Senator MCCONNELL to try to figure out how to try to reduce the number of Presidential appointments that require Senate confirmation and to create new procedures to improve the pace of confirmation for executive branch nominees, as part of an overall reform of the Senate rules.

Senators ALEXANDER, LIEBERMAN, COLLINS and I, in conjunction with the leaders, worked closely to develop this bill and the accompanying resolution, which we will turn to immediately after the bill, to improve how the Senate deals with executive nominations.

Throughout this entire process, we have partnered with folks from both sides of the aisle, and many have significantly contributed to this process. This package is an essential piece of the bipartisan rules reform we began at the start of Congress, and Senators LIEBERMAN and COLLINS have had a lot of experience in this regard. They have tried it before, and their advice to us has been invaluable as well.

The Senate was designed to be a thoughtful and deliberative body. But the confirmation process is often slowed to a near standstill. This legislation will clear some of the more noncontroversial positions so the Senate can focus on its constitutional advise and consent power as it was intended, to confirm the most important positions.

The bill is not intended to take away or diminish the Senate's advise and consent power. The power will remain and still be used for the confirmation of senior policymaking appointments. The purpose of this legislation is to help the Senate function better and more efficiently.

Rather than spending time in committee and on the floor confirming nominees who have part-time appointments, nonpolicymaking responsibilities, or who directly report to Senate-confirmed individuals, we can alleviate ourselves of this burden and make these individuals nonconfirmable.

With that said, I recognize that some of our chairmen would like to see certain positions remain confirmable. We are continuing to work with them on their concerns, and we want to be flexible. We will be working with some of those Senators from both sides of the aisle who have voiced some objections and think the list is too large.

However, we also want to avoid the hollowing out of this bill so it no longer represents real reform. Over the past few decades, hundreds of these positions have been created which have contributed to a clogging of the Senate and a delay in getting good mid-level candidates in place to help the government function effectively.

The bill will eliminate from Senate confirmation 200 executive nomination positions. It covers several categories of positions, including legislative and public affairs positions, information technology administrators, internal management and administrative positions, and deputies or nonpolicy-related assistant secretaries who report to individuals who are Senate confirmable.

Additionally, we have removed thousands of positions from the Public Health Service Officer Corps and the National Oceanic and Atmospheric Administration Officer Corps from the confirmation process. These positions are noncontroversial and their removal will further prevent the possibility of gridlock. Removing those positions from the Senate confirmation process will allow a new administration to be set up with more efficiency and speed, thus making government work better for the people.

The public should not be harmed because we are not able to get qualified people confirmed in a timely manner. The bill will also create a working group that will provide recommendations to the President and the Senate to further improve the confirmation process. The group will focus on offering guidance on the paperwork process for nominees through examining the creation of a single searchable electronic smart form and will also conduct a review of the current background investigation requirements.

In conclusion, this will help make the confirmation process less tedious for nominees by preventing them from having to submit the same information in several different forms to several entities. The bill was successfully passed by the Homeland Security and Government Affairs Committee, and S. Res. 116, which we will turn to immediately after this bill, was marked up in the Rules Committee unanimously.

We are confident that this bill, in conjunction with the resolution, will eliminate many of the delays in the current confirmation process. In conclusion, these delays are very detrimental to the efficient operation of government and to the efforts to recruit the most qualified people to these Federal jobs.

The public deserves a focus of our deliberation on confirming the most important positions and not to hold up those generally noncontroversial positions which more closely resemble appointments that are currently made without Senate approval.

I yield the floor, and I know my colleague, Senator ALEXANDER will speak next.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I congratulate Senator SCHUMER for his diligent work on this effort to help the Senate do a better job with its responsibilities of advice and consent.

As the chairman of the Rules Committee, he and I have been working together at the direction of Senator REID and Senator MCCONNELL to come up with a consensus about how to do this. Our colleagues, all 100, have agreed that we can move on to the bill and debate any relevant amendment, which has not happened very often around here, and is exactly the way the Senate ought to work.

So I thank Senator SCHUMER for taking on this difficult task. It is not a glamorous task, but it is one that hopefully will make the Senate more effective. If we are more effective, we can do a better job of dealing with the debt, of helping to make it easier and cheaper to create private sector jobs, of

coming up with an energy policy that helps us find more American energy and use less, and regain respect from the American people who have given us the privilege of serving here.

I start this discussion with our Constitution, which, as the late Senator Byrd used to suggest, we should all carry around with us. Perhaps the most celebrated constitutional duty of the United States Senate is our responsibility to provide advice and consent. It is in article II, section 2, of the Constitution. It talks about the President there, but it says: ''He shall nominate, and by and with the Advice and Consent of the Senate'' and among other things—to appoint a number of people. But it also says:

. . . the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

So this discussion is about that part of our constitutional responsibility, deciding what inferior officers should be vested—the appointment of which should be vested in the President alone or in heads of departments. I will talk more about that in a moment. But there are really three major goals of this legislation.

One is to stop the trivializing of the constitutional duty of advice and consent. We are providing our advice and consent on so many Presidential nominations that the President is not able to spend as much time as he should on getting them to us rapidly.

It is slowing down the organization of government. We, in turn, are not able to spend as much time as we should reviewing the qualifications of the important officers of the government that the President needs to appoint, and we are not serving ourselves well. We are trivializing the constitutional duty of advice and consent.

The second thing we are doing—and in this, the Executive, the President and the Congress, are equally to blame—is creating an environment that I would describe as being ''innocent until nominated'' in which we take some self-respecting U.S. citizen, and the President invites them to come take a position in the Federal Government of honor and dignity, and suddenly they find themselves immersed in a series of duplicative interrogations from all directions in which they must fill out forms that define words such as ''income'' in different ways, all of which is designed to lead them before a committee, not to really assess their qualifications but to see if they can be trapped and turned into an apparent criminal. In other words, they are innocent until nominated.

Every former administration's officials in recent memory have come to us and said we need to work together. No. 1, we need to stop the trivializing of the Senate's advice and consent responsibility; No. 2, we need to do something about this environment of innocent until nominated.

Finally, this legislation—which, as I said, has been moved to the floor for debate with the consent of all 100 Members of the Senate—is really the third step in the discussion that began in January about what steps we can take to make the Senate a more effective place. One step was to get rid of secret holds. Another step was to limit the reading of the minutes as a dilatory tactic.

This is the third step, appointed by the majority leader, Senator REID, and the Republican leader, Senator MCCONNELL. They asked Senator SCHUMER and I to form a working group. We have come forward with a bill and a resolution, which we will debate today and tomorrow—until we finish—and it will streamline executive nominations and hopefully give us a chance to do more oversight on the positions that need the oversight and not waste our time with positions that don't. At the same time, it will make it easier for the next President to staff his or her government promptly so that they can deal with questions of war and the economy as they come up and not have to wait 6 months or 9 months after they have taken office to deal with those questions. And it will make it more inviting for good citizens of this country to accept a President's invitation to come serve in the Federal Government.

As I mentioned, this came about earlier this year when we were about to have a showdown over the filibuster. The Senator from Oregon was part of that debate. I hope he feels some credit for moving this discussion to where it is today. This is not all that the Senator from Oregon or the Senator from New Mexico or others want, but I think what we quickly learn in the Senate is that a few small steps in the right direction is one good way to get where you want to go. This will be a third step.

Basically, this is what we will be doing. We are affecting about 451 Presidential appointments. This represents about one-third of all Senate-confirmed positions. That sounds like a lot, and it is a lot. Let me qualify it in this way. Here is what has happened over the last several years.

In 1960, President Kennedy had to fill 286 positions in the ranks of Secretary, Deputy Secretary, Under Secretary, Assistant Secretary, and Administrator.

By the time President Clinton came into office, there were 914 positions with those titles. That is according to the Volcker Commission Report, which recommended the kinds of things we are considering today.

Since then, CRS has counted more than 1,200 Presidential appointments requiring the advice and consent of the Senate, and our staffs on the Rules Committee and the Homeland Security Committee found more than 1,400. So we are in the embarrassing position of having to answer the question—if somebody were to say: Here is this enormously important position of the Senate, this constitutional duty to provide advice and consent, and how many Presidential appointments are subject to advice and consent? The answer would be that we don't know. CRS says it is 1,200. Our staffs say it is 1,410.

Another indication that we are not giving them sufficient attention—at least to the ones we should—is the number of rollcall votes on Presidential appointments requiring advice and consent. You would think that if a Presidential appointment were important enough to require a full FBI check, which is very expensive, time consuming, and takes several months; and then a nomination by the President and all of the vetting that goes with that; and then the work of the White House personnel office and all the time spent with that; and then it comes to the Senate and goes to our committees, and our committees have their own questionnaire and their own investigator and their own schedule for hearings and their own schedule for voting, and then they report it to the floor—you would think if it were important enough to go through all of that in order to get our advice and consent, we would take time to vote on it, would you not? Well, in the last Congress, this Senate voted on 3 percent of the nominations that require advice and consent. That is one indication that we are doing too many—we are trivializing the duty. So not only do we not know how many there are—we think, now that our staffs have worked through this, there are about 1,410—97 percent of them are not important enough to vote on; we just pass them by unanimous consent.

As Senator ENZI said earlier today in another setting, and I don't think he minds my bringing this up, sometimes we approve these nominations in blocks—280 at a time—without knowing anything about them. So we are pretending we are giving advice and consent when we are not.

An example of that would be the positions of the several thousand members of the Public Health Service Officer Corps and the National Oceanic Atmospheric Administration Officer Corps. They are all subject to advice and consent. They come through in the box loads. They are all very valuable public servants, I am sure, but to subject the Public Health Service Officer Corps and the National Oceanic Administration Officer Corps to a full Senate advice and consent would be the approximate equivalent of requiring advice and consent of agricultural extension officers or forest rangers or members of the Senate staff. They all have important jobs, but they are not supposed to rise to the level of advice and consent, which is why the U.S. Constitution specifically said that we should select ''inferior officers,'' in its words, whom the President himself—the President alone—or heads of departments may appoint.

Now, what is an ''inferior officer''? Well, words have meaning, and Justice

Scalia gave a definition to the words ''inferior officer'' in the case of Edmund v. United States in 1997. Justice Scalia said:

> We think it is evident that inferior officers are officers whose work is directed and supervised at some level by others who were appointed by the Presidential nomination with the advice and consent of the Senate.

That makes pretty good sense. If you are working for someone who is appointed by the President and subject to the advice and consent of the Senate, then you are accountable to the Senate and the people of the United States through your superior. That makes you an inferior officer. You may be important, but you are subordinate to someone else whose appointment was subject to advice and consent.

Here is what we have done in the legislation.

First, we have a bill from the Homeland Security Committee, and then we have a resolution that comes from our Rules Committee. Of the 451 positions that are affected, in addition to the thousands of members of the officer corps I mentioned, 248 are part-time board and commission positions that could be expedited and would keep their advice and consent rolls and remain Senate-confirmed. I will talk more about that in a minute. Then 118 other part-time board and commission positions will no longer require Senate confirmation. And then 85 positions that are full-time would not require advice and consent for confirmation.

After all is said and done, when you include the fact that 248 positions we affected are merely expedited and still subject to advice and consent if a single U.S. Senator says it is necessary—they are still subject to it under any event and to the full investigation if a single Senator says it is necessary—we will still have more than 1,200 Senate-confirmed executive branch nominations. So, as Senator COLLINS said on the floor today, after this is done, if our bill and resolution are passed, more than 90 percent of the full-time positions that now are subject to advice and consent will still be subject to it, as will more than 85 percent of the part-time positions.

Why is it important that we have so many positions that are subject to advice and consent? One could argue, why don't you narrow it simply to the Cabinet members or the Cabinet members and their deputies? Why slow the President down in his work by requiring so many to come over, because even after we are through this, after everything Senators SCHUMER, COLLINS, LIEBERMAN, and I recommended to the Senate was adopted, the Senate will have 1,200 persons it could put through this gauntlet of advice and consent and make its point.

Many Senators choose to use these confirmation proceedings to exercise our prerogative as elected Members of Congress to get information, to assert our views or to influence the direction of government. For example, Senator MCCONNELL has been holding President Obama's trade nominees until President Obama sends his free-trade agreements to Congress. Senator GRASSLEY and Senator CHAMBLISS held up the Solicitor General's nomination because it had been 2 years and their request for documents from the Department of Justice had not been forthcoming. After they held up the Solicitor General's nomination in the advice and consent process, they got their documents.

I suggest that having 1,200 opportunities to hold a Presidential nominee hostage is enough for any Senator to work his or her will in order to make a point and that to go beyond that is to begin to trivialize the whole process.

