Finally, this reauthorization recognizes our current difficult fiscal situation as a country and promotes accountability to make sure these dollars are well spent. It reduces authorization levels while protecting the programs which have been most successful. This VAWA reauthorization merges 13 existing programs into 4 streamlined and consolidated programs. This will prevent wasted time and effort and make the application and administrative processes more efficient.

I am honored to be joined today by an old and dear friend, a former countywide-elected official, Paulette Moore, now vice president of public policy for the National Network to End Domestic Violence. I am grateful to my dear friend Carol Post, who leads the Delaware Coalition Against Domestic Violence, and my friend Amy Barasch, a tireless advocate in the ongoing efforts to bring to light the challenges of domestic violence in the State of New York.

There are folks all across this country who turn to this task week in and week out. It is long and tiring and difficult work, but it is uplifting because it is part of making this a more just, more safe, and more secure nation.

It is important for me to note that, unfortunately, some of my colleagues on the other side of the aisle see the enhancements I just referred to in this reauthorization as a reason to abandon their long-term support for it, even though they have been strong backers of VAWA in the past. In fact, the vote we just took in the Judiciary Committee was 10 to 8. It only narrowly passed. I hope our friends on the other side of the aisle will review the details of these changes one more time and see their way clear to join us in this effort to strengthen and sustain the Violence Against Women Act. It is and should remain a bipartisan bill and a bipartisan effort.

My predecessor in this seat, our great Vice President, JOE BIDEN of Delaware, took an absolutely central leadership role in writing and passing the first Violence Against Women Act in one of the most enduring legacies of his 36-year Senate career, representing Delaware and advocating for women all over this country.

His efforts broke barriers and laid the groundwork for this current bill. But it is up to all of us to keep pushing tirelessly for Federal, State, and local governments to do more to save lives and to serve victims.

I urge my colleagues to come together and promptly pass the reauthorization of the Violence Against Women Act. Thank you to the men and women of this country who work so hard to end this terrible scourge of domestic violence in our country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—S. 2038

Mr. REID. Mr. President, I ask unanimous consent that the following amendments listed below be the only amendments remaining in order to the bill before the Senate, S. 2038:

Lieberman No. 1482; Paul No. 1484; Paul No. 1487; Lieberman side-by-side to Shelby amendment No. 1491; Shelby No. 1491, as modified; Lieberman side-by-side to Paul No. 1485; Paul No. 1485, as modified; Collins side-by-side to Boxer No. 1489; Boxer-Isakson No. 1489; Portman No. 1505; Enzi No. 1510; Blumenthal No. 1498; Toomey-McCaskill No. 1472; Inhofe No. 1500; McCain No. 1471; Leahy-Cornyn No. 1483; Coburn No. 1473; DeMint No. 1488; Grassley No. 1493; Brown of Ohio No. 1481, as modified; that all other pending amendments be withdrawn, with the exception of the substitute amendment; that the time until 2 p.m. be for debate on the bill and amendments, with the time equally divided between the two leaders or their designees; that at 2 p.m., the Senate proceed to votes in relation to the amendments in the order listed; that there be no amendments or points of order to any of the amendments prior to the votes other than budget points of order; that the following be subject to a 60-vote affirmative threshold: Paul No. 1487; Collins side-by-side to Boxer No. 1489; Boxer No. 1489, as modified; Blumenthal No. 1498; Toomey-McCaskill No. 1472; Inhofe No. 1500; McCain No. 1471; Leahy No. 1483; DeMint No. 1488; Grassley No. 1493; and Brown No. 1481; further, that Coburn amendment No. 1473 be subject to a two-thirds affirmative vote threshold; that there be two minutes equally divided in between the votes; that all after the first vote be 10 minutes in duration; that upon disposition of the amendments listed, the substitute amendment, as amended, if amended, be agreed to, and the Senate then proceed to vote on passage of the bill, as amended.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment No. 1491, as modified, is as follows:

At the end of the amendment, insert the following:

SEC. 10. PROMPT REPORTING AND PUBLIC FILING OF FINANCIAL TRANSACTIONS FOR EXECUTIVE BRANCH.

(a) TRANSACTION REPORTING.—Each agency or department of the Executive branch and each independent agency shall comply with the provisions of sections 6 with respect to any of such agency, department or independent agency's officers and employees that are subject to the disclosure provisions under the Ethics in Government Act of 1978.

(b) PUBLIC AVAILABILITY.—Not later than 2 years after the date of enactment of this Act, each agency or department of the Executive branch and each independent agency shall comply with the provisions of section 8, except that the provisions of section 8 shall not apply to a member of a uniformed service for which the pay grade prescribed by section 201 of title 37, United States Code is O-6 or below.

Mr. REID. Mr. President, the mere fact that we now have the right to vote doesn't mean people have to have recorded votes. There are other ways of rejecting or approving amendments. I hope people will talk to Senators LIEBERMAN and COLLINS and find out if there needs to be a recorded vote on these matters. I appreciate the cooperation of both sides.

STOP TRADING ON CONGRESSIONAL KNOWLEDGE ACT OF 2012

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2038, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2038) to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes.

Pending:

Reid amendment No. 1470, in the nature of a substitute.

Reid (for Lieberman) amendment No. 1482 (to Amendment No. 1470), to make a technical amendment to a reporting requirement.

Brown (OH) amendment No. 1478 (to amendment No. 1470), to change the reporting requirement to 10 days.

Brown (OH)/Merkley modified amendment No. 1481 (to amendment No. 1470), to prohibit financial conflicts of interest by Senators and staff.

Toomey amendment No. 1472 (to amendment No. 1470), to prohibit earmarks.

Thune amendment No. 1477 (to amendment No. 1470), to direct the Securities and Exchange Commission to eliminate the prohibition against general solicitation as a requirement for a certain exemption under Regulation D.

McCain amendment No. 1471 (to amendment No. 1470), to protect the American taxpayer by prohibiting bonuses for Senior Executives at Fannie Mae and Freddie Mac while they are in conservatorship.

Leahy/Cornyn amendment No. 1483 (to amendment No. 1470), to deter public corruption.

Coburn amendment No. 1473 (to amendment No. 1470), to prevent the creation of duplicative and overlapping Federal programs.

Coburn/McCain amendment No. 1474 (to amendment No. 1470), to require that all legislation be placed online for 72 hours before it is voted on by the Senate or the House.

Coburn amendment No. 1476, in the nature of a substitute.

Paul amendment No. 1484 (to amendment No. 1470), to require Members of Congress to certify that they are not trading using material, non-public information.

Paul amendment No. 1485 (to amendment No. 1470), to apply the reporting requirements to Federal employees and judicial officers.

Paul amendment No. 1487 (to amendment No. 1470), to prohibit executive branch appointees or staff holding positions that give them oversight, rule-making, loan or grant-making abilities over industries or companies in which they or their spouse have a significant financial interest.

DeMint amendment No. 1488 (to amendment No. 1470), to express the sense of the Senate that the Senate should pass a joint resolution proposing an amendment to the Constitution that limits the numbers of terms a Member of Congress may serve.

Paul amendment No. 1490 (to amendment No. 1470), to require former Members of Congress to forfeit Federal retirement benefits if they work as a lobbyist or engage in lobbying activities.

Blumenthal/Kirk amendment No. 1498 (to amendment No. 1470), to amend title 5, United States Code, to deny retirement benefits accrued by an individual as a Member of Congress if such individual is convicted of certain offenses.

Shelby amendment No. 1491 (to amendment No. 1470), to extend the STOCK Act to ensure that the reporting requirements set forth in the STOCK Act apply to the executive branch and independent agencies.

Inhofe/Hutchison amendment No. 1500 (to amendment No. 1470), to prohibit unauthorized earmarks.

Boxer/Isakson amendment No. 1489 (to amendment No. 1470), to require full and complete public disclosure of the terms of home mortgages held by Members of Congress.

Tester/Toomey amendment No. 1492 (to amendment No. 1470), to amend the Securities Act of 1933 to require the Securities and Exchange Commission to exempt a certain class of securities from such act.

Tester/Cochran amendment No. 1503 (to amendment No. 1470), to require Senate candidates to file designations, statements, and reports in electronic form.

The PRESIDING OFFICER. The time until 2 p.m. is equally divided.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the majority leader. I thank Senator COLLINS, Senator BROWN of Massachusetts, Senator GILLIBRAND, and a lot of others, who have worked to get us to this point where we can do two things. Most important to those of us who have worked on the STOCK Act is that we are now in a position this afternoon of adopting a clear statement that Members of Congress and our staffs are covered by anti-insider trading rules and that we can also provide for fuller disclosure by Members, making it accessible to the public online.

Instead of coming to a point where the system broke down again and Senator REID being forced to file a cloture motion, we worked out an agreement here, people were reasonable, and there will be votes on a number of germane amendments—and some that are not, but we have agreed to a 60-vote threshold.

This is the way I think the Senate is supposed to work. Some of these votes will be controversial, some difficult. But that is why we are here. I thank everybody who was part of getting to this point.

I note the presence of the Senator from Massachusetts, Mr. BROWN, and I yield to him.

Mr. BROWN of Massachusetts. Mr. President, I also stand and commend the majority leader for allowing this process to unfold in a thoughtful and fair manner, the way it should. We are starting the new year off correctly and allowing everybody to feel as if they are participating in the democratic process, not moving for cloture, shutting off debate, and filling the tree, but allowing us to stay late and work together in a bipartisan manner to work through the amendments, allowing me and Senator COLLINS, and on their side, Senators LIEBERMAN and GILLIBRAND, to call individual Members and say: You have four amendments up; which ones do you want? Is there a modification or can we combine them with other similar amendments? That is how it should work.

This is what I have been saying for the last 2 years and why I have continuously moved to work across the aisle: to allow that democratic process to work.