As I mentioned earlier, our legislation has two parts. In the first part—the part we are debating now, the bill—there are approximately 200 positions that now are subject to Presidential confirmation that would not be subject to Presidential confirmation. These would be 85 full-time positions, including legislative affairs and public affairs positions, chief financial officers, information technology positions, and others. These are all important positions, but let's think of it this way:

I was once a Cabinet member. It took me about 3 months—well, 4 or 5, from December through March—after I was announced and confirmed by the Senate, and then I had the opportunity to ask the President to send to the Senate all of the subordinate officials who required Senate confirmation. That means the President had to vet those people. That means the Senate had to go through its whole process, once information got here, and vet those people. It had to schedule a hearing. It had to report out the name. That had to come to the Senate. That had to be voted on on the floor.

So there I was, sitting—confirmed in March or April, after I had been announced in December as the President's Education Secretary—but it took me until toward the end of the year to get most of the President's team in place in the Department of Education. Who does that serve? Who does that serve well? Wouldn't it be better if I could appoint my own legislative affairs officer who could then come up and deal with Congress from April on instead of having to wait until later?

This is important for citizens to know. If you are in a position subject to advice and consent, you are not to go to the Department until you are confirmed or you will not be confirmed because it would be considered to be an insult to the Senate. So you have Cabinet members, particularly at the beginning of an administration, sitting there almost alone, without any new members of the President's team to help them implement policy.

That affects the voters in a bad way. Let's say all the voters in a country get upset with President Obama and elect a Republican President whose job it is to bring the deficit down. Let us pose a hypothetical. In comes the new Republican President and it takes 2 or 3 months to confirm the Secretaries of the Treasury, the Office of Management and Budget, and then with other key people it might take 6 or 8 months. The people of this country are saying: Wait, I voted in November and here we are coming into the next summer and the government still isn't formed and the deficit is still bad. I am very frustrated with my government.

This legislation is set to deal with that. The bill itself takes about 200 positions and removes advice and consent, with 118 of those being part-time advisory commission members.

The second part of the bill we will be discussing takes 248 nominations and expedites them. These are all part time. This might be the Goldwater Scholarship Foundation or the National Council on the Arts. What it does is create a new procedure in the Senate, where the President's nomination simply comes to the desk—the President has already vetted this person; the person has to answer the questions of the relevant committee in the Senate—and unless some Senator objects, once that is done, the vote can come to the floor within 10 days. Yet, if one Senator objects, all 248 of those nominations can go through the full process. So with those we believe we are, at least, speeding up things.

To summarize, for 451 nominations in this bill, we take about 118 part-time positions and remove them from advice and consent. These include, for example, 15 members of the National Board of Education Sciences, 20 members of the National Museum and Library Services Board, and 7 Commissioners of the Mississippi River Commission.

I am sure the National Museum and Library Services part-time advisory board does good work for us and for this country, but is it necessary for the Senate to spend its time providing advice and consent on these part-time advisory members of the National Museum and Library Services Board when we ought to be reducing the debt, inquiring into the policies of a Cabinet member or working on some other legislation?

Then, in the resolution, 248 part-time positions are expedited. As I mentioned earlier, nearly 3,000 members of the Public Health Service Corps are taken out of the process of advice and consent.

Let me speak for just a moment about the other part of the legislation. I talked about how the bill and the resolution will take 451 of approximately 1,410 Presidential nominees subject to advice and consent and take about half of those and expedite them and take the other half and take away the advice and consent requirement, leaving 1,200 persons whose nominations actually require advice and consent. What happens to those persons? Let me give an example, and it is a personal example I have repeated on the Senate floor before.

In December of 1990, President Bush announced in the White House that he was going to nominate me to be the U.S. Education Secretary. I was excited about that. I was then the President of the University of Tennessee. I sold my house, my wife and I packed up, and we moved our children to schools in Washington. I came up here prepared to serve and help the President be the education President, but I forgot about Senate confirmation. I should have known. I should have known because I used to work in the Senate years ago. But I forgot about the Senate confirmation and all its splendor. So when I got up here, I was, after a while, summoned before the Health, Education, Labor, and Pensions Committee—on which I now serve—and with my family sitting there, the Senator from Ohio, the late Senator Metzenbaum, said: Well, Governor Alexander, I have heard some very disturbing things about you, but I don't think I will bring them up here.

Well, Senator Kassebaum from Kansas turned around and said: Howard, you did just bring it up so why don't you go ahead and talk about it. I said: Senator, if you have heard any disturbing things, I would like to know about them because I would like to answer the question. But he decided not to do that, and in his wisdom—and it was his right—Senator Metzenbaum held my nomination up for 3½ months. I didn't know what to do about that so I went around and finally saw Senator Warren Rudman of New Hampshire and told him the story of what had happened. I said: What is your advice? He said: Keep your mouth shut. You have no cards to play. I said: What do you mean? He said: Let me tell you my story. He said President Ford had nominated him to be on—I think it was the Federal Trade Commission in the 1970s. Warren Rudman was then the attorney general of New Hampshire, a well-respected citizen. The Senator from New Hampshire put a secret hold on Warren Rudman's nomination and so days and weeks went by and no action was taken in the Senate on the attorney general of New Hampshire. He was greatly embarrassed by the whole thing. I said: Well, what did you finally do? He said: Well, I asked the President to withdraw my name. I said: Is that the end of the story? He said: No. I then ran against the so-and-so in the next election and beat him, and that is how I got in the Senate.

Well, not every citizen can run for the Senate and defeat the Senator who they think doesn't treat them fairly in the confirmation process. But there is a lot about the confirmation process that can be fixed and still leave all of us with the right to hold up, to vote against, and to defeat 1,200 different nominations by the President.

Take, for example, what happened in President Obama's first year. According to news accounts, in March of 2009, there were key vacant positions at the Treasury Department—an Assistant Secretary for Tax Policy, the Deputy Assistant Secretary for Tax Policy, the Deputy Assistant Secretary for Tax Analysis, the Deputy Assistant Secretary for Tax, Trade and Tariff Policy, and the Deputy Assistant Secretary for International Tax Affairs. The first choice for Deputy Secretary of the Treasury withdrew her name from consideration 4 months after the President's selection in the biggest economic crisis we had had since the Great Depression.

According to one news source, the list of vacancies on the Treasury Department Web site showed:

> The Main Treasury building is a lonely place, conjuring up visions of Geithner signing dollar bills one by one . . . watering the plants, and answering the phones when he is not crafting a bank rescue plan.

Of course, there are other career employees available—at least one holdover Assistant Secretary and various Czars in the White House. This kind of delay actually encourages the unhealthy appointment of Czars in the White House because the President can just do that, but even one of the Czars expressed concern about the slow filling up of the Treasury Department.

Of course, whether you are a Republican or a Democrat and voted for President Obama or not, you certainly don't want a President whose Treasury Secretary isn't equipped to deal with the biggest economic crisis since the Great Depression.

The President brought some of this difficulty on himself, and our legislation recognizes that—not just this President but previous Presidents and the next President. Part of the President's difficulty in filling jobs—and this is one that has afflicted every President since Watergate—is the maze of investigations and forms that prospective senior officials must complete and the risk they run of then being trapped and humiliated and disqualified by an unintentional and harmless mistake.

I voted against Secretary Geithner's nomination because I thought it was a bad example for the man in charge of collecting taxes not to have paid them, and I didn't think his excuse for not paying them was plausible. But that doesn't mean I think that every minor tax discrepancy in our Byzantine Tax Code—that reaches 3.7 million words and is badly in need of reform—should disqualify any citizen for public office. I think very few Americans with complex tax forms can make their way through our maze of investigations and come out without a single change in what they did.

Take the case of the former mayor of Dallas, Ron Kirk. He was President Obama's nominee to be the U.S. Trade Representative. Headlines in the newspaper said Kirk paid back taxes. Why? Primarily because he had failed to list his income and then take a charitable deduction on speaking fees he gave away to charity. Let me say that again. He failed to list his income and then take a charitable deduction on speaking fees he gave away to charity.

Common sense suggests Mr. Kirk and his tax adviser did what was appropriate. After all, he didn't keep the money. The IRS apparently has a more convoluted rule for dealing with such things. In any event, the matter is so trivial as to be irrelevant to his suitability to be the Trade Representative.

Tax audits are only the beginning. There is an FBI full field investigation. Should we be having FBI field investigations for part-time advisory board members on the Museum Library Corporation? Instead of investigating terrorists or catching bank robbers, should we be paying FBI agents to go out and ask your neighbors: Does he or she live beyond their means—all this in order to serve on a part-time advisory board for the Federal Government?

Then there is the Federal financial disclosures, the White House questionnaire, and of course the questions from the confirming Senate committee. All these are different, and the definitions they ask for are different. An unsuspecting nominee, as I mentioned earlier, might actually fill out a form that says what is your income in the same way each time, but the question might have been different each time. It is easy to make a mistake. Then, when you finally appear before the confirming committee, you are innocent until nominated.

Washington, DC, has become the only place where you should hire a lawyer, an accountant and an ethics officer before you find a house and put your child in school. The motto around here has become ''innocent until nominated.'' Every legal counsel in the White House since President Nixon agrees with what I have just said.

In the name of effective government, this process ought to be changed. There are some limits as to what we can do in the Senate. We have to respect separation of powers. In the end, the President has to conduct his own vetting process and, in the end, the Senate must conduct its own investigations. But we might work together to look at possible ways of reducing burdens and delays in the appointment process, and that is what the executive branch working group provided for in our legislation says. It will be chaired by the Director of the Office of Presidential Personnel, and members would include representatives from the Office of Personnel Management, the Office of Government Ethics, the FBI, individuals appointed by the chair who have experience and expertise, individuals from other agencies, and other individuals from previous administrations, and they would report to us in 90 days on a smart form. A smart form would simply be a single form that would make it possible for a nominee to answer duplicative vetting questions one time.

That makes pretty good common sense. Why can't the government do that? It would submit those findings within 90 days to the President for his

consideration and to our relevant Senate committees for our consideration.

In addition, Senator COLLINS has asked the working group within the next 270 days to take a look at the background investigations. A big part of the delay in forming a government is the President's own background investigations.

We wish to know if somebody used to be a member of al-Qaida or has some other serious problem before they come into a government, but there are gradations of that. Whether you are Secretary of the Treasury or a member of the part-time advisory board might have a little different level of vetting, I would think. But in any event, Senator COLLINS wants the working group to report back to the President and to us the feasibility, in appropriate circumstances, of using non-FBI personnel to conduct background investigations for Senate-confirmed positions.

These will simply be reports, an effort between the Senate and the Executive to take a look at streamlining the process so that we can staff the government more quickly, so we can stop wasting so much time here in duplicative ways, so we can stop the expense of that wasted time, and so we can treat with respect the men and women any President invites to become a member of the administration.

Since our bill was first drafted, we have made a number of changes in response to suggestions by our colleagues both on the Democrat and Republican sides of the aisle. I suspect that is one reason why all 100 Senators have agreed to allow this bill to come to the floor and to be debated with any relevant amendment, because we are open to that. We have made some changes.

For example, I mentioned the 248 expedited part-time appointments. The concern was that while there is a Democratic President, there is a requirement in the law that a minority of those appointees be Republican members of the part-time advisory board. Well, what if a Democratic President said, I am going to appoint Republican members who I define as Republicans? We Republicans didn't like that very much. The Democrats wouldn't like it very much if they were on the other side of the fence in another administration. So the solution was this expedited process whereby we can send those 248 nominations through the Senate much more quickly; and if a single Senator thinks the President is playing games with minority nominations, he or she can insist that the nominee go through the whole advice and consent process. In fact, for any reason a single Senator can do that.

Another change we have made is to say all relevant amendments are open for debate and for voting. I am hopeful my colleagues will bring some of those to the floor this afternoon and we will begin to debate them, perhaps to vote on them today; if not vote on them today, start voting on them tomorrow.

We have also agreed that Senator DEMINT, Senator VITTER, and Senator COBURN can each offer a specific amendment. I know Senator SCHUMER has been meeting with Democratic Senators, just as I have been meeting with Republican Senators, to see if there are any other changes. We will have the amendments. I may oppose them all, I may support them all, but at least we will be doing what the Senate ought to do, which is to bring them up. If they are good amendments and the majority of us agree or 60 of us agree, then we will change the bill and eventually vote on them.

Senator COLLINS mentioned earlier the amount of support we have gotten from outside groups who worked on this, and especially from those who once served in the Senate or once served in the White House in positions that had to do with personnel. My work with the White House goes back a long time. I was a young staff aide in the Nixon administration and I was a Cabinet member in the first Bush administration. So I know a lot of the men and women who have been the general counsels to Presidents, who have been the personnel directors who watched the process closely.

I think it was Boyden Gray who was counsel of the first President Bush who gave me the phrase ''innocent until nominated.'' But every single one of those men and women—I don't know of one, without exception, who doesn't think the system is broken, who doesn't think we are trivializing the advice and consent process of the Senate, who doesn't think we are doing a great disservice to our country and to individuals when we allow this ''innocent until nominated'' syndrome to persevere, and they have watched over the last 10 years as very good Senators have tried to change this without success.

Senator REID and Senator MCCONNELL, when they were whips, tried to do it, and they didn't succeed. Senator LIEBERMAN and Senator COLLINS tried a few years ago. They didn't succeed. Senator Thompson tried to do it when he was chairman of the Homeland Security Committee, and he got a few changes made but not very many. It is only this year in response to our general discussion about how to make the Senate a more effective place, and because of the strong support of Senator REID and Senator MCCONNELL, and because of the battle scars Senator LIEBERMAN and Senator COLLINS have, having tried before and their willingness to try again, that we have gotten to this place. I think we will get to where we need to go, but I want to make sure that in this debate we don't succumb to the desire to say, oh, well, my committee wants to have this person go through the process of advice and consent for the prestige of it.

I think it is more important for a new Cabinet member to have an appointee who can serve the President and serve the country and do his or her job, and then let the Secretary and the Deputy Secretary and the Under Secretary be the ones who are accountable to the President. At least that is the recommendation of former Senator Fred Thompson who was chairman of the Committee on Governmental Affairs. That is the recommendation of a task force formed by the Aspen Institute, which included Senator Bill Frist, our former majority leader, Chuck Robb, a Democratic Senator, Clay Johnson, who was George W. Bush's Director of Presidential Personnel, Mack McLarty, who was the White House Chief of Staff for Bill Clinton. They all said this urgently needs to be done.

Frank Carlucci, the former Secretary of Defense, weighed in with his support. The Bipartisan Policy Center, including former Secretary of Agriculture Dan Glickman, a Democrat, Trent Lott, our former whip and majority leader, Pete Domenici, our former Senator, and Dirk Kempthorne, former Governor, Cabinet member, and Senator, all urged us to do this.

Senator COLLINS asked that all these letters of support be placed in the RECORD, and so I will not.

I would simply conclude by saying there has been a little information around that somehow this is legislation to reduce oversight. This is legislation to make oversight more effective. If we were to propose using advice and consent for every Senate staff member, for every agricultural extension servicemember, and every forest ranger, that would be less oversight because we wouldn't have time to do anything. That, in effect, is what we are doing now with advice and consent by the bucketload of officer corps members and of part-time advisory commission members whom the President can vet and appoint, and all of whom report to somebody over whom we do have advice and consent control.

I look forward to this discussion and this debate. I am very grateful to my Republican colleagues, some of whom have questions about the bill, who have allowed the bill to come forward in the way the Senate should operate. Senators can bring their relevant amendments to the floor as long as they and the Parliamentarian agree they are relevant. They can call it up, we will debate it, and we will either vote on it then or set a time for a vote in the near future.

I expect there to be several amendments. I would urge Senators to come to the floor, and hope at the end of the day that we complete these modest but important steps toward making the Senate more effective by reducing the trivializing of advice and consent, our constitutional duty, and by reducing the syndrome that Presidential nominees are innocent until nominated.

Mr. President, I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

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

AMENDMENT NO. 501

Mr. DEMINT. Mr. President, I would like to call up three amendments and speak on them at another time. First, I would like to call up amendment No. 501.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 501.

Mr. DEMINT. 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 repeal the authority to provide certain loans to the International Monetary Fund, the increase in the United States quota to the Fund, and certain other related authorities, and to rescind related appropriated amounts)

On page 63, strike lines 3 through 18, and insert the following:

(dd) REPEAL OF AUTHORITY TO PROVIDE CERTAIN LOANS TO THE INTERNATIONAL MONETARY FUND, THE INCREASE IN THE UNITED STATES QUOTA, AND CERTAIN OTHER AUTHORITIES, AND RESCISSION OF RELATED APPROPRIATED AMOUNTS.—

(1) REPEAL OF AUTHORITIES.—The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended—

(A) in section 17—

(i) in subsection (a)—

(I) by striking ''(1) In order'' and inserting ''In order''; and

(II) by striking paragraphs (2), (3), and (4); and

(ii) in subsection (b)—

(I) by striking ''(1) For the purpose'' and inserting ''For the purpose'';

(II) by striking ''subsection (a)(1)'' and inserting ''subsection (a)''; and

(III) by striking paragraph (2);

(B) by striking sections 64, 65, 66, and 67; and

(C) by redesignating section 68 as section 64.

(2) RESCISSION OF AMOUNTS.—

(A) IN GENERAL.—The unobligated balance of the amounts specified in subparagraph (B)—

(i) is rescinded;

(ii) shall be deposited in the General Fund of the Treasury to be dedicated for the sole purpose of deficit reduction; and

(iii) may not be used as an offset for other spending increases or revenue reductions.

(B) AMOUNTS SPECIFIED.—The amounts specified in this paragraph are the amounts appropriated under the heading ''UNITED STATES QUOTA, INTERNATIONAL MONETARY FUND'', and under the heading ''LOANS TO INTERNATIONAL MONETARY FUND'', under the heading ''INTERNATIONAL MONETARY PROGRAMS'' under the heading ''INTERNATIONAL ASSISTANCE PROGRAMS'' in title XIV of the Supplemental Appropriations Act, 2009 (Public Law 111–32; 123 Stat. 1916).

AMENDMENT NO. 510

Mr. DEMINT. Mr. President, I call up amendment No. 510.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 510.

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

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

The amendment is as follows:

(Purpose: To strike the provision relating to the Director, Bureau of Justice Statistics)

On page 50, strike lines 19 through 23.

AMENDMENT NO. 511

Mr. DEMINT. Mr. President, I call up amendment No. 511.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 511.

Mr. DEMINT. I ask further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To enhance accountability and transparency among various Executive agencies)

On page 36, lines 7 and 8, strike ''ASSISTANT SECRETARY OF AGRICULTURE FOR CONGRESSIONAL RELATIONS AND''.

On page 36, line 14, insert ''(a)(1) or'' after ''subsection''.

On page 37, beginning on line 7, strike all through line 20.

On page 38, lines 2 and 3, strike ''ASSISTANT SECRETARIES OF DEFENSE FOR LEGISLATIVE AFFAIRS, PUBLIC AFFAIRS, AND'' and insert ''ASSISTANT SECRETARY OF DEFENSE FOR''.

On page 38, line 14 through line 16, strike ''Assistant Secretary of Defense referred to in subsection (b)(5), the Assistant Secretary of Defense for Public Affairs, and the''.

On page 38, line 17, strike ''each''.

On page 46, lines 7 and 8, strike ''ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL AFFAIRS AND''.

On page 46, lines 14 and 15, strike ''Assistant Secretary for Legislation and Congressional Affairs and the''.

On page 47, strike lines 3 through 9.

On page 47, strike lines 12 through 23.

On page 49, strike lines 7 through 21.

On page 49, beginning on line 23, strike all through page 50, line 18.

On page 50, strike the item between lines 18 and 19.

On page 51, line 20 through line 22, strike ''ASSISTANT SECRETARIES FOR ADMINISTRATION AND MANAGEMENT, CONGRESSIONAL AFFAIRS, AND PUBLIC AFFAIRS'' and insert ''ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT''.

On page 51, beginning on line 25 through page 52, line 2, strike '', the Assistant Secretary for Congressional Affairs, and the Assistant Secretary for Public Affairs''.

On page 52, line 9 through line 11, strike ''ASSISTANT SECRETARY FOR LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS, ASSISTANT SECRETARY FOR PUBLIC AFFAIRS, AND''.

On page 52, line 21 through line 24, strike ''Assistant Secretary for Legislative and Intergovernmental Affairs, the Assistant Secretary for Public Affairs, and the''.

On page 53, lines 17 and 18, strike ''and an Assistant Secretary for Governmental Affairs''.

On page 54, lines 24 and 25, strike ''ASSISTANT SECRETARIES FOR LEGISLATIVE AFFAIRS, PUBLIC AFFAIRS, AND'' and insert ''ASSISTANT SECRETARY FOR''.

On page 55, line 4, strike ''7'' and insert ''9''.

On page 55, line 6, strike ''3 Assistant Secretaries'' and insert ''1 Assistant Secretary''.

On page 55, strike lines 8 through 9.

On page 57, strike lines 1 through 4.

On page 60, beginning on line 22, strike all through page 61, line 4.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

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

AMENDMENT NO. 499

Mr. VITTER. Mr. President, I call up and would make pending amendment No. 499, which is part of the agreement in terms of the debate on this bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER], for himself, Mr. PAUL, Mr. HELLER and Mr. GRASSLEY, proposes an amendment numbered 499.

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

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

The amendment is as follows:

(Purpose: To end the appointments of presidential Czars who have not been subject to the advice and consent of the Senate and to prohibit funds for any salaries and expenses for appointed Czars)

On page 75, between lines 20 and 21, insert the following:

SEC. 5. PROHIBITION OF FUNDS FOR OFFICES HEADED BY CZARS.

(a) DEFINITION.—In this section, the term ''Czar''—

(1) means the head of any task force, council, policy office, or similar office established by or at the direction of the President who—

(A) is appointed to such position (other than on an interim basis) without the advice and consent of the Senate;

(B) is excepted from the competitive service by reason of such position's confidential, policy-determining, policy-making, or policy-advocating character; and

(C) performs or delegates functions which (but for the establishment of such task force, council, policy office, or similar office) would be performed or delegated by an individual in a position that the President appoints by and with the advice and consent of the Senate; and

(2) does not include—

(A) any individual who, before the date of the enactment of this Act, was serving in the position of Assistant Secretary, or an equivalent position, that requires confirmation by and with the advice and consent of the Senate, or a designee; or

(B) the Assistant to the President for National Security Affairs.

(b) PROHIBITION OF FUNDS.—Appropriated funds may not be used to pay for any salaries or expenses of any task force, council, policy office within the Executive Office of the President, or similar office—

(1) that is established by or at the direction of the President; and

(2) the head of which is a Czar.

Mr. VITTER. Mr. President, I thank Senators PAUL and HELLER and GRASSLEY for cosponsoring this amendment, which is about czars—this administration, any administration, usurping the appropriate role and authority of the Senate in the advice and consent process. This is, obviously, directly relevant to this legislation.

As we debate this legislation designed to reduce the number of positions in the government that require Senate confirmation, we should also ensure that the Senate's role is not eroded by unconfirmed Federal czars in very significant positions which should be subject to advice and consent. That is what my amendment is about. That is what my amendment would correct.

This amendment would ensure that any administration—not just this one, any administration, Republican, Democrat, other—is prevented from using so-called czars for similar positions to perform duties that are the responsibility of those positions subject to confirmation by prohibiting funding of those so-called czar positions. Specifically, the amendment would prohibit funding for these czar positions.

The amendment does not unduly restrict Presidential advisory staff. We all agree the President is entitled to direct advisers. Instead, it focuses on ''the head of any task force, council, policy office or similar office established by or at the direction of the President.'' It is aimed squarely at positions created in order to circumvent the advice and consent role of the Senate. Unfortunately, that is exactly what has happened at greatly increasing frequency over the last several years.

It also carves out of the prohibition and allows two things: No. 1, any individuals who are serving in the position of Assistant Secretary or the equivalent position that requires Senate confirmation, that situation is living by the normal, appropriate advice and consent requirement. It also carves out the assistant to the President for National Security Affairs, and we include this carve-out simply to ensure that national security concerns are not impacted.

As a result of these carefully crafted exemptions, my amendment would not remove the President's ability to have advisory staff and keeps the focus on the intended targets and the real abuses—czars created to circumvent the scrutiny of the Senate and the advice and consent and the confirmation process.

Under the current administration, we have seen dramatic increases in this practice—in the amount of power given to these so-called czars appointed directly by the President and not subject to advice and consent and confirmation by the Senate.

Politico has written that President Obama ''is taking the notion of a powerful White House staff to new heights'' and he is creating ''perhaps the most powerful staff in modern history.''

President Obama has created many of these new czar positions. Some include a climate czar, a health care czar, a pay czar, and more.

The power of implementing policy and directing Federal agencies was never meant to be put in these czar positions, subject only to the control of the President. That was always meant to be put in high-level administration positions, subject to the advice and consent role of the Senate and subject to Senate confirmation.