I am thankful we are here. These are some tough votes, but we are the Senate. We should be taking tough votes. That is why the people sent us here. I am thankful that we can send the message to the American people that we are trying to reestablish that trust that seems to have been lost with them by moving on the STOCK Act.

There are other issues we are taking up. I hope they are just as thoughtful and methodical and respectful. I hope we are going to do the postal bill next. It is something Senators LIEBERMAN, COLLINS, CARPER, and I have spearheaded. It is a solid bill and a good framework. If we allow it to move forward and everybody has their say and their day in the Sun, and we do as we have done today, we will have another good deed and, who knows, maybe we will be in double figures in terms of the approval rating pretty soon.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1472

Mr. INOUYE. Madam President, I rise today to speak against the Toomey amendment that would impose a permanent ban on congressional initiatives or earmarks.

The Constitution grants to the Congress the power of the purse. There is no authority more vital to the separation of powers than the one that prevents the executive branch from directly spending the tax dollars collected from its citizens. Depriving the Congress of the ability to direct money to specific projects does not save money or reduce the deficit; it simply gives additional power to the President and weakens the legislative branch.

As I stated when I announced the initial moratorium on appropriations earmarks last February, I continue to support the constitutional right of Members of Congress to direct investments to their States and districts under the fiscally responsible and transparent earmarking process we have established.

Hawaii is a long way from the Capital City. It is simply not possible for a bureaucrat here in Washington to understand the needs of my home State as well as I do. And I believe such is the case with all 50 States. Each one is unique, each one has individual challenges, and each one has issues that cannot be fully understood by civil servants located thousands of miles away.

This amendment has nothing to do with lowering the deficit. Let me state that again. Eliminating earmarks will not save a single penny in spending. It will simply take decisions that were rightfully made by Congress and delegate them to the executive branch.

In truth, this is a political amendment meant to give cover to those who seek to mislead the American people into thinking earmarks are responsible for our current deficit, and that simply is not the case. Our deficit is driven by entitlement spending that is rising at a rate three times that of inflation, not by discretionary spending that is now capped at less than the rate of inflation. Our deficit is driven by the fact that revenues are at their lowest level in 50 years. A permanent ban on earmarks addresses neither of these matters.

Madam President, finally, I note for my colleagues that the voluntary moratorium in appropriations bills for fiscal year 2012 was 100 percent successful, and the committee will continue the moratorium for fiscal year 2013. Prior to the moratorium taking effect, the Appropriations Committee had to put into place a series of reforms that ensured openness and transparency for earmark requests. Every earmark request was posted online. Every earmark that was approved was listed along with the sponsor's name in committee reports and posted online. There were no secrets and no backroom deals.

The reality is that without congressional earmarks, we find ourselves at the mercy of the bureaucrats to ensure that our local needs are fulfilled. If we approve this amendment, from now on earmarks will be at the sole discretion of the executive branch. Local needs will either go unmet or will be included through deals made between our elected officials and the White House or unelected bureaucrats. No longer will we show the American people what earmarks we are funding and why. Instead, they will be part of a tradeoff between Members and bureaucrats—a bridge in return for support of a trade agreement.

By permanently banning earmarks, the spending decisions will move from the transparent process to discussions that are hidden from the public. So we face a choice between an open and transparent method for allocating targeted funding or one that will be done with phone calls, conversations, winks,

and nods. One method allows for accountability and another leaves us all at the whim of unelected bureaucrats.

I urge my colleagues to vote against the Toomey amendment. This amendment will serve to deprive the Congress of essential congressional prerogatives. It has no impact on the debt, and it is simply designed to give political cover to those who refuse to address the core drivers of our fiscal imbalance—lack of revenues and ever-increasing entitlement spending.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. INOUYE. Madam President, on behalf of the Leader, I ask unanimous consent that any time spent in quorum calls be equally divided between the two sides.

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

Mr. INOUYE. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. KYL. Madam President, I rise to speak on the pending Toomey amendment, an amendment that we will be voting on here after a little bit, amendment No. 1472, known as the Earmark Elimination Act.

I thank Senators TOOMEY and MCCASKILL for continuing this important discussion and commend them as well as numerous other Senators, including my colleague from Arizona, Senator MCCAIN, and Senators COBURN and DEMINT, who have championed reforms to Washington's earmark culture. The concern, as noted by Senators TOOMEY and MCCASKILL, is that the earmark process lacks transparency and scrutiny. I support their efforts to reform the process in a manner that reflects the principles of our Founders and the trust the American people instill in us to represent them.

I wish to confirm, however, that this effort does not restrict Congress's ability to protect the American taxpayer from unnecessary expenses and significant legal exposure. In certain situations, the United States is required to fulfill legal obligations. For example, the United States must resolve water rights claims that American Indian tribes assert against the United States and other water users within an affected State. In those instances, as is common in other litigation, it is in the interest of the United States and the American taxpayer to limit ongoing legal exposure by settling the tribe's water rights claims. Effectuating the terms of such a settlement requires congressional review and approval. Congress will undoubtedly employ the searching scrutiny required to understand whether the settlement is in the best interests of the American people. Such settlements, however, are not amenable to a formula-driven or competitive award process. Rather, the settlements must be addressed and negotiated if and when the claims are asserted against the United States.

Congressionally enacted Indian water rights settlements have not previously fallen within the earmark moratorium. In that vein, I want to confirm with my colleague from Pennsylvania that the Earmark Elimination Act does not restrict Congress's authority to protect taxpayers by limiting the exposure of the United States to similar legal challenges.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Madam President, the Senator from Arizona is absolutely correct. The Earmark Elimination Act is not intended to preclude Congress from effectuating legal settlements, such as Indian water rights settlements, that resolve claims against the United States. This body must maintain its ability to avoid costly litigation and to limit the legal exposure of the United States in a manner that ultimately benefits American taxpayers.

Mr. KYL. I thank my colleague from Pennsylvania. I concur with my colleague in expressing a commitment to ensuring that these positive efforts to reform the earmark process do not result in an unintended consequence whereby Congress's efforts to settle legal claims against the United States are subject to a point of order.

I thank my colleague from Pennsylvania for his efforts, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. INHOFE. I ask unanimous consent that I be recognized for as much time as I consume and that at the conclusion of my remarks, the Senator from Ohio be recognized for such time as he consumes.

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

AMENDMENT NO. 1500

Mr. INHOFE. Madam President, we are going to have a number of votes on amendments this afternoon. I think it is important that we look at this in historic perspective. I am referring to the amendments and the meaning of the Toomey amendment, which I think is very significant.

As most people think about earmarks, yes, we want to do away with this. I am the first to admit that there has been a lot of abuse in the earmark process. I don't want to take sides between authorizers and appropriators, but I can remember several times here on the floor when appropriations bills are coming through, when people are legislating on appropriations bills, when they are swapping out deals. That is the kind of thing we want to stop. I think we have an opportunity to do that today.

I have an amendment. It is my understanding, the way the amendments are stacked up, there is going to be a vote on the Toomey amendment and then a vote on my amendment. Let me talk a little bit about how long we have been working on this issue.

Way back in 2007, I gave a talk to the Grover Norquist group. It was on July 25, 2007. I gave the Senate history of the 200-year fight between appropriators and authorizers.

In 1816 responsibilities between authorizing versus appropriating had been debated. In that year the Senate created the first 11 permanent standing committees.

I think most people understand that we in the Senate, each one of us is on at least two standing committees. Many of these are authorizing committees or appropriating committees. Mine happened to be authorizing committees. My two major committees I have been on since serving in the Senate are the Senate Armed Services Committee and the Environment and Public Works Committee. Both are authorizing committees.

What is significant about this is that there has always been a fight. This is not a new fight. People think this is just going on today. This has been going on literally since 1816.

In 1867 the Senate created the Appropriations Committee. The purpose of that was to have the tax writing put in the Finance Committee and then have the appropriating committee as a separate committee—keeping those functions divided. Here it is now a couple of hundred years later and we are still trying to do the same thing. Today may be the day we can do it, and my amendment actually would do that.

In 1921—I am reading notes from the speech I made in 2007 at the Grover Norquist event—in 1921 the Senate passed the Budget and Accounting Act of 1921. The Senate tried to ensure that authorizing had to take place in a separate committee.

There we go. That is what we are talking about today. My amendment actually resolves the problem because it defines an earmark as an appropriation that hasn't been authorized. In a minute, I am going to talk about that because there is a lot of support for that currently that should be considered.

Let me use my committees as an example. If we were to do away with all earmarks as they are described in the House bill, the earmarks would actually be defined as any appropriation or

authorization. That gets into the huge question we will talk about in a minute—what our Constitution says. It says we, the House and the Senate, should do the spending or the appropriating. This has been this way for a long time.

I am hoping Members will go back and read Joseph Story and some of the great people in the past who have talked about why it is necessary for all the authorizing and the spending to take place in this body, in the Senate and in the House. If that does not happen, we are going to be in a position where we are giving our function to the President. We are ceding our constitutional obligation to the President—in this case, President Obama.

Back in the time I was making this speech initially, I talked about such things. I mentioned this on the floor yesterday. A lot of people do not understand. The budget that comes to us is a budget from the President. It is not from Congress, not from the House, not from the Senate, not from the Democrats, not from the Republicans, it is from the President. The President is the guy who sends the budget down. I am so critical of this President because every one of these budgets now—we have just gotten the fourth budget—has a deficit of over $1 trillion. Unheard of. I can remember back in the days—1996 was the first $1.5 trillion budget. That was during the Clinton administration. I remember coming down to the floor and saying: We cannot sustain this level of spending. That was $1.5 trillion to run the entire United States of America. What President Obama has sent down is $1 trillion to $1.5 trillion in each of his budgets, just deficit alone. We can't continue to do that.