So in this bill, which is all about advice and consent and which is all about the confirmation process, we should certainly address the single biggest problem with that process in the eyes of the American people, which is recent administrations—particularly the current administration—just doing a straight end run around the Constitution, trying to ignore the genius of the Constitution, trying to ignore one of the fundamental balances created by the Constitution through Senate confirmation.

With that in mind, I urge all my colleagues, Democratic and Republican, to support this Vitter amendment. This isn't an amendment against the Obama administration; this is an amendment for the advice and consent role of the Senate. This is an amendment in support of balance of powers. This is an amendment to preserve the significance of the confirmation process. Every Member of this Senate should be for that, no matter whose administration it is. Unfortunately, this czar practice has reached new heights recently, which is all the more reason we need to act. But we need to act to preserve and defend the Constitution, to preserve and defend the appropriate role of the Senate under the Constitution, advice and consent and confirmation.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ENUMERATED POWERS ACT OF 2011

Mr. COBURN. Madam President, in a few minutes, I will offer an amendment, but first I wish to speak about a bill that myself and 26 other Senators have introduced today, and it is called The Enumerated Powers Act. Our Founding Fathers understood the only way to preserve our freedom for future generations was to limit Federal authority. They understood the tendency of government to seize increasing power, and thus they created protections in our Constitution for posterity.

Earlier this year, newly elected and returning Members of the Senate took an oath to support and defend the Constitution of the United States. In my case, that oath never mentioned the State of Oklahoma or any other State an individual Senator might represent. Rather, the oath each of us took was to uphold the Constitution for the betterment of the country as a whole.

Yet every day, Members of Congress ignore their oath and the protective principles embodied in the Constitution, trampling both the freedom and the prosperity of the American people. This has never been as evident as in the congressional spending spree we have seen over the last 3½ to 4 years.

At the beginning of the 111th Congress, our national debt stood at $10.6 trillion. Today it is over $14.4 trillion, an increase of nearly $4 trillion in the last 3-plus years. How did we get there? How did we get into such deep debt? How did we shackle our children and grandchildren to an increasing deficit and an inevitable decreased standard of living? It doesn't lie with any President having done that. Where it lies is with the Congress of the United States.

Today, along with the Senator from Kentucky, Dr. RAND PAUL, and 23 other cosponsors, I am introducing the Enumerated Powers Act. This legislation ensures Members of Congress truly follow article I, section 8 of the Constitution. That section plainly lists the enumerated powers given to Congress, of which there are 18, and they are very well defined.

One of the major reasons why we are facing such tough economic times and such tough fiscal challenges is because Congress routinely in the recent past has ignored this aspect of the Constitution. Until we reconnect Congress with its limited and enumerated powers, we will never put our Nation back on a sustainable basis.

James Madison stated in Federalist 51:

> If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place, oblige it to control itself.

Clearly, we have a government administered by men over men, and the government has failed to control itself. The best way for the Federal Government to appropriately restrain itself is for Congress to abide by the enumerated powers of the Constitution.

The Supreme Court noted at the beginning of the 21st century:

> Every law enacted by Congress must be based on one or more of its powers enumerated in the Constitution. ''The powers of the legislature are defined and limited; and that those limits may not be mistaken or forgotten, the constitution is written.''

In an 1831 letter, James Madison also stated:

> With respect to the words ''general welfare''—

Which is what is so often used to justify new government programs—

I have always regarded them as qualified by the detail of [enumerated] powers connected with them. To take them in a literal and unlimited sense would be a metamorphosis of the Constitution into a character which there is a host of proofs was not contemplated by its creators.

Moreover, the 10th amendment states:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

In other words, everything outside of those 18 enumerated powers are reserved for the States and the people. They are not ours to deal with.

Our Founding Fathers intended for the Federal Government to be one of limited powers that cannot encroach on the powers reserved to the States or to the people. What this bill does is highlight the importance of those principles embodied in our Constitution and gives Members of Congress a new procedural tool to stop unconstitutional legislation.

A former Representative from Arizona, Congressman John Shadegg, took the lead on this issue starting in 1994, and introduced it every year up until he left Congress this last year. I joined Representative Shadegg in offering this bill, starting in the 110th Congress, and again in the 111th. Today I am delighted, along with these 24 cosponsors—and many other Republicans joining me—to reintroduce an updated version of this important legislation.

The Enumerated Powers Act requires each act of Congress, bill, and resolution to contain a concise explanation of the specific authority in the Constitution under which the measure would be enacted. It also states Members cannot merely mindlessly invoke subsections of article I, section 8, such as the Commerce, General Welfare, or Necessary and Proper Clauses to meet that test.

The goal of this legislation is to ensure Congress is accountable to the American people for its actions. The very least we can do—if we are going to violate article I, section 8—is explain our constitutional basis to the American people for that.

With a sufficient two-thirds vote of the Senate, a point of order raised against a bill for failure to cite specific constitutional authority for the legislation can still be overcome. However, the Enumerated Powers Act requires both Houses of Congress to debate that point of order. The American people need to see the transparency when we violate the Constitution and what our basis is for doing that.

As I mentioned earlier, as Members of the Senate, we have each taken an oath to uphold the Constitution, not to put our individual States first. If each of us abides by that oath, we will improve our country as a whole. For Oklahoma, Kentucky, Maine, or any other State to fare well in our country, they cannot do so if the country as a whole is not faring well.

AMENDMENT NO. 500

Madam President, let me take a moment and use as an example one of the reasons I would like the Enumerated Powers Act passed, but also why I am going to discuss the amendment I have at the desk.

Here is what we know right now from the first third of the Federal Government that was studied by the Government Accountability Office. They just looked at the first third of the Federal Government. We asked them in the last debt limit increase to give us the list of duplications of programs that do essentially the same thing across that first third. We will get the next third about 6 months from now, and the final third a year from then.

But what you see and what they came up with is we have more than 100 different Federal programs for surface transportation. That is 100 sets of agencies. That is 100 sets of bureaucracies. That is mindless and thousands upon hundreds of thousands of rules and regulations just on surface transportation. Nobody in Congress knew we had 100 agencies.

Teacher quality. We have 82 separate teacher quality programs across 6 different government agencies. One question is whether that is a responsibility of the Federal Government under the Enumerated Powers Act. But to have 82?

Or how about economic development. Eighty-eight programs, eighty of which are under four different agencies. We just had a bill on the floor, the Economic Development Act, and it is one of 80 programs run by those four agencies. None of them have metrics to see if they are effective. They have anecdotal evidence, but there are no metrics to see if they are. Again, 88 sets of bureaucracies within all these agencies—duplication after duplication after duplication.

Transportation assistance. Eighty different programs.

Financial literacy. A government that is $14 trillion in debt, running a $1.6 trillion deficit, has no business telling anybody about financial literacy. Yet we have 56 programs across multiple agencies teaching the American people about financial literacy. I think the source of that wisdom is somewhat questionable.

We have 47 different job training programs that cost $18 billion a year, run across 9 different agencies. Not one of them has a metric, and all but 3 duplicate what the other 44 are doing. Why would we do that? Why would we have all that?

Homeless prevention and assistance. We have 20 programs out of the Federal Government for homeless prevention and assistance.

Food for the hungry. We have 18 separate programs.

Disaster response and preparedness through FEMA. We have 17 different programs.

So the point is, we got there for two reasons. No. 1, we did not look at the enumerated powers; and, No. 2, too often we are trying to fix a problem with great intent, with the right heart, even when it is constitutional and would meet the demands of article I, section 8, and we have no idea what else is out there, so when we see a problem, rather than go see what we are doing now, we create a new program.

I would ask consideration of my amendment, which is amendment No. 500, which is an amendment to change the Standing Rules of the Senate. What it does is it mandates a rule in the Senate that every report that comes to the Senate on every bill or joint resolution shall contain ''an analysis by the Congressional Research Service to determine if the bill or joint resolution creates any new Federal program, office, or initiative that would duplicate or overlap any existing Federal program, office, or initiative with similar mission, purpose, goals, or activities along with a listing of all of the overlapping or [duplication]. . . . '' and ''an explanation provided by the committee as to why the creation of each new program, office, or initiative is necessary if a similar program or programs, office or offices, or initiative or initiatives already exist.''

So it is a rule change. The reason I bring it to this bill is because this is a bill for rule changes. It requires 67 votes for this to pass. I understand we have heard some concerns from the Congressional Research Service. But with the work the Government Accountability Office has done, and will do, it will be very easy for them to look at the results of the Government Accountability Office and their list of duplications. It is very straightforward. It is less than 100 pages. They can see, and then they can advise the Congress on what we have.

If we cannot depend on the Congressional Research Service to tell us where we have multiple programs when that is available from the Government Accountability Office, and list what their intentions and what their budgets are, then we need to relook at the congressional office and what it does.

They do great work for me. We ask them for things all the time, and they do great. This is something they can accomplish. It is going to get easier as we go forward. But without this knowledge of what we are already doing, we will never solve our problems.

I know my chairman has some concerns with this initiative in terms of how it might affect this bill, but I plan on going right back to the Congressional Research Service to have a discussion with them after I have been on the floor. But if we cannot do this, we cannot do anything. If we cannot change the rules so we actually know what we are doing, so we can actually know if a new bill duplicates something that is already operating, when we have this tremendous list—and this shown on the chart is just a small set of the list. I picked some of the obvious

ones. There are hundreds of thousands of duplicate programs in the Federal Government, wasting billions if not trillions of dollars every year. So if we cannot do something like this, then what can we do to solve our problems?

Knowledge is power. Not knowing what programs are intended to do now before we create another new program to me is the height of insanity. We should be aggressively asking for as much information as we can get, so we know what we are doing when we pass new pieces of legislation.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I am not going to take long at this point. I absolutely support the policy behind the amendment offered by my friend and colleague Senator COBURN. In fact, I am a cosponsor of a standalone bill he has on this issue. My concern is that it is a rules change, and the bill before us is not a rules change. It is not a resolution. It is not a rules change. It is legislation.

Coming up after this bill is the second half of the nominations reform package, and that is a rules change that is coming from the Rules Committee.

My suggestion to my colleague and friend from Oklahoma is that his amendment would be better directed to the second half than to this bill. But, again, I am a cosponsor of his standalone bill, so it is not that I object to the policy.

I would note for the information of my colleagues, the Congressional Research Service does have concerns about whether it has the resources and the ability to carry out the task the Senator would assign it.

From my many years of working both with GAO and CRS, this sounds to me like a job for GAO, which has the auditors and the experience to do this kind of review and, indeed, has already started due to the good Senator's farsighted amendment which became law to identify duplication.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Oklahoma.

Mr. COBURN. Mr. President, I will call up my amendment No. 500. I also tell the Senator from Maine, I will very much consider her recommendation in terms of trying to put it on the second half of this. But I wish to call it up now, and then maybe ask that we withdraw it.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN], for himself, Mr. MCCAIN, Mr. BURR, and Mr. PAUL, proposes an amendment numbered 500.

Mr. COBURN. 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 prevent the creation of duplicative and overlapping Federal programs)

At the appropriate place, insert the following:

AMENDMENT TO THE STANDING RULES OF THE SENATE.

Paragraph 11 of rule XXVI of the Standing Rules of the Senate is amended—

(1) in subparagraph (c), by striking ''and (b)'' and inserting ''(b), and (c)'';

(2) by redesignating subparagraph (c) and subparagraph (d); and

(3) by inserting after subparagraph (b) the following:

''(c) Each such report shall also contain—

''(1) an analysis by the Congressional Research Service to determine if the bill or joint resolution creates any new Federal program, office, or initiative that would duplicate or overlap any existing Federal program, office, or initiative with similar mission, purpose, goals, or activities along with a listing of all of the overlapping or duplicative Federal program or programs, office or offices, or initiative or initiatives; and

''(2) an explanation provided by the committee as to why the creation of each new program, office, or initiative is necessary if a similar program or programs, office or offices, or initiative or initiatives already exist.''.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

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

LIBYA

Mr. KERRY. Mr. President, yesterday Senator MCCAIN and I introduced a resolution with respect to our engagement in a support role in Libya. I think the majority leader is making a determination about exactly when the Senate might consider this. But a number of colleagues on our side have sort of expressed some questions about it, and because of those questions, I thought it was important that we clarify for the record, as Senators consider this over the course of the next days, the answers to their questions.

With that in mind, I am happy to engage in a colloquy now with both the Senator from California, Mrs. BOXER, and the Senator from Illinois, Mr. DURBIN. I think Senator BOXER wishes to lead off.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, is it in order for me to ask some questions of the distinguished chairman of the Foreign Relations Committee at this time?

The PRESIDING OFFICER. Without objection, the Senators may engage in a colloquy.

Mrs. BOXER. I want to say to my chairman, whom I sit next to on the Foreign Relations Committee, how much I admire his work in the arena of foreign policy, and everything he has given to become one of the most informed human beings on the planet in terms of the challenges this country faces.

I want to thank him so much for his hard work on a resolution regarding Libya. I also want to make sure today, by asking him a couple of questions, that the clear intent of this resolution, S. J. Res. 20 regarding our engagement in Libya, is that it does not authorize whatsoever, any troops on the ground, any boots on the ground, any ground forces of America in Libya. So I am going to ask him a couple of questions, and assuming those questions are answered the way I hope they will be, I will be much at peace with this resolution.

My understanding from reading this resolution is that while it does not explicitly prohibit the use of U.S. ground forces in Libya, it also does nothing to authorize the use of U.S. ground forces in Libya. Is that correct?

Mr. KERRY. Mr. President, I would say to the Senator from California, first of all, I am very appreciative for her generous comments at the beginning of this colloquy. I thank her. I thank her for her support and involvement on the committee, which is critical.

Secondly, I fully understand and am very sympathetic with the concerns of a lot of Senators, given our engagement in Afghanistan, Pakistan, the Middle East, Yemen, Africa, and elsewhere. People are deeply concerned about the question of where we are heading. So I would answer her question very directly with respect to the authorization. Unequivocally, this resolution does not authorize ground troops with respect to Libya operations. There is no affirmative language in this resolution authorizing the use of U.S. ground forces.

Mrs. BOXER. I thank the Senator. I also wish to ask this: Although there is no authorization in this resolution for the use of ground forces in Libya, for which I am pleased, are there any circumstances where ground forces could be deployed?

Mr. KERRY. Mr. President, the resolution states that Congress opposes the use of forces on the ground in Libya, except in the exceptional case where they might be needed for the immediate personal defense of U.S. government officials or for rescuing a member of the NATO forces from imminent danger. Those are the only circumstances in which it might be contemplated.

The intent of this resolution is to authorize only the very limited mission—the continuation of the very limited mission—in Libya that is a support role, and that does not include the use of U.S. ground forces.

Mrs. BOXER. I have two more questions. If the President decides to change the mission and order the use of U.S. ground forces for reasons other

than the circumstances previously mentioned, does the chairman agree that nothing in this resolution would authorize him to take that step?

Mr. KERRY. I agree.

Mrs. BOXER. It is my understanding that the authorization provided for under this resolution would expire 1 year after its enactment; is that correct?

Mr. KERRY. Mr. President, the Senator from California is correct.

Mrs. BOXER. I want to say thank you very much to Chairman JOHN KERRY for his work on this. I also want to thank the others who helped work on it. I know other Senators did, in addition to Senator MCCAIN. On our side, I know Senator DURBIN, Senator CARDIN, and others had a lot to say. This is important. I so appreciate the Senator's willingness and his staff's willingness to work with us, because words matter, intent matters, and I think we have cleared it up. I am feeling a lot better about this resolution.

I yield back my time to Senator KERRY.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, first let me thank my colleague from California, Senator BOXER. I want to associate myself with her remarks and her colloquy with Senator KERRY, because I believe we are making a clear record in the debate of this important resolution relative to America's role in Libya. The pointed questions asked by Senator BOXER and the responses given by Senator KERRY are consistent with what he has described to me as the legislative intent of this resolution.

I am a newcomer to the Senate Foreign Relations Committee. This is my first year serving. I sit way at the end of the table, even though I have been around Congress for a number of years. I want to salute the chairman of that committee. I do not think the American people can appreciate the hard work Senator KERRY puts into that committee and to his responsibilities with this administration. It is an indication of the trust which he has earned with the President and the Secretary of State that he has been called on often to visit important places around the world at very critical moments to represent the United States and the Congress.

The trip he made to Pakistan a few weeks ago could not have come at a more important moment. He returned to not only brief the administration but also his colleagues in Congress. I know he will be taking other journeys in his capacity with the Senate Foreign Relations Committee. I want to tell him how much I appreciate it, as all Americans should. I also want to tell him how much I appreciate the effort he put into this resolution relative to our assistance to NATO in Libya.

If you look back in terms of this debate on the floor of the Senate, you realize it goes back to the origins of America, when the Founding Fathers sat down and defined what this Congress had the power to do. I do not think they wasted words. Those who will look at article I, section 8, clause 11, will see that Congress is given the authority to declare war. It is one of the most awesome responsibilities given to Congress. But it was clearly given to Congress so, the Founding Fathers said, we would represent the feelings of the people of America, the people whose children, sons and daughters, and husband and wives would be called into combat, and we would make the decision: Will this America go to war?

The President as Commander in Chief certainly has authority to defend America and Americans, but when it came to involvement in war, Congress was given the constitutional responsibility.

Throughout history, many Presidents have honored that clause and have come to Congress asking for the authority to proceed to war. Probably one of the most notable and historic was Franklin Roosevelt who came the day after Pearl Harbor, in December of 1941, hobbled up to the rostrum in the House of Representatives, and declared ''a day that would live in infamy'' and asked for a declaration of war against those who had attacked the United States. It was a clear exercise of constitutional responsibility given to Congress and exercised accordingly.

After that, though, there was a long period of uncertainty. The so-called Korean conflict, where two of my brothers served in the U.S. Navy, was characterized as a ''police action,'' some action that was inspired and authorized by the United Nations. Many men and women died in that conflict, but it was not an official declaration of war that led to it.

Then came the war in Vietnam, where Senator KERRY served with such distinction in the U.S. Navy, literally risking his life in a conflict where there was no official declaration of war. The controversy that came out of that Vietnam conflict led to proposed legislation called the War Powers Act. The War Powers Act set out to describe in statute what we believe the Constitution said in its clear language. That is, at some point, a President must step forward and say to Congress: We need your authority to go forward with this conflict involving hostilities.

There have been debates back and forth about whether it was to be applied. Some Presidents came here asking for authority. President George Herbert Walker Bush did before our invasion of Kuwait. George W. Bush did before the invasions of Iraq and Afghanistan. But there were exceptions also—in Panama, Grenada, Bosnia, and other places.

This has been an ongoing battle between the White House—or executive branch—and the Congress about when the President, as Commander in Chief, has to come to Congress and ask for a declaration of war. It has become even more complicated because war has changed. There was a time in history when the onset of war was very visible: the marching of troops, the weighing of anchors, planes lifting off in flight. You knew a war was underway. Now we live in a different age—an age of no-fly zones, embargoes, predatory drones, and cyber security. The definition of war is one we need to look at in this new context.

I have felt from the beginning that President Obama handled this right in Libya. Senator KERRY and others, like me, were privy to early conversations before the decision was made, when the President briefed us on what we were setting out to do—stop Qadhafi from massacring his own individual citizens in that country, particularly as he said he will march into Benghazi and kill the people of Libya like rats in the street. President Obama said to us: We cannot let this massacre of innocent people continue.

But the President went on to say that the United States will play a specific and limited role in this conflict. First, we come to it at the invitation of the Arab League. This is significant because before the United States gets involved in anything of a military nature in a Muslim nation, we are looking for at least an invitation or cooperation from Arab nations. In this case, the President had it. Then, he went on to say we will use the NATO alliance in Europe to initiate this action, and we will support this. We may play a larger role in the beginning of the conflict but a more diminished role as it continues.

The President went on to say there will be no ground troops from the United States committed to Libya. That was the early briefing. Of course, it has gone on for several months and the question is where it goes from here.

I salute Senator KERRY. He has used the War Powers Act to authorize what the President is doing in Libya. That way there is no question about the authority of the President to go forward, and he has done more. Chairman KERRY has reached out, in a bipartisan fashion, to bring in Senators MCCAIN, KYL, GRAHAM, and others from the Republican side of the aisle, in a bipartisan approval of what we are doing in Libya.

I think this is consistent with the Constitution, with the War Powers Act, and with the finest traditions of the Senate, where we can fight like cats and dogs night and day on many things, but when it comes to the use of our military and our commitment to the men and women in uniform, we do our very best to come together in a bipartisan fashion.

What Senator KERRY offers is consistent with that. The answers he gave earlier to the questions by Senator BOXER satisfy my concerns that there is no authorization in this resolution for the use of ground troops, other than in the specific example given by Senator KERRY when it comes to rescuing government officials and military personnel of the NATO alliance. He goes

on to say, in answers to Senator BOXER, that if this President wanted to use ground troops, it would take an additional passage of legislation authorizing the President to do so.

For the record, President Obama has been clear in his statements. On March 18, he said:

I also want to be clear about what we will not be doing. The United States is not going to deploy ground troops into Libya.

On March 28, he reiterated that point in an address to America when he said:

I said that America's role would be limited; that we would not put ground troops into Libya; that we would focus our unique capabilities on the front end of the operation and that we would transfer responsibility to our allies and partners. Tonight, we are fulfilling that pledge.

Finally, the administration's communication with Congress last week summarizes the President's clear public statements against the deployment of U.S. ground troops. That report, entitled ''United States Activities in Libya,'' reads, in part:

As President Obama has clearly stated, our contributions do not include deploying U.S. military ground forces into Libya, with the exception of personnel recovery operations as may be necessary.

I will close by thanking Senator KERRY for those direct answers to Senator BOXER, and I will make one last point before I yield the floor. First, I thank my colleague from Maryland, Senator CARDIN, who has led the way. I was happy to partner with him in this effort to use the War Powers Act for approval of this action.

There are rumors afloat on Capitol Hill that some on the other side of the Rotunda are going to try to stop funding for our military operations that are supportive of the NATO alliance in Libya. I sincerely hope that does not occur. If that occurs, it will, unfortunately, give hope to this dictator, Qadhafi, that he can somehow survive. It will, unfortunately, undermine the efforts of innocent people in Libya from risking their lives to end his administration and bring a new day to that poor, beleaguered country.

Finally, it would strike a blow at the NATO alliance, which is critically important for the security of America, Europe, and the world. So I hope the House will follow suit, in a bipartisan fashion, and follow this resolution Senator KERRY has authored and brought others together on a bipartisan basis.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I wish to begin by thanking the Senator from Illinois, and I thank him for his generous comments. Much more important to this effort, I thank him for the serious and entirely appropriate consideration he has given this very important issue. He has been a leader in our caucus on making certain the Constitution, which he read from and cited, has been properly adhered to and lived up to by this body, which is our solemn responsibility. After all, we all take an oath when we are sworn in to promise to uphold it. That is first and foremost.

This tension that has existed, as he rightly points out, going back to the Vietnam war, is real. President after President has declared that they simply believe the law is unconstitutional, and they don't follow it. President Obama, to his credit, has not asserted that. He has, in fact, written a letter to the Congress in which he said he would not assert that but, rather, he asked us for the appropriate authorization. He did that, I might add, before the 60 days that expired. So it is up to us to be responsible and to do our duty.

I thank Senator DURBIN for the careful way in which he has taken the past slippages or problems, whether inadvertent or advertent, that have followed the War Powers Act through its history, and we have either seen the law not applied or simply ignored. He has been diligent in insisting we have a responsibility we need to live up to. Together with Senator CARDIN, they have been important voices in helping to structure this resolution and together with Senator MCCAIN, Senator GRAHAM, Senator KYL, and others on the other side of the aisle who have been equally committed to making certain we live up to our responsibilities. This has been a bipartisan effort. That is when the Senate works best. That is when our foreign policy, I might add, is strongest.

I hope the Senate will have some impact, perhaps, on the thinking in the House. But no matter what, I hope the Senate will have its opportunity to be able to be heard with respect to this issue.

In response to the remarks of the Senator from Illinois, I wish to make it clear that I agree with the statements he has made. It is the clear understanding of the Senate, based on the President's repeated statements, as reflected in the resolution, that U.S. operatives, with respect to Libya operations, will not involve the introduction of ground troops, with the very narrow exception that I cited earlier to the Senator from California with respect to rescue or grievous, immediate danger to American Government officials—not military but government officials. That language is very carefully structured in the resolution, where in section 2(a) it says:

The President is authorized to continue [by virtue of raising the word ''continue,'' we are embracing the current status] the limited use of the United States Armed Forces in Libya, in support of U.S. national security policy interests, as part of the NATO mission to enforce United Nations Security Council resolution 1973, as requested by the Transitional National Council, the Gulf Cooperation Council, and the Arab League.

This resolution simply authorizes the President to continue the limited support operations in which we are currently engaged in Libya. I think the resolution is explicit about what it entails, just as I think it is explicit about what it does not entail.