I am on the Armed Services Committee. It is an authorizing committee. It is a committee staffed with experts in every area—missile defense, strike fighters—all of that having to do with defending America. Of course, when the budget comes down, historically—I am talking about historically from 100 years ago—we have taken that budget and analyzed that budget. The Chair is fully aware of this because she sits on that committee. We determine what is the best way to spend the given number of dollars that come down in the budget to best defend America.

The example I used yesterday was in one of the first budgets that came down. I think it was the first budget from President Obama. It had one item that was a $330 million item that was for a launching system that was referred to as a box of rockets—a good system, I might add, but with the scarce dollars we made a determination in the Armed Services Committee that we could take that same $300 million and instead of spending it on a launching system, spend it on six new F–18 strike fighter aircraft. And we did that. That is what we should be able to do. But if you have an earmark ban, then you would not be able to do that. It depends on how it is going to be interpreted, but the way I interpret it, it would mean we cannot change what the President sends down because that would be called a congressional earmark. Some might argue and say: No, it is that only if it happens to be in your district or something like that. That is not what it says, though. The way it is defined is anything that would be an authorization or an appropriation.

So we had the example there in the Armed Services Committee, and one of the unintended consequences would be—I will just use this as an example. I can remember back in the days, I am old enough to remember back when Reagan was President and nobody believed we would ever have a problem with people sending over a missile with some type of a weapon on it that would be very destructive to America, nor did they believe it would be possible, if a missile were coming in, that we could knock down that missile. Well, we have now settled that. Everyone knows you can hit a bullet with a bullet. We have done it before. We are doing a good job.

We also know after having gone through 9/11 that we should have at the very top of our concern as representatives of this country to defend America and to have an enhanced system. So we had a policy that we wanted to have a redundancy in all three phases of missile defense. In missile defense, you have three phases—a boost phase, a midcourse phase, and a terminal phase—and we want to have that. So when we are addressing that, if the President comes in with something that doesn't follow that redundancy, we could be in a position where we would not be able to do what is in the best interests of the country.

I am not the only one who believes that when we say we want an outright ban on all spending—and that is what we are saying, an outright ban on all spending—there is an article that I took out of the Hill Magazine—that would have been about 3 or 4 years ago—saying ''Lobbyists Hitting Up Agencies As Earmark Rate Drops.'' In other words, as we quit spending here, it does not save a cent. That money goes back into the bureaucracy, and they are spending it at that point. So that puts us in the position of, admittedly, what they are talking about—they are actually lobbying the bureaucrats as opposed to Members because that is where all the power is. In other words, we have ceded that power.

I can see a lot of the Democrats wanting to pass an all-out ban on congressional earmarks because they are supporting Obama. Obama wants to do the spending. They want him to do that. I understand that, and I heard from some of the Democrats who do not agree with that, and I appreciate their making that statement on the floor.

But I think as we address this and go back to things that we did on the floor a year and a half ago—this was November 2010—we talked about the Constitution and how it restricts spending only to the legislative branch and specifically denies that honor to the President.

We take an oath of office—

I am reading now from a statement I made on the floor a year and a half ago.

> We take an oath of office to uphold the Constitution of the United States. That means that we take an oath of office to uphold article I section 9 of the Constitution.

What does that say? That says that the spending in our government should be confined to the legislative branch. That is us. If you go and look in the Federalist Papers, it talks about this. Over and over, judges without exception have reinforced this as the constitutional obligation we have.

Sometimes I miss Senator Bob Byrd more than other times, and this is one of the times I do. I can hear him standing on the floor saying: Why is it we are giving up our constitutional right? Remember he used to carry around the Constitution? He would hold it up. I wish he were here today so he could talk about article I, section 9 of the Constitution and how we are ceding that authority to the President.

I mentioned yesterday that one of the problems I have with a permanent moratorium without a definition of what an earmark is—one of the problems we have in giving the President, ceding our authority to him—and there is no better example—a lot of us got quite upset in this body when the President had his $800 billion-or-so stimulus plan. Remember the stimulus plan that didn't stimulate and he spent all this money? And when he signed it, he was talking about how this was going to stimulate. As it turned out, only 3 percent went into roads, highways, and so forth, and only 3 percent into defending America. When he signed it, President Obama said: What I am signing then is a balanced law with a mix of tax cuts and investments. It has been put together without earmarks or the usual porkbarrel spending. So, anyway, we had such examples of earmarks.

In fact, I remember on Sean Hannity's program, he had the 102 most egregious earmarks. In those earmarks was $219,000 to study the hookup and behavior of female college co-eds in New York; $1 million to do fossil research; $1.2 million to build an underpass for deer crossing in Wyoming. There were 102 egregious earmarks and not one of them was a congressional earmark. They are all bureaucratic earmarks. We ceded that so the President, through our action, was able to do all those things he could not otherwise do.

I have a longer list that I ask to be made a part of the RECORD at this point in my presentation, which includes about 10 or 15 other egregious earmarks.

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

FIFTEEN EARMARKS FROM HANNITY'S LIST OF 102 MOST EGREGIOUS EARMARKS

1. $219,000 to a university to study the hookup behavior of female college coeds in New York.
2. $8,408 to a university to study whether mice become disoriented when they consume alcohol.
3. $712,883 to develop ''machine generated humor'' in Illinois.
4. $325,394 to study the mating decisions of Cactus bugs in Florida.
5. $500,000 to Ohio to purchase recycling bins with microchips embedded inside of them.
6. $800,000 to a company in Arizona to install motion sensor light switches.
7. $25,000 for socially conscious puppet shows in Minnesota.
8. $1 million to research fossils in Argentina.
9. $500,000 to study the impact of global warming on wild flowers in a Colorado ghost town.
10. $150,000 to develop the next generation football globes in Pennsylvania.
11. $1.2 million to build a deer underpass in Wyoming.
12. $50,000 to resurface a tennis court in Montana.
13. $15,000 for a storytelling festival in Utah.
14. $14,675 for doormats at the Department of the Army in Texas.
15. $10,000 for the Colorado Dragon Boat Festival.

Mr. INHOFE. As it turned out, the President was the one who did the earmarks of the $800 billion stimulus program.

Again, getting back to article I, section 9:

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law.

The law, that is us. We are the legislative branch of government. That is what we are supposed to do. I think everyone understands that. It is unintended, and I know a lot of people out there would say, well, we want to kill all earmarks, without stopping to think that that is all spending and that is our constitutional duty.

I would say if we continue on making permanent and current moratoriums on congressional earmarks, then we are limiting our ability to govern with the President. If all we are doing is handing the President pots of money and requiring that he have competitive grants to disburse the funds, then we are washing our hands of the outcome. There is no light or transparency inherent to the Federal grant-making process. So what we are doing is giving up our constitutional responsibility in ceding that to the President.

It could be that things are going to be refined, with further definitions, and I have no objection to that. But I am saying we have one very simple solution to it. When the votes come up today, I will announce right now, if we don't have a definition of earmark, then I would vote against a permanent moratorium on earmarks because that is our constitutional responsibility.

My amendment is a little bit different, because what I do is define what an earmark is, and an earmark is defined as an appropriation that has not been authorized. I was very proud—2 days ago Senator TOOMEY said that some earmarks ought to be funded, but they ought to be funded in a transparent and honest way subject to evaluation by an authorizing committee. That is exactly what my amendment does. I talked to Senator TOOMEY, and I appreciate the fact that he is very open about this. I will repeat that: Some things ought to be funded, but they should be funded in a transparent and honest way subject to evaluation by an authorization committee. That is my amendment. A definition of an earmark is spending or appropriating without authorizing.

Last year Senator COBURN said: ''It is not wrong to go through an authorization process where your colleagues can actually see it. It is wrong to hide something in a bill . . . .'' Amen. I agree with that. I said earlier, and I said yesterday, I can remember Democrats and Republicans on consideration of appropriations bills sitting on the floor, swapping out deals, making deals back and forth. That is what we want to do something about, and this is not a partisan thing. This is something that has been going on, and we have a way now of doing it.

Senator MCCAIN was kind enough to endorse a freestanding bill I had that does the very thing of defining an earmark as an appropriation that has not been authorized. Senator MCCAIN said: Some earmarks are worthy. If they are worthy, then they should be authorized. Authorized, there is the key, and Senator MCCAIN is exactly right. If you authorize it, then that is the process we want. When an earmark is considered by an authorization committee before it is appropriated, real transparency is brought to the process.

In fact, I remember it was Senator COBURN who said on the floor—and this is about a year and a half ago—he agreed with me and said one good thing about requiring an authorization before an appropriation is that then if it is a bad one, we have two chances to kill it. Senator COBURN is right. We can kill it in the authorization phase or we can kill it in the appropriations phase.

The example I use is a good example in terms of what we and the Armed Services Committee should be doing and are not doing. But I would say to you that this afternoon when we have these votes—it is my understanding we are going to have around 20 votes. A lot of these will be voice voted, I am sure. But the two votes I am concerned about are, No. 1, the vote on the Toomey bill, which I support, but I support it if you can define it and make real transparency set in by having the authorization process in place.

I would only say that we go back to the Constitution. As I mentioned, let's go back to the statements that were made by Senator TOOMEY, Senator MCCAIN, and Senator COBURN, that we want transparency and we don't want to cede the power of our constitutional duty as Members of the Senate to the executive branch. I know some in here would probably want to do that. Some are stronger supporters of Obama than I am. I am very critical of what Obama has done in terms of the deficits, which we have already talked about, in terms of what he is doing to the military. Some trillion dollars over a period of 10 years would be taken out of our military. When you add his budget to the sequestration, that is something that should not happen.

With energy, right now the President is going around talking about how he is for developing energy in this country, and yet he is the obstacle to the development. He is the one who has in his budget the various things that make it very difficult, if not impossible, to get our resources that we have out there in oil and gas.