The second to last whereas clause quotes the President in his letter to the Senate leadership on May 20 as describing exactly what we are doing in Libya: ''Since April 4, U.S. participation has consisted of: (1) Non-kinetic support to the NATO-led operation, including intelligence, logistical support, and search and rescue assistance; (2) aircraft that have assisted in the suppression and destruction of air defenses in support of the no-fly zone; and (3) since April 23, precision strikes by unmanned aerial vehicles against a limited set of clearly defined targets in support of the NATO-led coalition's efforts;''

Listen to those words: Non-kinetic support of the NATO operation and support of the no-fly zone. Folks, we are not in the lead here—we are playing a supporting role to the NATO mission that is being led by the British and French.

And there is obviously no mention of ground troops in that description of the U.S. role, because the President has been crystal clear that there are not—and will not—be U.S. ground troops deployed in Libya.

But just so there is not the shadow of doubt on this point, the resolution quotes the President from his March 18 address as saying that: The United States ''is not going to deploy ground troops into Libya.''

And the Senator from Illinois rightly points out, the President made the same point in an address to the Nation on March 28, saying that ''we would not put ground troops into Libya.''

Finally, the materials provided by the administration last week unequivocally reiterated this position, saying ''As President Obama has clearly stated, our contributions do not include deploying U.S. military ground forces into Libya, with the exception of personnel recovery operations as may be necessary.''

So I think it should be absolutely clear to Senators that is the limited use of U.S. Armed Forces—with no involvement of ground troops, except in clearly defined circumstances—that the President authorized to continue under this resolution. And moreover, it should be absolutely clear that the President has no intention whatsoever of putting ground troops into Libya.

But in fact, the resolution actually goes further in reinforcing this point in section 3, which is entitled: Opposition, to the Use of United States Ground Troops. It reads:

(a) Consistent with the policy and statements of the President of the United States, the Senate does not support deploying, establishing or maintaining the presence of units and members of the United States Armed Forces on the ground in Libya unless the purpose of the presence is limited to the immediate personal defense of United States Government officials (including diplomatic representatives) or to rescuing members of NATO forces from imminent danger.

So I appreciate the opportunity to make sure Senators are clear on my understanding of what is being authorized here.

Unless the Senator has additional questions, I think we are crystal clear about what the resolution says.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I wish to join in the comments of Senator DURBIN and Senator KERRY. First—and I think Senator KERRY will agree—Senator DURBIN may be a new member of the Foreign Relations Committee, but he is one of the most thoughtful Members of the Senate on foreign policy issues and many other issues. He has been extremely helpful in working our way through what is the proper responsibility of the Senate and the Congress relating to the deployment of our troops.

I concur completely in Senator DURBIN's comments about Senator KERRY. We are proud of the work Senator KERRY does. He has traveled around the world representing our Nation and advancing the cause and issues of freedom and democracy, giving hope to so many people. We have seen the universality of democratic aspirations springing up around the world. They look to the United States as a facilitator to make those aspirations real. He has been an incredible voice in their hopes. We thank him for the personal commitment he has made.

I thank Senator KERRY and Senator DURBIN for their colloquy on this issue. I join in their view that we have a responsibility to act whenever our military is placed in harm's way, when the President commits our troops. I think we have a responsibility to act under the War Powers Act. I understand there may be different views about this. But I think most of us agree there is a responsibility for us to pass the resolution.

I think the resolution brought forward by Senator KERRY clearly complies with that responsibility, first and foremost, making it clear we are acting under the authority given to us by the War Powers Act.

Second, I appreciate the clarification the Senator made on the record about how this resolution limits the authority of the President, consistent with the current mission, which I think is very important. I agree with Senator DURBIN that President Obama did the right thing in calling on our military to join the international community. This was a matter in which there was a clear will internationally to stop the atrocities being committed by Qadhafi on his own innocent people. The U.N. Security Council acted by resolution. Many other countries stepped forward, and NATO was prepared to take the lead. The United States was not going to have to take the lead. It is required of us to give some air support, which we are, in fact, doing.

I think the President did the right thing. We want to make sure our resolution not only complies with the War Powers Act but makes it clear—and it is consistent on the authority given under the U.N. Resolution—that we are limiting our involvement. Senator KERRY has made that point very clear. It is limited in time, limited to the fact that U.S. ground troops cannot be deployed, except for the limited causes Senator KERRY pointed out. It is clear our authorization is consistent with the NATO mission to enforce Security Council Resolution 1973, as requested by the Transitional National Council. We have made it clear it is continuing the current mission, it is limited in time, it is limited in scope, and it is the right and responsible thing for us to do as Members of the Senate.

I thank Senator KERRY and Senator DURBIN for taking the time to explain the intent of the legislation. I think we could not be more clear. The President has been very clear, as it relates to the use of ground troops, and the Senate is very clear that ground troops cannot be interjected into this conflict under the authorization we are given.

With that, Mr. President, I yield to Senator KERRY.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Chair and, for the purpose of my colleagues, I will say we will wrap up very quickly.

Again, I think I said it earlier, but I want to thank the Senator from Maryland, whose thoughtful involvement in this and his leadership in the caucus has been critical to helping us build a consensus. He heads up our Helsinki Commission, travels himself significantly in the cause of human rights and carrying America's flag with respect to that, and I think he does a superb job. So I am grateful to him for his cosponsorship together with Senator DURBIN in this initiative, and my hope is the Senate will be able to proceed to this relatively rapidly.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, when Thomas Jefferson wrote the Declaration of Independence, he produced an argumentative masterpiece. He announced to a candid world that all people—regardless of their circumstances—are created free and equal in their natural God-given rights to life, liberty, and the pursuit of happiness.

After announcing these fundamental principles, this great lawyer then turned to proving his case—that King George III and Parliament had violated these principles so repeatedly, and so extensively, that Americans were justified in a revolution that would secure us as a free nation committed to the principles of the Declaration.

Though it does not compare to the ringing rhetoric of the philosophical commitment to rights in the Declaration, we should not forget Jefferson's listing of the colonists' grievances—the long train of abuses that justified our revolution against King George.

Among those grievances, Jefferson and the Second Continental Congress claimed that the King ''has erected a Multitude of new Offices, and sent hither Swarms of Officers to harass our People, and eat out their Substance.'' Since 1776, even before our Constitution was conceived of, much less written, Americans have resented their subjugation to unelected and unaccountable bureaucrats. Americans strove to establish an accountable government that left them free to build their own families and livelihoods.

King George had fair warning. A government that views the people as a draft horse to be exploited for power and resources will be bucked off, and that is what the colonists did.

Following the Revolution, our Founding Fathers sought to construct a government consistent with the principles of the Declaration of Independence. In an effort to keep their new republic accountable to the people, and to provide for the balance of powers between our three branches of government, our forefathers were careful in their assignment of powers regarding executive branch personnel in article II, Section 2 of our Constitution. In speaking of the powers of the President, that section reads in part, ''he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law:''

Let me repeat that.

By and with the advice and consent of the Senate.

In our country, the people are sovereign, and that sovereignty is reflected in the accountability of executive branch officials not only to the President but to the people's elected representatives in Congress.

Even with these constitutional safeguards, we have met with only mixed success in making sure that government officials are accountable to the people. In remarks originally delivered in 1980, former-Senator James L. Buckley—who also went on to be one of our Nation's great appellate court judges here on the DC Circuit—issued the following lament about the growing power of government bureaucrats. ''We have, in short, managed to vest these individuals with a degree of authority over others that the Founders of the Republic went to great pains to prevent anyone from acquiring.''

Things have only gotten worse since Senator Buckley gave that warning, and I think that in no small measure this growing lack of accountability is reflected in citizens' growing despair, and occasional anger, about the responsiveness of their government.

That is why I am very surprised that this body is considering legislation that would further eliminate the accountability of roughly 200 powerful executive branch positions.

I can tell you that I am hearing from my constituents on this. For them, this is more than an academic separation of powers, or checks and balances, issue, where Congress further delegates authority to the executive branch. For them, it is another example of Congress permitting the government bureaucracy to operate with less and less public accountability.

Quite simply, the Federal Government is massive.

And for all of the increases in its size since the founding, for all of the traditional powers of the States that it has displaced, the increases of the last few years stand out as historic.

Congress passed a $1 trillion stimulus, on a largely partisan basis.

It has passed Dodd-Frank, massively burdening our financial and banking sectors with new government mandates.

And the icing on the cake was ObamaCare, a $2.6 trillion spending bill that has resulted in tens of thousands of pages of regulations drafted secretively by unaccountable Washington bureaucrats.

And in this environment, we are urging legislation that would decrease oversight of the executive branch?

With a national debt of more than $14 trillion and deficits that have topped $1 trillion in each of the last 3 years, we are ready to give the President greater discretion?

We are going to give the administration more freedom to act without the oversight of the people's elected representatives?

It is little wonder that the American people are increasingly concluding that no matter what they say or do, Washington won't listen to them.

Commensurate with the increase in the size of government is the employment by the executive branch of unelected and unconfirmed special assistants and advisers with substantial power. These positions are commonly referred to as czars. President Obama is not the first President to appoint these so-called czars, but over the past few years their numbers seems to have increased. In a 2009 Washington Post editorial, current House Majority Leader ERIC CANTOR discussed his concerns with the administration's reliance on 32 identified czars who have not been examined by the legislative branch.

The legislation before us will only increase the number of executive branch staff that are beyond the scope of effective congressional oversight.

I appreciate the arguments of my colleagues who are promoting this legislation, but I respectfully disagree with their conclusions. Proponents believe that many of the positions where advice and consent is eliminated do not exercise a substantive policy role, have responsibilities that are managerial in nature, or have responsibilities that overlap or are duplicative of those of another confirmed officeholder. I am not able to speak on behalf of other committees, but as ranking member of the Finance Committee I can say that the Finance Committee was not consulted on this legislation until less than a week before the Committee on Homeland Security and Government Reform reported its bill.

I am concerned that, though well-intentioned, the architects of this bill did not have the detailed knowledge of the positions being impacted to determine fully the appropriateness of advice and consent. A list of the positions that was circulated by the Rules Committee prior to the Homeland Security markup actually misidentified several Finance Committee nominees as falling within the jurisdiction of the Committee on Health, Education, Labor, and Pensions, and to my knowledge an updated list has not been made available.

Chairman BAUCUS and I sent a letter to the leadership of the Homeland Security Committee before their markup, and I will ask that the letter be printed in the RECORD. That letter discusses the impact of this legislation on seven positions currently subject to the Finance Committees jurisdiction, and we both oppose this bill's removal of our constitutional power of advice and consent with respect to these nominees.

However, the fundamental matter of accountability that we raise in that letter is an issue far broader than the Finance Committee's jurisdiction. I would like to highlight the position of Assistant Secretary for Legislation, and Assistant Secretary for Public Affairs at the Department of Health and Human Services. In light of the controversial passage, and now implementation, of ObamaCare, does it really make sense to relinquish direct oversight over the Assistant Secretary of Legislation, a position which, according to the HHS Web page, ''is responsible for the development and implementation of the Department's legislative agenda''? Regardless of how one voted on the passage of the health care law, does anyone in this body really think that it makes sense for Congress to deliberately minimize oversight of its implementation?

Additionally, I know some Members of this body have been concerned with how HHS has publicly discussed health care reform and have taken issue with the accuracy of information provided to the public. Regardless of whether this applies to any particular Senators, don't all of us want to ensure that HHS provides accurate and substantive information to the public regarding health reform?

The Constitution in general terms provides Congress with the vital function of exercising oversight over the executive branch to ensure that our laws are carried out appropriately.

Let me put that another way.

The people, in ratifying their Constitution, gave to their elected representatives in Congress the solemn duty of supervising the administration of the law.

And the constitutional power that guarantees this critical responsibility is the power of Senate confirmation.

Some justify the legislation before us on the grounds that the Senate takes too long to process nominations for various reasons. I'm not here to say that these claims are totally without merit.

However, I am confident that eliminating the constitutional requirement for advice and consent for hundreds of positions is the wrong solution. Any issues with the nomination process could and should be handled at the committee level, if not by the Senate as a whole, through the rules adopted by this Chamber. If some of us believe that we could carry out our responsibilities better, I am open to those ideas. However, I do believe that each Senate Committee should be able to determine how that committee will handle nominees, and then reexamine that decision as time passes. Enacting this legislation would significantly diminish, if not completely destroy, the possibility for reexamination of our decisions. If we surrender our jurisdiction over hundreds of executive branch positions and turn them into czars, that decision will likely be permanent.

The choice we have to make now is whether we will abdicate part of our constitutional responsibilities or gives ourselves the opportunity to examine how we exercise those responsibilities. Will we share in the madness of King George?

Or will we follow the trail blazed by or forefathers, like Thomas Jefferson?

I think it is critical that we recommit ourselves to a government of the people, one that guarantees the representative character of executive branch officials.

For that reason, I will be voting against cloture on the motion to proceed to this bill, and I urge my colleagues to do the same.

Mr. President, I ask unanimous cnosent to have printed in the RECORD the letter to which I referred.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, April 13, 2011.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Government Affairs, Dirksen Senate Office Building, Washington, DC.

Hon. SUSAN M. COLLINS,
Ranking Member, Committee on Homeland Security and Government Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LIEBERMAN AND RANKING MEMBER COLLINS: We are writing to express our concerns with S. 679, the Presidential Appointment Efficiency and Streamlining Act of 2011, which we understand the Committee on Homeland Security and Government Affairs will consider at a business meeting on April 13. We understand that if enacted, this bill would eliminate the requirement of Senate confirmation for seven positions appointed by the President that fall within the jurisdiction of the Senate Committee on Finance (Finance Committee).

We respectfully request that S. 679 be amended to remove reference to these seven positions, which are: (1) the Deputy Under Secretary/Assistant Secretary for Legislative Affairs, Department of Treasury; (2) the Assistant Secretary for Public Affairs and Director of Policy Planning, Department of Treasury; (3) the Assistant Secretary for Management and Chief Financial Officer, Department of Treasury; (4) the Treasurer of the United States; (5) the Assistant Secretary for Public Affairs, Department of Health and Human Services (HHS); (6) the Assistant Secretary for Legislation, Department of HHS; and (7) the Commissioner, Administration for Children, Youth, and Families at HHS.

While we fully support the bill's goal of ensuring timely confirmation of qualified Presidential nominees, we believe that the seven positions described above fulfill important policy roles that warrant continued Senate confirmation of nominees chosen to fulfill those roles. And maintaining Senate advice and consent for the seven nominees listed above is important to ensure that the Finance Committee can continue to exercise its robust oversight of two cabinet agencies that directly impact the lives of hundreds of millions of Americans.

The Treasury Department is responsible for implementing numerous economic programs and collecting revenues on behalf of the United States. HHS is responsible for administering several health-related programs for millions of Americans. Exempting the seven positions covered by S. 679 from Senate confirmation would make it more difficult to exercise effective oversight over the Treasury Department and HHS for the reasons we describe below.

First, the Assistant Secretaries of Treasury and HHS for Legislative Affairs advise the Secretaries of these agencies on Congressional input to help formulate policy for their respective agencies. These Assistant Secretaries serve as Congress' conduit to the Treasury Department and HHS. And they are the primary point of contact for Congressional Members and staff, collect Congressional inquiries, and coordinate agency responses. As such, Congress has a direct interest in ensuring that the nominees who fulfill these roles remain accountable to not only the Secretaries of the Treasury and HHS, but also to Congress.

Second, the Assistant Secretaries of Treasury and HHS for Public Affairs are responsible for communicating to the media and the public information about the myriad policies and programs implemented by these agencies. It is imperative that these Assistant Secretaries carry out this role in an objective and transparent manner that adequately provides essential information to the public. Given the importance of the media in communicating policy options and shaping public opinion, it is appropriate for the Senate to continue to provide its advice and consent on this position.

Third, the job description of the Assistant Secretary of Treasury for Management and Chief Financial Officer notes that the position ''is the principal policy advisor to the Secretary and Deputy Secretary on the development and execution of the budget for the Department of the Treasury and the internal management of the Department and its bureaus.'' Although it may appear that the Assistant Secretary for Management has responsibility for matters that impact only the inner workings of the Treasury Department, this responsibility inherently impacts critical policy decisions. For example, just last week the Assistant Secretary for Management was involved in determining how Treasury would continue essential operations, including the administration of tax collection and tax refunds, in the event of a government shutdown. These decisions immediately impact Treasury's most vital functions and the Senate should continue to confirm a position that carries out this substantive role.

Fourth, the Treasurer of the United States also ''serves as a senior advisor and representative of the Treasury on behalf of the Secretary in the areas of community development and public engagement.'' The Treasurer has effective oversight over the U.S. Mint which creates U.S. coins and the Bureau of Engraving and Printing, which prints U.S. currency. And the Treasurer advises the Secretary on important policy decisions such as when the United States should print a new currency. As such, the Treasurer plays a policy role that warrants Senate confirmation.

Fifth, S. 679 removes the requirement for Senate confirmation from the Commissioner of the Administration on Children, Youth and Families (Commissioner) at HHS. Although the Commissioner is overseen by the Assistant Secretary of HHS for Children and Families, the Commissioner has direct responsibility for policies and programs dealing with child welfare. These programs are critical not only to Members of the Finance Committee, but also to Members of the Senate as whole. The Members of the Senate have an interest in confirming a position that oversees substantive policy programs affecting millions of American children.

For the reasons discussed above, we hope that you will modify any product reported by your Committee such that the seven positions that fall within the jurisdiction Finance Committee are not implicated. If you have any further questions pertaining to this issue, we are ready to help you in any way possible.

Sincerely,

MAX BAUCUS,
Chairman.
ORRIN G. HATCH,
Ranking Member.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Ohio.

AMENDMENT NO. 509

Mr. PORTMAN. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 509.

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

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Ohio [Mr. PORTMAN], for himself, Mr. UDALL of New Mexico, and Mr. CORNYN, proposes an amendment numbered 509.

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

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

The amendment is as follows:

(Purpose: To provide that the provisions relating to the Assistant Secretary (Comptroller) of the Navy, the Assistant Secretary (Comptroller) of the Army, and the Assistant Secretary (Comptroller) of the Air Force, the chief financial officer positions, and the Controller of the Office of Management and Budget shall not take effect)

On page 76, after line 6, add the following:

(c) PROVISIONS NOT TAKING EFFECT.—Notwithstanding any other provision of this Act, the amendments made by section 2(c)(2) through (6), (u), and (ll) shall not take effect.

Mr. PORTMAN. Mr. President, I rise today to offer amendment No. 509 to the underlying bill, S. 679, which is the Presidential Appointment Efficiency and Streamlining Act of 2011. I am pleased to have Senator TOM UDALL and other cosponsors of this bipartisan amendment.

The aim of the amendment is very simple and straightforward. It would preserve the Senate-confirmed status of our Nation's major chief financial officers. I appreciate very much the thoughtful efforts behind the underlying legislation that is before us today. I want to particularly commend my colleague, Senator COLLINS, who is on the Senate floor, Senator LIEBERMAN, as well as Senator ALEXANDER and Senator SCHUMER, for their hard work in being sure the nomination process is streamlined. Having been through the process twice myself, it could use some streamlining, and I know they will continue in their efforts to reduce even more some of the barriers to public service so many people feel, and I look forward to working with them.

Having said that, in terms of the specific issue of the chief financial officers, I think it would be a mistake to take them out of the confirmation process and a very unwise thing to do at this point in our Nation's history when we are facing such serious financial challenges. These are, after all, the chief financial management people and the chief budget people in our agencies and departments. We need them right now to be at the highest level possible.

Some of my colleagues will recall the Chief Financial Officers Act of 1990 created or consolidated the financial or executive positions across 23 Federal agencies. It specifically requires Senate confirmation for the 16 most important departmental CFO positions, as well as for the Controller of the Office of Federal Financial Management in the Office of Management and Budget. As Director of the Office of Management and Budget, I worked closely with that individual. It also, by separate law, requires Senate confirmation of the Assistant Secretaries of the Army, Navy, and Air Force who serve as Comptrollers for those military services.

In its current form, the legislation before us today would eliminate the statutory requirement that those positions be Senate confirmed. The basic principle behind the CFO Act of 1990 is that an agency's top financial officer should be a key influential figure in the agency's top management. I believe that principle is more true and urgent today than ever.

With our Federal deficits expected to reach over $1.4 trillion this year, diligent and skillful stewardship of taxpayer dollars is more critical than ever, and these CFOs are at the front lines of that effort. The nominations reform bill now pending would weaken the institutional accountability that is currently in law by denying the Senate a say and by lowering the stature of these individuals in their departments. The practical importance of Senate

confirmation is that it gives individuals the stature and credibility they often need to do their jobs effectively.

I don't believe we want to have a situation in which, for example, the Energy Department's Assistant Secretary for Electricity Delivery and Energy Reliability is a Senate-confirmed appointee. Yet the CFO down the hall—who is supposed to be working with this person on his budget, and, frankly, directing this person in terms of financial management—is not a Senate-confirmed individual or the Interior Assistant Secretary for Water and Science would be a Senate-confirmed appointee but not the Interior CFO down the hall.

When I served as the Director of OMB, I made it a point to meet regularly and personally with the CFOs of our major Cabinet departments. Their roles are critical, and we should be empowering those individuals and giving them not less but more responsibility. These officials do one of the most important jobs in our government. They are responsible for ensuring the integrity of multibillion-dollar agency budgets.

I have spoken to CFOs about this amendment, and they make some very good points. In fact, earlier today I spoke to the CFO of one of the major Cabinet agencies, and he was passionate and very articulate in talking about this issue. As he told me, by law, CFOs oversee the financial management activities relating to all the programs and operations of their agencies, but they also play a lead role in preparing the agency budgets and presenting and explaining those budgets to the Congress. Often this is a more political or strategic role than many realize. During program execution, they are responsible for cost management and auditing to detect and eliminate wasteful spending, and they are closely involved in determining which programs are effective and which programs should be terminated—a tough decision in an agency. You want to be sure that person has the stature to make that argument and to be heard.

These duties are at the heart of sound financial management but also budget policy and strategy, and I believe we should seek to strengthen these positions not weaken them, particularly given the situation we are in with our fiscal problems.

I urge my colleagues to support this amendment, which simply preserves the stature of chief financial officers within Federal agencies and the accountability that is made possible through Senate advice and consent.

Mr. President, I see one of my colleagues on the Senate floor, and so I yield the floor and again urge support of this amendment.

The PRESIDING OFFICER. The Senator from Maine.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the quorum call be rescinded.

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

Mr. BARRASSO. I ask unanimous consent to speak for up to 10 minutes as if in morning business.

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

SECOND OPINION

Mr. BARRASSO. I come to the floor, as I have each week since the health care law was signed, with a doctor's second opinion about the health care law because it does seem that each week there is more information that comes out about this health care law that is bothersome to the people of this great country. The more they learn about it, the more concerned they are. And, as NANCY PELOSI said last year: First, you must pass it before you get to find out what is in it. Well, the people of this country continue to learn what is in this health care law, and they continue to be opposed to it.

Last Friday, the administration released another round of waivers from the President's health care law. They issued waivers to another 117,000 people, a total of 62 new waivers, which brings the total waivers to well over 1,400 covering 3.2 million individuals. What does that mean if they have a waiver? That means they don't have to live under the specifics of the law the President signed.

Over 49 percent of these waivers have gone to union employees, to people who get their insurance through union plans. These are many of the people who actually lobbied to support the health care law. So isn't it interesting that these are the same people who have come out and, after they have read it and found out what is in it, have said: We don't want this to apply to us. And it is interesting because that many union members have gotten these waivers when the number of people in this country who work as members of the union is actually a much smaller percentage.

But then let's not forget how the President said in a radio interview while the 2010 elections were going on that he would remember and would reward our friends, he said, and punish our enemies. Well, by issuing these waivers each month, this administration has reminded the American people how flawed the President's health care law is. Waivers have turned into a nightmare for this administration.

In May, I explained that the waiver recipients got a waiver for 1 year, and they would have to then apply again for a waiver year after year, all the way through 2014 when ObamaCare fully kicks in. We just learned last Friday that the administration is switching course. In fact, the Centers for Medicare and Medicare Services just announced that employers and unions, even those with the 1-year waivers, must now apply again by September of this year for a long-term waiver to take them all the way to 2014. It seems to me this new scheme is designed so the administration can dodge issuing more waivers leading up to the 2012 Presidential election so the American people aren't reminded month after month of the significant flaws of the health care law. It is clear that continuing to issue waivers in 2012 was going to be an embarrassment for the President.

It is also clear that this new change in policy means that even the administration admits that the new health care law does not work. The President promised—promised all of us in Congress—that if we like the health insurance plan we have we can keep it. But what he meant was that to keep the coverage that we have today we will need a waiver from Washington mandates. We will need to get permission from the Obama administration to keep the insurance we like.

Companies and businesses across the country must apply before September if they want to avoid the health care law's crushing costs. In my opinion, I think we are going to see a tidal wave of waivers before this deadline in September. In fact, I predict that 5 million people will eventually have to get waivers from this top-down government mandate. There is going to be increased demand for waivers as more and more people see that they will lose what they have today. As business owners look into this and see how the health care law will cause their cost of providing insurance to go up over the next 2 years, they are going to be lining up for waivers over the next few months. Once again, we are witnessing the horrible economic impacts of this new law.