In fact, it is kind of humorous and very clever of the President. Last week during his State of the Union message the President was talking about wanting to exploit all of our natural gas when he slipped in a little phrase that hardly anyone heard. I know Senator BOXER heard it because she was next to me, and we disagree on this whole issue. He said: We want to go after this type of formation, all the shale that is out there, but we don't want to poison the ground at the same time. Well, what he is talking about there is hydraulic fracturing. If you take away hydraulic fracturing, as he is trying to do, and put that in the hands of the Federal Government, then you might as well say goodbye to all these types of formations, oil and gas. We would not be able to do it. So I am critical of him in that respect.

In the fourth area, in addition to what he is doing to the military, the deficit spending, and energy in this country is regulations. I am the ranking member of the Environmental and Public Works Committee, with all of these MACT programs—that is MACT, maximum achievable control technology. He is trying to do away with emission requirements where there is no technology to get into that type of requirement. So it is very expensive.

The other thing he is trying to do—and I know this is the most controversial issue among liberals and conservatives—and that is we were able to successfully stop this whole global warming cap-and-trade legislation that has been out there ever since we refused to ratify Kyoto. It was made very clear that there is one thing nobody argues with—we know it is true—if you were to have legislation for cap and trade, the cost would be between $300 billion and $400 billion a year. We know that is true. That has come from the MIT, it has come from the CRA, and it has come from the Wharton School. That is the range they talk about. However, now this President is trying to do by regulation what we have voted down in legislation.

Right now in this body of 100 Senators, there are at the very most 25

Members of the Senate who would vote for cap and trade, and yet he is trying to do that through regulation. I have to say that would be the largest amount of money in terms—that would probably exceed the obligations we have to pay back even the deficits he has had. We will talk more about that later, but the issue right now is the two votes that are coming up.

I would encourage us to vote for my amendment, which would define an earmark as an appropriation that has not been authorized. I have read to you quotes from virtually everyone in here who would agree with that, except for those individuals who want to cede this power to the President of the United States.

I yield the floor, and I understand under unanimous consent that the Senator from Ohio would be the next speaker.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Madam President, at the conclusion of my remarks, I ask unanimous consent that the Senator from Iowa, Senator GRASSLEY, be recognized.

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

Mr. BROWN of Ohio. I thank Senator INHOFE for the sensible nature of his words in terms of the difference between a Presidential and a congressional earmark. I think the Senator brought good sense to this, and I appreciate his words.

AMENDMENT NO. 1481

Madam President, I rise in support of amendment No. 1481, cosponsored by Senator MERKLEY, our amendment to the STOCK Act. I thank Senator GILLIBRAND for her good work on managing this legislation.

USA Today had an editorial from Tuesday that said:

> If lawmakers were really concerned with ethics, they'd put their equity holdings in blind trusts, so they wouldn't have the obvious conflict of interest that comes from setting the rules for the companies they own.
>
> Banking committee members wouldn't invest in financial institutions, Armed Services Committee members wouldn't invest in defense contracts, and energy committee members wouldn't invest in oil companies.

How simple is that? How straightforward is that? How right is that? These stories simply don't reflect well on the world's greatest deliberative body. Most of us think these investments don't affect our decisions here, and they probably don't, but isn't it time we held ourselves to a higher standard?

Senator MERKLEY and I are proposing the Putting the People's Interests First Act as an amendment to the STOCK Act. It would require Senators and their senior staff who are subject to financial disclosure—no more than two or three or four of our staff people in each office; the most well paid, those in the highest ranking decision-making position—to sell individual stocks that create conflicts or to put their investments in blind trusts or to invest in only widely held mutual funds.

No one is required to avoid equities. We could still invest in broad-based mutual funds or exchange-traded funds. You can keep your ownership interest in your family farm or small business. I will repeat that: In no way does this affect your ownership in your family farm or small business. If you are setting up a blind trust, you can instruct the trustee to hold onto your stock in your family company. This rule would be similar to steps that have already been taken to address financial conflicts of interest or at least the appearance of financial conflicts.

Senate Ethics rule 37.7 requires committee staff making more than $25,000 per year—way more strict than our amendment in that way—''to divest himself [or herself] of any substantial holdings which may be directly affected by the actions of the committee for which he works.''

The Armed Services Committee requires staff and spouses and dependents to divest themselves of stock in companies doing business with the Department of Defense and the Department of Energy. The committee does permit the use of blind trusts.

When asked about a requirement to divest, former Defense Secretary William Perry said:

> That was very painful, but I do not disagree with the importance of doing this. The potential of corruption is very high. It keeps our government clean.

In the executive branch, Federal rules and Federal criminal law generally prohibit employees, their spouses, and their children from owning stock in companies they regulate. All Senator MERKLEY and I are saying is that Members of the Senate should hold themselves to the same standard we already require of much of our committee staff and executive branch employees. Our staff's requirements are more severe than ours, and we are the ones whose names are on the ballot, we are the ones who are sworn in to do the bidding of the American people. We are the 100 people in this so-called exclusive club and yet we are going to have different rules for us than we do for a $30,000-a-year staff person? That hardly seems right.

Some argue that selling all of our stock will make us lose touch with the rest of society. That kind of thinking falls on deaf ears for most Americans. The ranking member of the House Financial Services Committee doesn't invest in stocks. Instead he invests in State and local bonds with a small amount directed into mutual funds. When asked, Congressman FRANK of Massachusetts said: ''I get a steady 4.5 percent, and I help my state in the process. I'm a patriot, and I'm making money too.''

Why should Members of the Senate who own stock in oil companies vote on issues that affect the oil industry? Why should Members of the Senate who might own stock in a pharmaceutical company vote on issues that affect health care, on a generic drug bill or on a biologics bill or on Medicare or Medicaid? Appearances matter. Right now the American people don't trust that we are acting in the Nation's best interest far too many times. Investing in broadly held funds or a blind trust will keep us in touch with society. It is not a retreat from the U.S. economy. Instead it will keep us from picking winners and losers. It will show the public that our focus is on policies that will help grow the economy. Again, I am not accusing any of my colleagues, if they own an oil stock, of voting for more tax breaks for the oil industry. I am not saying they do that; I am saying there is the appearance that some of them might do it.

We need to remember that public service is a privilege. Folks around Washington are already paid well in these jobs. There is no reason they need to be buying and selling stocks in small or multimillion-dollar portfolios.

When asked about the fact that Senate Armed Services Committee conflict-of-interest rules apply only to staff and Department of Defense appointees—but not to Senators—again, when asked about the fact that the Senate Armed Services Committee conflict-of-interest rules apply to staff people—and, again, not necessarily highly paid staff—and Department of Defense appointees, President Bush's Deputy Secretary of Defense, Gordon England, said: ''I think Congress should abide by the same rules we impose on other people.''

No kidding. Really.

In a State of the Union Message, the President said: ''Let's limit any elected official from owning stocks in industries they impact.''

As we cast votes, we all—the 100 Members of the Senate—have an impact on all kinds of industries every day, on all our economies.

I agree with Under Secretary England. I agree with President Obama. I agree with Senator MERKLEY as we offer this amendment. It is simple and direct. The public should expect nothing less from us.

Thank you.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENT NO. 1493 TO AMENDMENT NO. 1470

Mr. GRASSLEY. Before I speak on the amendment, I ask unanimous consent that the pending amendment be set aside to call up my amendment No. 1493 and make that the pending amendment.

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

The clerk will report.

The legislative clerk read as follows:

> The Senator from Iowa [Mr. GRASSLEY] proposes an amendment numbered 1493.

Mr. GRASSLEY. 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 require disclosure of political intelligence activities under Lobbying Disclosure Act of 1995)

At the end of the amendment, insert the following:

SEC. ___. DISCLOSURE OF POLITICAL INTELLIGENCE ACTIVITIES UNDER LOBBYING DISCLOSURE ACT.

(a) DEFINITIONS.—Section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602) is amended—

(1) in paragraph (2)—

(A) by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''; and

(B) by inserting after ''lobbyists'' the following: ''or political intelligence consultants''; and

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

''(17) POLITICAL INTELLIGENCE ACTIVITIES.—The term 'political intelligence activities' means political intelligence contacts and efforts in support of such contacts, including preparation and planning activities, research, and other background work that is intended, at the time it is performed, for use in contacts, and coordination with such contacts and efforts of others.

''(18) POLITICAL INTELLIGENCE CONTACT.—

''(A) DEFINITION.—The term 'political intelligence contact' means any oral or written communication (including an electronic communication) to or from a covered executive branch official or a covered legislative branch official, the information derived from which is intended for use in analyzing securities or commodities markets, or in informing investment decisions, and which is made on behalf of a client with regard to—

''(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

''(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government; or

''(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license).

''(B) EXCEPTION.—The term 'political intelligence contact' does not include a communication that is made by or to a representative of the media if the purpose of the communication is gathering and disseminating news and information to the public.

''(19) POLITICAL INTELLIGENCE FIRM.—The term 'political intelligence firm' means a person or entity that has 1 or more employees who are political intelligence consultants to a client other than that person or entity.

''(20) POLITICAL INTELLIGENCE CONSULTANT.—The term 'political intelligence consultant' means any individual who is employed or retained by a client for financial or other compensation for services that include one or more political intelligence contacts.''.

(b) REGISTRATION REQUIREMENT.—Section 4 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting after ''whichever is earlier,'' the following: ''or a political intelligence consultant first makes a political intelligence contact,''; and

(ii) by inserting after ''such lobbyist'' each place that term appears the following: ''or consultant'';

(B) in paragraph (2), by inserting after ''lobbyists'' each place that term appears the following: ''or political intelligence consultants''; and

(C) in paragraph (3)(A)—

(i) by inserting after ''lobbying activities'' each place that term appears the following: ''and political intelligence activities''; and

(ii) in clause (i), by inserting after ''lobbying firm'' the following: ''or political intelligence firm'';

(2) in subsection (b)—

(A) in paragraph (3), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities'';

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by inserting after ''lobbying activities'' the following: ''or political intelligence activities''; and

(ii) in subparagraph (C), by inserting after ''lobbying activity'' the following: ''or political intelligence activity'';

(C) in paragraph (5), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities'';

(D) in paragraph (6), by inserting after ''lobbyist'' each place that term appears the following: ''or political intelligence consultant''; and

(E) in the matter following paragraph (6), by inserting ''or political intelligence activities'' after ''such lobbying activities'';

(3) in subsection (c)—

(A) in paragraph (1), by inserting after ''lobbying contacts'' the following: ''or political intelligence contacts''; and

(B) in paragraph (2)—

(i) by inserting after ''lobbying contact'' the following: ''or political intelligence contact''; and

(ii) by inserting after ''lobbying contacts'' the following: ''and political intelligence contacts''; and

(4) in subsection (d), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''.

(c) REPORTS BY REGISTERED POLITICAL INTELLIGENCE CONSULTANTS.—Section 5 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604) is amended—

(1) in subsection (a), by inserting after ''lobbying activities'' the following: ''and political intelligence activities'';

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by inserting after ''lobbying activities'' the following: ''or political intelligence activities'';

(ii) in subparagraph (A)—

(I) by inserting after ''lobbyist'' the following: ''or political intelligence consultant''; and

(II) by inserting after ''lobbying activities'' the following: ''or political intelligence activities'';

(iii) in subparagraph (B), by inserting after ''lobbyists'' the following: ''and political intelligence consultants''; and

(iv) in subparagraph (C), by inserting after ''lobbyists'' the following: ''or political intelligence consultants'';

(B) in paragraph (3)—

(i) by inserting after ''lobbying firm'' the following: ''or political intelligence firm''; and

(ii) by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''; and

(C) in paragraph (4), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''; and

(3) in subsection (d)(1), in the matter preceding subparagraph (A), by inserting ''or a political intelligence consultant'' after ''a lobbyist''.

(d) DISCLOSURE AND ENFORCEMENT.—Section 6(a) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1605) is amended—

(1) in paragraph (3)(A), by inserting after ''lobbying firms'' the following: '', political intelligence consultants, political intelligence firms,'';

(2) in paragraph (7), by striking ''or lobbying firm'' and inserting ''lobbying firm, political intelligence consultant, or political intelligence firm''; and

(3) in paragraph (8), by striking ''or lobbying firm'' and inserting ''lobbying firm, political intelligence consultant, or political intelligence firm''.

(e) RULES OF CONSTRUCTION.—Section 8(b) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1607(b)) is amended by striking ''or lobbying contacts'' and inserting ''lobbying contacts, political intelligence activities, or political intelligence contacts''.

(f) IDENTIFICATION OF CLIENTS AND COVERED OFFICIALS.—Section 14 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1609) is amended—

(1) in subsection (a)—

(A) in the heading, by inserting ''OR POLITICAL INTELLIGENCE'' after ''LOBBYING'';

(B) by inserting ''or political intelligence contact'' after ''lobbying contact'' each place that term appears; and

(C) in paragraph (2), by inserting ''or political intelligence activity, as the case may be'' after ''lobbying activity'';

(2) in subsection (b)—

(A) in the heading, by inserting ''OR POLITICAL INTELLIGENCE'' after ''LOBBYING'';

(B) by inserting ''or political intelligence contact'' after ''lobbying contact'' each place that term appears; and

(C) in paragraph (2), by inserting ''or political intelligence activity, as the case may be'' after ''lobbying activity''; and

(3) in subsection (c), by inserting ''or political intelligence contact'' after ''lobbying contact''.

(g) ANNUAL AUDITS AND REPORTS BY COMPTROLLER GENERAL.—Section 26 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1614) is amended—

(1) in subsection (a)—

(A) by inserting ''political intelligence firms, political intelligence consultants,'' after ''lobbying firms''; and

(B) by striking ''lobbying registrations'' and inserting ''registrations'';

(2) in subsection (b)(1)(A), by inserting ''political intelligence firms, political intelligence consultants,'' after ''lobbying firms''; and

(3) in subsection (c), by inserting ''or political intelligence consultant'' after ''a lobbyist''.

Mr. GRASSLEY. Madam President, the Wall Street Journal recently reported that political intelligence is an approximately $100 million industry. The article also says that expert networks employ over 2,000 people to do political intelligence in Washington, DC.

We have to say approximately because no one truly knows how many people work in this industry. We don't know from whom they seek information, what happens to that information, and how much they get paid. This is a problem if one believes in transparency in government and if one believes in the purposes behind this legislation, as I do—the underlying legislation—that Members of the Senate and Congress should not benefit from insider trading information.

So we have people in this city or people who come into this city to get information on what Congress might do or what their regulators might do that might affect the stock in some company or something, and this political intelligence information is gathered and given to people who presumably profit from it or I guess these people wouldn't be employed in the first place. So there is a growing unregulated industry with no transparency. If a lobbyist has to register in order to advocate for a school or a church or a private corporation, shouldn't the same lobbyist have to register if he or she is seeking and getting inside information that ends up in making people a profit? This is especially true if that information would make millions for a hedge fund or a private equity firm.

We have current law. Under current law, this is not the case. We have no registration of these people and we don't know who they are. So we go back to amendment No. 1493. My amendment merely brings sunlight to this unregulated area. It defines what a political intelligence lobbyist is and requires that person or firm to register. In other words, it requires them to do what, under the 1995 law, every lobbyist has to do.

I understand some would say there have not been hearings on this subject and that it should be studied first. But there isn't much that is complicated about this amendment. It is pretty simple. If a person seeks information from Congress in order to make money, the American people have a right to know the name of that person and who that person is selling that information to. That is just pretty basic good government, isn't it? It is the same as if a person is a lobbyist for a piece of legislation under laws going back to 1946 and amended since then, they have to register. The public has a right to know who the lobbyist is, whom they are working for, and what they are lobbying for or against.

This amendment isn't just helpful to the American people, though. It isn't just helpful to make people responsible, because the more transparency we have the more accountability there is and the more openness we have in government the better off we are. So I make a case to help the American people, yes. But it is also going to help Members of Congress and our staff who are trying to decipher their duties under this proposed legislation.

Senators have raised the question: How will we know if the people we speak to trade on what we say? So to answer that question, we require the people doing it to be responsible. So we achieve more transparency in government, and we even help Members of Congress and our staff because these political intelligence people are pretty smart. They know where to get the information because they come to us and ask questions, but we might not know why they are asking the questions. So it is going to help Members of Congress and our staff as well. By requiring lobbyists who sell information to stock traders to register, Members and staff then have an easy way to track who these people are and to whom they would sell their information. This strengthens the bill, from my point of view, and helps Members and staff comply with its requirements.

So I hope we can pass this amendment soon and bring light and transparency to this growing industry and, when we are talking to someone, know who they are, what they seek, whom they are working for, et cetera.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1491

Mr. SHELBY. Madam President, I rise again today to speak on behalf of fairness. We have heard quite a bit from the President on the campaign trail about fairness. But it appears there is no interest in fairness when it comes to transparency for the executive branch.

The bill we are currently debating in the Senate will subject Congress to additional reporting requirements for certain financial transactions. The goal is to ensure that Members of Congress and congressional staff are not using their unique access to confidential information for personal gain. That goal is worthy.

I believe this is an appropriate goal, and one I fully support. I do not understand, however, why the additional reporting requirements do not extend to members of the executive branch who arguably have even greater access to such confidential information than Members of Congress and their staffs do.

It only seems fair that executive branch officials, who are already required to file annual financial reports, as we are, also be directed to meet the same additional reporting requirements being imposed on the legislative branch.

I have yet to hear a compelling argument against equity between the branches. Some people have argued that the executive branch has other ways to deal with insider trading. Think about it. But none of those will subject executive branch employees to the same public scrutiny as this legislation would. I believe what is good for the goose, it seems to me, should be good for the gander. We have heard that all of our life.

I understand there is a willingness on the other side to expand the reporting requirements, but it would fall far short of parity.

Some have said here it would cost too much. But if we are willing to expand the population of executive branch officials required to report publicly, then any further expansion will only present marginal additional costs.

Currently, less than 1 percent of the executive branch workforce is required to file financial disclosure statements. The other 99 percent are not. My parity amendment will not expand that universe. It will only require them to meet the same reporting standards that will apply to the Congress itself.

As I understand it, the Democratic alternative to my amendment would produce some bizarre results. For example, a Senate office administrator who meets the reporting threshold would be required to report publicly as directed in this bill, but the head of enforcement at the Securities and Exchange Commission would not. That is bizarre. A Senate scheduler may have to make additional public disclosures, but the General Counsel of the Federal Reserve would not. This is not fair, and I believe it is unacceptable.

My amendment simply says if you are an executive branch or independent agency official and you currently file financial disclosure reports, you will have to comply with the same public reporting requirements contained in this bill that we plan to impose on the Congress.

My amendment also contains the same military personnel exemption that the Democratic alternative does, as well as the same 2-year implementation provision.

My amendment is simple, fair, and deserves the support of every Member of this body. If my friends on the other side of the aisle believe in fairness, this would be a very good way to show it.

I yield the floor.

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.

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

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

AMENDMENTS NOS. 1489, AS MODIFIED, AND 1485, AS MODIFIED

Mrs. GILLIBRAND. Madam President, on behalf of Senator BOXER, I ask unanimous consent that the Boxer-Isakson amendment No. 1489 be modified with the changes that are at the desk; that the order for a Collins side-by-side amendment be vitiated; that the Paul amendment No. 1485 be modified with the changes that are at the desk; further, that the order for the Lieberman side-by-side amendment to the Paul amendment be vitiated.