I also want to talk for a minute about what happens after this September deadline, after the door closes on waivers. Let's take a look at the economy—9.1 percent unemployment and job creators sitting on the sidelines due to the significant expenses of trying to open a business. Hard-working Americans who want to start a new business are going to be forced to choose between two less desirable choices. No. 1, they can offer high-cost, government-approved health insurance, making it much more expensive for them to try to open a new business and hire workers or, No. 2, they will not offer any health coverage because they cannot afford the health care law's out-of-touch and expensive insurance mandates.

With the skyrocketing debt we are facing in this country and 9.1 percent unemployment, this administration's signature piece of legislation, the President's health care law, discourages America's best and brightest from starting new businesses and providing for their employees. That is what the

President's health care law does. It stifles innovation, strangles the free market, and saddles the American people with more debt.

Once again, this is another example of how the President's health care policies are making things worse. His policies are making the economy in America worse. His policies are making the standard of living in America worse. His policies are making health care in America worse. And his policies are making America's debt worse.

Just this week we learned of another enormously expensive error in the law. This has to be what NANCY PELOSI meant when she said: First, you have to pass the bill before you find out what's in it. It turns out now the President's health care law will let several million middle-class people get insurance meant for people with low income. It would allow 3 million, by the estimates—3 million members of the middle class to receive Medicaid. The Associated Press reported that this would be like letting middle-class families get food stamps. The Medicare Chief Actuary, Richard Foster, said the situation keeps him up at night.

This health care law is not fixable. This health care law is bad for patients, it is bad for providers—the nurses and doctors who take care of those patients—and it is terrible for the taxpayers of this country. This health care law needs to be repealed and replaced. That is why I come to the Senate floor week after week with a doctor's second opinion about the President's health care law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 504

Mr. CORNYN. Mr. President, I ask unanimous consent to set aside the pending amendment and call up my amendment No. 504. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 504.

Mr. CORNYN. 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 strike the provisions relating to the Comptroller of the Army, the Comptroller of the Navy, and the Comptroller of the Air Force)

On page 38, line 19, strike all through page 45, line 16.

Mr. CORNYN. Mr. President, I congratulate Senators SCHUMER and ALEXANDER and COLLINS and others for working through this bipartisan legislation. It is nice to actually have a piece of legislation we can work on together, in this case to help streamline the appointment process for some of these lower level positions. I congratulate them for their work.

I do, however, have an amendment that I think makes an important correction. I have discussed this with both Senator ALEXANDER and others. I think they understand and they tend to agree that this amendment is important.

Under this bill, the Presidential Appointment Efficiency and Streamlining Act of 2011, three important Presidential appointments within the Department of Defense that are currently Senate-confirmed positions would no longer be subject to Senate confirmation. These positions within our military departments are aimed at a very important goal; that is, to attain better stewardship of taxpayer dollars by our military. I am talking about specifically the Assistant Secretaries of Financial Management for the Army, the Navy, and the Air Force.

It is no secret that during these tough budgetary times, when 43 cents out of every dollar that the Federal Government spends is borrowed money, and we are looking at an impending debt ceiling vote sometime probably in July where we are going to be asked to vote to increase the debt ceiling because we have maxed out the Nation's credit card, there is no doubt in my mind we are going to be looking at all sources for budgetary cuts and elimination of waste and overspending. I do not suggest for a minute the Department of Defense should be exempt from that kind of scrutiny. In fact, I think it should be scrutinized. But it is important, if we are going to make sure that every dollar of taxpayer money being spent by the Department of Defense for our security is being spent efficiently and well, that the best way we can do that is assure that professionals who are skilled in financial management at the various departments of the Navy, Army, and Air Force are in place and subject to appropriate oversight by the Senate.

These officials oversee financial management processes that involve more than $300 billion in taxpayer money. These are, in fact, the budgets of the military services themselves. None of the military services are currently able to render a clean audit opinion, something that Congress has said must change and will change by the year 2017. But we have been working on the sad reality that, frankly, the Department of Defense has been spending so much money that it doesn't even know where all the money is. We need to change that. We need to increase transparency and accountability.

The only way we are going to be able to do that and to put them in a position to produce that clean financial audit is by making sure that the correct type of professionals, well-qualified professionals, are in place.

Under the fiscal year 2000 Defense authorization bill, the Department of Defense is going to be required to produce those auditable financial statements no later than September 30, 2017. I think most people are going to be shocked to find out that the Department of Defense cannot do that today, but in fact that is the sad reality. Yet it is my understanding the Department of Defense is not currently on track to meet this requirement of the law despite the fact that we are 6 years away from that deadline. Removing the officials in charge of accomplishing this objective from Senate oversight would make it even less likely to happen.

In accordance with the Chief Financial Officer and Federal Financial Reform Act of 1990, the so-called CFO Act, these three Assistant Secretaries have been designated as the chief financial officers for their respective branches of the military service. As such, this law invests them with certain financial management functions.

These Secretaries formulate, submit, and defend the budgets of these military branches to Congress. They also oversee the proper and effective use of appropriated funds to accomplish missions and provide timely, accurate, and reliable financial information to enable leaders to incorporate cost considerations into their decisionmaking and provide reporting to Congress on the use of appropriated resources.

This is a high standard and, unfortunately, one that is not being met today, but one that Congress must, in the exercise of our stewardship over tax dollars and making sure that every dollar is spent efficiently in a nonwasteful way—this is a high standard we must insist is met.

I believe removing these key positions from the Senate confirmation process will inadvertently undermine the effort to reform financial management at the Department of Defense. I am not alone. We received informal comments from the Department of Defense Comptroller saying that while they agree in principle with S. 679, this underlying legislation with which I also agree in principle goes too far by eroding the status and ability of these financial managers to manage these dollars.

I ask unanimous consent that the comments received from the DOD Comptroller be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CORNYN. Let me conclude by saying these three Assistant Secretaries should remain Senate-confirmed, Presidential appointees. I ask my colleagues to support my amendment to ensure they remain Senate confirmable and subject to robust and much needed congressional oversight.

EXHIBIT 1

DOD FEEDBACK ON SCHUMER-ALEXANDER BILL (S. 679)

(From DoD Comptroller Office)

The Department of Defense believes that it would be appropriate to reduce the number of government positions subject to Senate confirmation. We therefore agree in principle with Senate Bill 679, which makes such reductions.

We disagree, however, with the provision of S. 679 which eliminates Senate confirmation

for the Assistant Secretaries (Financial Management and Comptroller) in the Departments of the Army, Navy, and Air Force. By downgrading these financial management positions, we believe that S. 679 will erode civilian control of the military with regard to resources. Each of the military departments manages huge amounts of federal dollars, ranging from $166 billion to $216 billion in FY 2012. These sums far exceed the funding for any non-defense federal agency. In the military services, these dollars are managed by the most senior military officers, and the Service Secretaries need to have a Senate-confirmed political appointee to provide appropriate civilian control. This legislation would be a significant step back from the landmark Goldwater-Nichols legislation, which sought to increase civilian control of the military.

We also believe that downgrading these three Assistant Secretary positions is inappropriate in view of the focus being placed on improving financial management and achieving auditable financial statements. Congress has established a deadline for achieving auditable financials in each military department and has indicated a strong desire to have the departments comply. The three departmental Assistant Secretaries have the lead responsibility for this challenging task. Downgrading the positions may well slow down efforts to achieve auditable financial statements, an outcome that seems to contradict Congressional priorities.

Overall, the Assistant Secretaries have substantial policy making authority over key aspects of defense financial management. For all these reasons, we believe that the three Assistant Secretaries should remain as Senate-confirmed political appointees.

Mr. CORNYN. 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 the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, I ask unanimous consent that at 11:30 a.m. tomorrow, Thursday, June 23, the Senate resume consideration of S. 679; that the Vitter amendment No. 499 regarding czars and the DeMint amendment No. 510 regarding Bureau of Justice Statistics be debated concurrently; that there be up to 30 minutes of debate with Senators VITTER, DEMINT, REID or designee and MCCONNELL or designee, each controlling 7½ minutes; that upon the use or yielding back of time the Senate proceed to vote in relation to the Vitter amendment and the DeMint amendment in that order; that there be no amendments, motions, or points of order in order to either amendment prior to the votes other than budget points of order on each and the applicable motions to waive; further, that the motions to reconsider be considered made and laid upon the table; finally, that provisions of the previous order regarding amendments remain in effect.

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

MORNING BUSINESS

HONORING OUR ARMED FORCES

SPECIALIST MICHAEL B. COOK

Mrs. SHAHEEN. Mr. President, it is with a heavy heart that I rise today to honor the life of SPC Michael B. Cook, who died on June 6, 2011, from injuries sustained from indirect rocket fire in Baghdad, Iraq, while supporting Operation New Dawn. He gave his life in service to his country on his 27th birthday. Michael was assigned to the B Battery, 1st Battalion, 7th Field Artillery Regiment, 1st Infantry Division, based at Fort Riley, KS.

Growing up in the towns of Pelham and Salem, NH, Michael graduated from Salem High School in 2003. He enlisted as a way to pay for his education and serve his country. Like so many brave sons and daughters of New Hampshire, Michael sought to serve his country and did so with honor. Tragically, Michael is the fifth Salem High School graduate killed in action in the war on terror, and the third from his class.

Michael is remembered by his family as a devoted father and son. Friends described him as hardworking and dedicated to the service of others. It was therefore no surprise when he answered the call to serve his country and protect his fellow Americans.

While no words can diminish the loss of this brave New Hampshire son, I hope his family can find comfort in knowing that all Americans appreciate and respect his heroic service and sacrifice.

Michael is survived by his wife Samantha and their two children, Hailee and Michael at Fort Riley, KS, and his parents Patti and Michael B. Cook Sr., and his siblings Lucas and Kimberly of Salem, NH. He also leaves behind a caring extended family and many dear friends. He will be missed by all.

I ask my colleagues and all Americans to join me in honoring the life, service, and sacrifice of SPC Michael B. Cook.

JUNE 22, 2009, METRORAIL TRAGEDY

Mr. CARDIN. Mr. President, 2 years ago today the Washington Metropolitan Area Transit Authority experienced the most tragic metrorail accident the Greater Washington region has ever seen. With time, the wounds of this tragedy's survivors continue to heal, but the loss and pain will never be forgotten. My heart goes out to the families and loved ones of those who lost their lives in the tragic collision of two Metro trains on the Red Line at the Fort Totten metrorail station. My deepest sympathies remain with their families and friends whose lives will forever be affected having lost someone dear to them in this tragedy.

Last summer, the National Transportation Safety Board, NTSB, and the Federal Transit Administration, FTA, concluded their investigations into the crash. The investigations revealed many troubling findings with the operation, maintenance, and management of the metrorail system, not the least of which is that the June 22, 2009, crash was entirely preventable and resulted from systemic failures to address ongoing track signal problems and a work culture that ignored safety.

For several years WMATA failed to respond to or take adequate operational safety measures in response to repeated signal failures along the section of track where the accident occurred. During WMATA's efforts to fix the problem, Metro refused to heed warnings from the signal manufacturers about using third-party components to repair failed track signal equipment and in doing so prolonged and exacerbated the signal relay problems on the track.

These findings coupled with an extensive Federal Transit Administration safety audit that revealed several shocking systemwide safety lapses, which include systemic failures to notify train operators about the presence of track maintenance workers on the right-of-way in tunnels throughout the system, helped shed light on the inexcusable and tragic series of accidents that have taken 12 lives and injured more than 80 people in the last year.

I am pleased to say that under new leadership in the general manager and CEO position as well as the placement of several new members of the board of directors that Metro is working hard to resolve the safety issues that were becoming commonplace in the headlines of area newspapers. Metro's new comprehensive safety plan outlines a number of procedures that are being put in place to improve worker training and safety preparedness and a zero tolerance policy for texting and cell phone use by vehicle operators. According to the general manager, every Metro employee, including himself, has gone through the safety training program. Management is clearly making an effort to establish a culture of safety that has been absent at Metro for many years. These are important steps in the right direction but developing safety measures for employees to follow is just one piece of making Metro safer for years to come.

There are, however, encouraging and lasting developments at Metro to improve safety. A year ago, the Metro board of directors announced that it was placing an order for 428 new 7000 Series railcars. These new safer railcars are in the prototype development phase and when the order is fulfilled, all of the remaining 1000 series that have been in use since the system opened in 1976 will finally be replaced. The 1000 series cars have always presented a safety hazard and it is the 1000 series cars that buckled and sheared apart on June 22, 2009, compounding the seriousness and costliness of the Red Line crash. Retiring and replacing