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

The amendments, as modified, are as follows:

AMENDMENT NO. 1489, AS MODIFIED

(Purpose: To require full and complete public disclosure of the terms of home mortgages held by Members of Congress, the President, the Vice President, and executive branch officers nominated or appointed to a position by the President, by and with the advice and consent of the Senate)

At the end, add the following:

SECTION 11. REQUIRING MORTGAGE DISCLOSURE.

Section 102(a)(4)(A) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended by striking ''spouse; and'' and inserting the following: ''spouse, except that this exception shall not apply to a reporting individual—

''(i) described in paragraph (1), (2), or (9) of section 101(f);

''(ii) described in section 101(b) who has been nominated for appointment as an officer or employee in the executive branch described in subsection (f) of such section, other than—

''(I) an individual appointed to a position—

''(aa) as a Foreign Service Officer below the rank of ambassador; or

''(bb) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O-6 or below; or

''(II) a special government employee, as defined under section 202 of title 18, United States Code; or

''(iii) described in section 101(f) who is in a position in the executive branch the appointment to which is made by the President and requires advice and consent of the Senate, other than—

''(I) an individual appointed to a position—

''(aa) as a Foreign Service Officer below the rank of ambassador; or

''(bb) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O-6 or below; or

''(II) a special government employee, as defined under section 202 of title 18, United States Code; and''.

AMENDMENT NO. 1485, AS MODIFIED

(Purpose: To extend the transaction reporting requirement to judicial officers and senior executive branch employees)

On page 7, strike lines 6 through 9, and insert the following:

''(j)(1) Not later than 30 days after any transaction required to be reported under section 102(a)(5)(B), a Member of Congress or officer or employee of Congress, a judicial officer, or a senior executive branch official shall file a report of the transaction.

''(2) In this subsection, the term 'senior executive branch official' means—

''(A) the President;

''(B) the Vice President; and

''(C) individuals serving in full-time, paid positions required to be appointed by the President with the advice and consent of the Senate but does not include members of the armed services, foreign service, public health service, or the officer corps of the National Oceanic and Atmospheric Administration.''.

AMENDMENTS NOS. 1511 AND 1505 TO AMENDMENT NO. 1470

Mrs. GILLIBRAND. Madam President, I ask unanimous consent to set aside the pending amendment so that I may call up on behalf of Senator LIEBERMAN the side-by-side amendment to the Shelby amendment No. 1491 and on behalf of Senator PORTMAN his amendment No. 1505.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mrs. GILLIBRAND], for Mr. LIEBERMAN, proposes an amendment numbered 1511 to amendment No. 1470.

The Senator from New York [Mrs. GILLIBRAND], for Mr. PORTMAN, proposes an amendment numbered 1505 to amendment No. 1470.

The amendments are as follows:

AMENDMENT NO. 1511

(Purpose: To extend the STOCK Act to ensure that the reporting requirements set forth in the STOCK Act apply to the executive branch and independent agencies)

On page 7, strike lines 6 through 9, insert the following:

''(j) Not later than 30 days after any transaction required to be reported under section 102(a)(5)(B), the following persons, if required to file a report under any other subsection of this section subject to any waivers and exclusions, shall file a report of the transaction:

''(1) A Member of Congress.

''(2) An officer or employee of Congress required to file a report under this section.

''(3) The President.

''(4) The Vice President.

''(5) Each employee appointed to a position in the executive branch, the appointment to which requires advice and consent of the Senate, except for—

''(A) an individual appointed to a position—

''(i) as a Foreign Service Officer below the rank of ambassador; or

''(ii) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O-6 or below; or

''(B) a special government employee, as defined under section 202 of title 18, United States Code.

''(6) Any employee in a position in the executive branch who is a noncareer appointee in the Senior Executive Service (as defined under section 3132(a)(7) of title 5, United States Code) or a similar personnel system for senior employees in the executive branch, such as the Senior Foreign Service, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government.

''(7) The Director of the Office of Government Ethics.

''(8) Any civilian employee, not described in paragraph (5), employed in the Executive Office of the President (other than a special government employee) who holds a commission of appointment from the President.''.

At the end insert the following:

SEC. ___. EXECUTIVE BRANCH REPORTING.

Not later than 2 years after the date of enactment of this Act, the President shall—

(1) ensure that financial disclosure forms filed by officers and employees referred to in section 101(j) of the Ethics in Government Act of 1978 (5 U.S.C. App.) are made available to the public as required by section 8(a) on appropriate official websites of agencies of the executive branch; and

(2) develop systems to enable electronic filing and public access, as required by section 8(b), to the financial disclosure forms of such individuals.

AMENDMENT NO. 1505

(Purpose: To clarify that political intelligence includes information gathered from executive branch employees, Congressional employees, and Members of Congress)

On page 8, lines 23 and 24, strike ''executive branch and legislative branch officials'' and insert ''an executive branch employee, a Member of Congress, or an employee of Congress''.

Mrs. GILLIBRAND. Madam President, we here in the Senate are so close to doing something so basic, so common sense to begin restoring the faith and trust the American people have with this institution. I am encouraged that we have found more to agree on today than that which we disagree on, so we can bring this bill on the floor to a vote.

I thank Leader REID for his extraordinary perseverance and leadership on this issue. I also thank Chairman LIEBERMAN and Ranking Member COLLINS for their vision and their hard work in bringing this strong piece of legislation to the floor. I also thank Senator SCOTT BROWN and our other cosponsors who have worked so hard to do what is right for the American people. And, of course, I thank my colleagues on the other side of the aisle who have worked with us in good faith to bring this legislation to fruition.

We have tried to focus on the specific task at hand, and that is closing loopholes to ensure that Members of Congress play by the exact same rules as every other American. While there are some amendments today that will not meet that test, there are others that will make this bill stronger, and I believe the final product will have teeth.

This sorely needed bill would establish for the first time a clear fiduciary responsibility to the people we serve—removing any doubt that both the SEC and the CFTC are empowered to investigate and prosecute cases involving insider trading of securities from nonpublic information that we have access to when we do our jobs.

We are entrusted with a profound responsibility to the American people: to look out for their best interests, not to do what is in our financial interest. Let's show the people who have sent us here that we as a body can come together and do the right thing.

Today, we are taking a step forward to show them we are worthy of their trust. I encourage all of my colleagues to take this step with us today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LIEBERMAN. Madam President, in 6 or 7 minutes the Senate will begin a series of votes on the matter before us, the STOCK Act. I want to take a few moments to restate the underlying

main purpose of the legislation, which is to respond to the public concern, informed by testimony before our committee from experts on securities law, that it is not totally clear that Members of Congress and our staffs are covered by anti-insider trading laws enforced by the SEC. The No. 1 accomplishment of this proposal will be to make that crystal clear.

We are not exempt from that law; we should not be exempt. I presume most Members of Congress have assumed we have never been exempt. But this will make it clear if anybody crosses the line, they cannot defend themselves by saying that Members of Congress are not covered by the law.

We have also added in committee a couple of provisions which embrace the old but still important notion that sunshine is the best disinfectant in government by requiring that the annual financial disclosure reports we file will now be filed electronically and will therefore be available on the Internet. Right now, these are public documents. When they are filed in the Office of the Secretary of the Senate, people have to go there and make copies of them to see them. As Senator BEGICH, our colleague from Alaska, said: That is not easy if you are an Alaskan. This will bring that system up to date.

The third part—which I know is controversial for some, but I think it is sensible—is to require that within 30 days of any stock trades, disclosure forms must be filed with the Senate and also online. I can tell you that the Securities and Exchange Commission has made clear in testimony before the House committee and in discussions with our staff that that kind of periodic requirement for disclosure of trades in stock and securities will help them do the job we want them to do to make sure that insider trading laws are not being violated and, of course, will keep the public, our constituents, informed of what we are about.

A number of amendments are up. As Senator REID said, I hope we don't have rollcall votes on all of them. I think a number of them will receive unanimous support on both sides. I hope we can adopt them by voice.

There is one amendment, Senator SHELBY's amendment No. 1491, to which, as part of the agreement, I filed a side-by-side, as it were. I support the goal that Senator SHELBY has of holding the executive branch accountable in ways similar to the way we are; that is, the amendment, generally speaking, would extend the 30-day reporting requirement, disclosure requirement, to a very large number of executive branch employees. That, to me, is the problem. It is too broad. It would create a cost and an unnecessary reporting system for many executive branch employees.

I want to point out here that when it comes to avoiding and preventing conflicts of interest, the executive branch is probably well ahead of the legislative branch. The ethics rules requirement and guidance put forward over the years by the Office of Government Ethics at the agencies are extensive and address a wide range of potential conflicts of interest and/or improprieties. They have teeth, criminal sanctions.

For instance, high-level executive branch employees already file financial disclosure forms that face a very extensive system of agency review. These agency officials and career civil servants are often forced to divest themselves of their stock holdings if they seem to be in conflict with their responsibilities or to recuse themselves, not to be involved in matters in order to minimize potential conflicts of interest. That is a much different standard than we impose on ourselves, which is the standard of disclosure.

I have introduced a version of Senator SHELBY's amendment, which I think achieves his goal in a significant way but not so broadly. Rather than the tens of thousands of people encompassed in the Shelby amendment, mine is targeted at policymakers most equivalent to those of us in Congress and those who work with us; that is, positions in our government that are Senate-confirmed and also certain high-level White House and agency staff who might not be Senate-confirmed but are policymakers. These individuals are public officials with visible high-profile roles, and the extra scrutiny that comes with increased reporting requirements seems to be more appropriate for this group—including the President, Vice President, appointees in the White House, the so-called policy czars, special assistants to the President, as well as members of the Federal Reserve Board.

I hope we can take this significant step to achieve what Senator SHELBY had in mind, but not, if I can put it this way, overdo it in a way that will actually, according to comments we have had from people in the executive branch, get in the way of the existing very tough ethics rules they live under now.

I yield the floor at this point.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, first, let me commend the chairman of our committee, Senator LIEBERMAN. As always, it has been a great pleasure to work with him to produce this bill. I also wish to commend the author of the bill, Senator SCOTT BROWN, who was the first to introduce this legislation in the Senate, and also praise the work of the Senator from New York, Mrs. GILLIBRAND, for her contributions.

The STOCK Act is intended to affirm that Members of Congress are not exempt from our laws prohibiting insider trading. There are disputes among the experts about whether this legislation is necessary, but we feel we should send a very strong message to the American public that we understand Members of Congress are not exempt from insider trading laws, and that is exactly what this bill does.

We need to reassure a skeptical public that we understand elective office is a place for public service, not for private gain. Underscoring that important message is clearly the purpose of this bill, and that is why I support it.

I thank the Chair.

AMENDMENTS NOS. 1478, 1477, 1474, 1476, 1490, 1492, AND 1503 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, the following amendments are withdrawn:

Amendment No. 1478, amendment No. 1477, amendment No. 1474, amendment No. 1476, amendment No. 1490, amendment No. 1492, and amendment No. 1503.

AMENDMENT NO. 1482

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 1482, offered by the Senator from Connecticut, Mr. LIEBERMAN.

Mr. LIEBERMAN. Madam President, this is a highly technical amendment. It simply says the GAO report, required by the underlying bill on the question of political intelligence, be sent not only to the Committee on Government Oversight in the House but also to the Judiciary Committee.

If there is no objection, I urge the adoption of the amendment. I don't believe there is any opposition and, therefore, no need for a rollcall vote.

The PRESIDING OFFICER (Mr. SANDERS). Is there further debate?

If not, the question is on agreeing to amendment No. 1482.

The amendment was agreed to.

AMENDMENT NO. 1484

The PRESIDING OFFICER. The question is on the Paul amendment, No. 1484. There is 2 minutes of debate, equally divided, on this amendment.

The Senator from Kentucky.

Mr. PAUL. Mr. President, I rise in support of this amendment. This amendment would strike the underlying bill and would replace it with an affirmation that we are not exempt from insider trading and that each Senator would sign a statement each year affirming they did not participate in insider trading.

I think this is the way to go. I think the American people want to be sure we are not exempt. I think this is a good way to do it without creating a bureaucracy and a nightmare that may well have many unintended consequences.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I respectfully oppose the amendment. It would, as the Senator from Kentucky, with his characteristic directness said, strike the entire bill. The affirmation by Members they have not violated insider trading laws is, in my opinion, not enough. In the opinion of the SEC, it is not enough because it doesn't establish the duty of trust this underlying bill does that is required to guarantee charges against a Member of Congress or staff on insider trading

will not be successfully defended against on the argument that Members are not covered.

I yield the rest of my time to my friend from Maine.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I too am opposed to the amendment offered by Senator PAUL. I do think the idea of a certification is a good one, but, unfortunately, Senator PAUL's amendment would strike the provisions of the bill that affirm the duty we have to the American people and that scholars who testified before the committee said was necessary.

Mr. PAUL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. The question is on agreeing to the amendment. The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Illinois (Mr. KIRK) and the Senator from Alabama (Mr. SESSIONS).

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

The result was announced—yeas 37, nays 61, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—37

Alexander	Crapo	Moran
Ayotte	DeMint	Nelson (NE)
Barrasso	Enzi	Paul
Begich	Graham	Risch
Blunt	Hatch	Roberts
Burr	Hoeven	Shelby
Chambliss	Johnson (SD)	Thune
Coats	Johnson (WI)	Toomey
Coburn	Kyl	Warner
Cochran	Leahy	Webb
Conrad	Lee	Wicker
Corker	Lugar	
Cornyn	McConnell	

NAYS—61

Akaka	Harkin	Murray
Baucus	Heller	Nelson (FL)
Bennet	Hutchison	Portman
Bingaman	Inhofe	Pryor
Blumenthal	Inouye	Reed
Boozman	Isakson	Reid
Boxer	Johanns	Rockefeller
Brown (MA)	Kerry	Rubio
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Shaheen
Carper	Lautenberg	Snowe
Casey	Levin	Stabenow
Collins	Lieberman	Tester
Coons	Manchin	Udall (CO)
Durbin	McCain	Udall (NM)
Feinstein	McCaskill	Vitter
Franken	Menendez	Whitehouse
Gillibrand	Merkley	Wyden
Grassley	Mikulski	
Hagan	Murkowski	

NOT VOTING—2

Kirk	Sessions

The amendment (No. 1484) was rejected.

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

Ms. COLLINS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1487

The PRESIDING OFFICER. Under the previous order, there is 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1487, offered by the Senator from Kentucky, Mr. PAUL. This amendment is subject to a 60-vote threshold.

The Senator from Kentucky is recognized.

Mr. PAUL. Mr. President, this amendment would say that those in the executive branch who decide loans and grants, if they have a self-interest in the company or if their family has a self-interest in the company, they should not be making decisions awarding grants and awarding loans. I think the idea that you should not make money off of government is an important one, but it is not just Congress that this should apply to; this should apply to the executive branch. We should not have hundreds of millions of dollars in loans—even billions of dollars in loans—dispensed by people who used to work for that company or whose family still works for the company.

I yield my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. This is one of a series of amendments in which our colleagues are applying ethics rules to the executive branch although the bill, of course, is focused on Members of Congress. In this case, this applies probably the harshest penalty that has ever been applied to members of the executive branch. The fact is, executive branch employees are already subject to an effective, in some ways broader ethics regime than we face now. It is backed up by criminal sanctions. As an example, executive branch employees file financial disclosure forms. Agency ethics officials who examine them can compel divestiture of holdings. They can require the individual to recuse himself from certain matters and, if recusal is not sufficient, the agency can reassign the individual.

In this case, Senator PAUL would say that an executive branch employee is forbidden from holding a position in which they or their family have any financial interest of $5,000 or more, so I oppose the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. PAUL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a second?

There appears to be a sufficient second. The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—48

Alexander	Enzi	McConnell
Ayotte	Graham	Menendez
Barrasso	Grassley	Moran
Blunt	Hatch	Nelson (NE)
Boozman	Heller	Nelson (FL)
Burr	Hutchison	Paul
Cantwell	Inhofe	Risch
Carper	Isakson	Roberts
Casey	Johnson (WI)	Rubio
Chambliss	Klobuchar	Sessions
Coats	Kyl	Shelby
Coburn	Lee	Snowe
Corker	Levin	Stabenow
Cornyn	Lugar	Thune
Crapo	McCain	Toomey
DeMint	McCaskill	Vitter

NAYS—51

Akaka	Gillibrand	Murray
Baucus	Hagan	Portman
Begich	Harkin	Pryor
Bennet	Hoeven	Reed
Bingaman	Inouye	Reid
Blumenthal	Johanns	Rockefeller
Boxer	Johnson (SD)	Sanders
Brown (MA)	Kerry	Schumer
Brown (OH)	Kohl	Shaheen
Cardin	Landrieu	Tester
Cochran	Lautenberg	Udall (CO)
Collins	Leahy	Udall (NM)
Conrad	Lieberman	Warner
Coons	Manchin	Webb
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wicker
Franken	Murkowski	Wyden

NOT VOTING—1

Kirk

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

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

Mrs. COLLINS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1511

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1511 offered by the Senator from Connecticut, Mr. LIEBERMAN.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, this is a side-by-side with an amendment offered by my friend from Alabama. The question is, How many employees of the executive branch of government should be required to electronically file their disclosure statements? I believe, respectfully, Senator SHELBY's amendment requires maybe more than 300,000 Federal employees, including many who filed confidential disclosure statements.

This amendment would include people in the Federal executive branch who hold positions equivalent to those of us in Congress who are policymakers, and that includes the President, the Vice President, appointees in the White House, members of the Federal Reserve Board, and Senior Executive Service. It is the difference between applying this requirement to 2,000 executive employees or more than 300,000 Federal employees.

I yield the remainder of my time.

The PRESIDING OFFICER (Mrs. SHAHEEN). There is no time remaining.

The Senator from Alabama.

Mr. SHELBY. Madam President, the Lieberman amendment is a side-by-side with the Shelby amendment. This Lieberman amendment would create loopholes, disparity, and it undermines the true transparency. I encourage my colleagues to oppose it.

On the other hand, my amendment would be a side-by-side, and it creates parity, fairness, and true transparency. Without transparency the American people will be left in the dark. Also, the Senator from Connecticut is talking about who would have to file these. It will be the same people who have to file disclosures now. Why should they be exempt? My amendment would make it a level playing field. It makes a lot of sense. It is fair, it is honest, and the executive branch should not be excluded for any reason I can think of.

I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. The yeas and nays have been requested.

Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 81, nays 18, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—81

Akaka	Gillibrand	Merkley
Alexander	Graham	Mikulski
Ayotte	Grassley	Murkowski
Baucus	Hagan	Murray
Begich	Harkin	Nelson (NE)
Bennet	Hatch	Nelson (FL)
Blumenthal	Heller	Paul
Boozman	Hoeven	Pryor
Boxer	Hutchison	Reed
Brown (MA)	Inhofe	Reid
Brown (OH)	Inouye	Risch
Burr	Isakson	Roberts
Cantwell	Johanns	Rockefeller
Cardin	Johnson (SD)	Rubio
Carper	Kerry	Sanders
Casey	Klobuchar	Schumer
Coats	Kohl	Shaheen
Cochran	Kyl	Snowe
Collins	Landrieu	Stabenow
Conrad	Lautenberg	Tester
Coons	Leahy	Thune
Corker	Levin	Udall (CO)
Cornyn	Lieberman	Udall (NM)
Crapo	Manchin	Warner
Durbin	McCain	Webb
Feinstein	McCaskill	Whitehouse
Franken	Menendez	Wyden

NAYS—18

Barrasso	Enzi	Portman
Bingaman	Johnson (WI)	Sessions
Blunt	Lee	Shelby
Chambliss	Lugar	Toomey
Coburn	McConnell	Vitter
DeMint	Moran	Wicker

NOT VOTING—1

Kirk

The amendment was agreed to.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1491

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 1491, as modified, offered by the Senator from Alabama, Mr. SHELBY.

The Senator from Maine.

Ms. COLLINS. Madam President, first, I wish to commend Senator PAUL and Senator SHELBY for raising the issue of extending these requirements to the executive branch. I agree with them. I supported the amendment offered by Senator LIEBERMAN, but I also encourage my colleagues to support the amendment offered by Senator SHELBY. It would take in the independent regulatory agencies, and it goes a little bit deeper into the executive branch. So I think both principles are correct—that the kind of disclosures we are going to be required to make should also apply to high-level executive branch employees.

I thank both the Senator from Kentucky and the Senator from Alabama for their leadership.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Madam President, I appreciate the remarks of the Senator from Maine. She is urging people to vote yea on the Shelby amendment. I appreciate that. It is a good amendment, and I will do the same thing: Vote yea.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I respectfully ask for a ''no'' vote.

As I indicated in support of the side-by-side I offered, executive branch employees are now under very tough ethics regulations requiring, in many cases, divestiture or recusal, and this adds a good requirement which is for some of them to file electronically the disclosure statements they have to make. But the amendment we just passed—mine—would add that requirement to 2,000 of the top-level policymakers in our Federal Government. Senator SHELBY's amendment would extend that to more than 300,000 Federal employees, including some, by our count in the Office of Government Ethics, drivers and secretaries.

In addition to the burden it would place on them unduly, we are asking agencies to stretch personnel and resources to fulfill a totally new requirement when, in fact, we want them to save money and not figure out ways to spend more money.

I respectfully ask my colleagues to vote no.

The PRESIDING OFFICER. The question is on agreeing to the Shelby amendment No. 1491, as modified.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 7 Leg.]

YEAS—58

Alexander	Hatch	Nelson (NE)
Ayotte	Heller	Nelson (FL)
Barrasso	Hoeven	Paul
Blunt	Hutchison	Portman
Boozman	Inhofe	Pryor
Brown (MA)	Isakson	Risch
Burr	Johanns	Roberts
Cantwell	Johnson (WI)	Rubio
Chambliss	Kerry	Sessions
Coats	Klobuchar	Shaheen
Coburn	Kyl	Shelby
Cochran	Lee	Snowe
Collins	Lugar	Stabenow
Corker	Manchin	Thune
Cornyn	McCain	Toomey
Crapo	McCaskill	Vitter
DeMint	McConnell	Wicker
Enzi	Merkley	Wyden
Graham	Moran	
Grassley	Murkowski	

NAYS—41

Akaka	Feinstein	Mikulski
Baucus	Franken	Murray
Begich	Gillibrand	Reed
Bennet	Hagan	Reid
Bingaman	Harkin	Rockefeller
Blumenthal	Inouye	Sanders
Boxer	Johnson (SD)	Schumer
Brown (OH)	Kohl	Tester
Cardin	Landrieu	Udall (CO)
Carper	Lautenberg	Udall (NM)
Casey	Leahy	Warner
Conrad	Levin	Webb
Coons	Lieberman	Whitehouse
Durbin	Menendez	

NOT VOTING—1

Kirk

The amendment (No. 1491), as modified, was agreed to.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1485 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1485, offered by the Senator from Kentucky, Mr. PAUL.

The Senator from Kentucky.

Mr. PAUL. Madam President, I think the issue has already been addressed by previous amendments. I thank the chairman and the minority ranking member for their addressing this problem.

I ask unanimous consent that the amendment, as modified, be withdrawn.

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

Mr. LIEBERMAN. Madam President, I thank the Senator from Kentucky. I would urge others with amendments

listed here to think of following that example. But certainly as I look at the next four amendments, I think they are all noncontroversial. I would urge their sponsors to have the 2 minutes of debate, and, hopefully, let's have a voice vote so we can proceed.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 1489

Mrs. BOXER. Madam President, I believe my amendment is next.

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Boxer amendment No. 1489.

Mrs. BOXER. Madam President, I would be delighted to take a voice vote on this amendment, which I am proud to say was written by myself and Senator ISAKSON. I am very pleased Senator COLLINS suggested the modification.

All this amendment does is broaden the mortgage disclosure requirements on all of us—Members of Congress—and it does the same thing for the President, the Vice President, and the executive branch employees who are subject to the advice and consent of the Congress.

I think it is fair, I think it is wise, and I think we have had issues that require this to be done.

With that, I yield back my time to Senator COLLINS.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I am very pleased the Senator from California has agreed to modify her amendment to apply it to the executive branch. I thank her very much for her cooperation, and I would suggest the amendment be adopted, as modified, by a voice vote.

Mrs. BOXER. Madam President, I ask for a voice vote.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I ask unanimous consent to vitiate the 60-vote requirement on this amendment.

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

The question is on agreeing to the amendment.

The amendment (No. 1489), as modified, was agreed to.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1505

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, the next amendment is one from Senator PORTMAN. It is No. 1505. It is truly a technical amendment. I do not believe it needs a rollcall vote. I would suggest, with the concurrence of the chairman, that we vitiate the yeas and nays and adopt it by a voice vote.

Mr. LIEBERMAN. Madam President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1505) was agreed to.

Mr. PORTMAN. Madam President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

AMENDMENT NO. 1510 TO AMENDMENT NO. 1470

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Enzi amendment No. 1510.

Ms. COLLINS. Madam President, this is a very good amendment that Senator ENZI has offered. It recognizes the fact that we do not control trades that happen within mutual funds. Thus, there is not a need for reporting every 30 days; rather, we should keep the annual reporting requirement.

It has been cleared by both sides. I do not believe it requires a rollcall vote. I would suggest that we vitiate any rollcall vote that was suggested and adopt it by a voice vote, with the concurrence of the chairman of the committee.

Mr. LIEBERMAN. Madam President, this is a good amendment. I support it.

Ms. COLLINS. Madam President, on behalf of Senator ENZI, I call up the amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. ENZI, proposes an amendment numbered 1510 to amendment No. 1470.

The amendment is as follows:

(Purpose: To clarify that the transaction reporting requirement is not intended to apply to widely held investment funds)

At the end of the amendment, insert the following:

SEC. _____. TRANSACTION REPORTING REQUIREMENTS.

The transaction reporting requirements established by section 101(j) of the Ethics in Government Act of 1978, as added by section 6 of this Act, shall not be construed to apply to a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

(1)(A) the fund is publicly traded; or

(B) the assets of the fund are widely diversified; and

(2) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1510) was agreed to.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

AMENDMENT NO. 1498

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Blumenthal amendment No. 1498.

The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Madam President, I would like to take a moment to commend Senator BLUMENTHAL and Senator KIRK. As you all know, Senator KIRK is battling to come back with us. As a gesture and also because it is a good-government measure, this particular amendment, No. 1498, extends the number and types of felonies for which Members of Congress and executive branch employees or an elected State or local government official can lose his or her pension. This is a good-government amendment and an appropriate way to honor our colleague, Senator KIRK, whom we wish a speedy recovery.

I ask to have the yeas and nays by voice vote.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Madam President, I wish to join in acknowledging Senator KIRK's contribution to this amendment. The reason I have offered it is very simply to send a message and have the effect that no corrupt elected official, no official convicted of a felony in connection with his official duties as a Member of Congress should receive one dime of taxpayer money. And that breach of law should have consequences.

I join in asking for a voice vote.

Mr. BROWN of Massachusetts. Madam President, I ask unanimous consent to vitiate the 60-vote threshold on this amendment.

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

The question is on agreeing to the amendment.

The amendment (No. 1498) was agreed to.

Mr. BROWN of Massachusetts. Madam President, I move to reconsider the vote.

Mr. LIEBERMAN. Madam President, I move to lay that motion upon the table.

The motion to lay upon the table was agreed to.

AMENDMENT NO. 1472

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Toomey amendment No. 1472.

The Senator from Pennsylvania.

Mr. TOOMEY. Madam President, I rise in support of my amendment. I wish to thank Senator MCCASKILL for cosponsoring this amendment and for her support on this ban on earmarks.

What this amendment does is it would codify the current moratorium that is in place. I commend the majority Senators for extending that moratorium, but let's just codify this now, put this in place, and end this process that lacks any transparency. This is a surgical point of order that would not be held against the entire bill but, rather, just the specific earmark.

Unlike the next amendment, which would allow earmarks on authorization

bills and would permit, for instance, earmarking of the ''bridge to nowhere'' and would only forbid earmarks on appropriations bills, this would be a ban on earmarks of all kinds.

Some suggest that we would be ceding our constitutional control of the purse strings. This is clearly not true. Most of all government spending is not earmarked. Most discretionary spending is not earmarked. That doesn't mean we have ceded our authority to the executive branch. The fact is, we define the terms and the rules under which the spending can occur. That is appropriate, but it ought to happen under scrutiny and should be subject to full review.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Hawaii.

Mr. INOUYE. Madam President, this amendment does not save any money. It does not reduce the deficit. It simply gives additional power to the President and thereby weakens the legislative branch.

The reality is that without these earmarks, we find ourselves at the mercy of bureaucrats to ensure that our local needs are fulfilled. No one in this Chamber believes that a bureaucrat here in Washington knows better or understands the needs of their home State as well as they do.

So I say again, Madam President, the voluntary moratorium is now 100 percent successful. It will continue in fiscal year 2013.

I urge my colleagues to vote against the Toomey amendment.

Mr. MCCAIN. Mr. President, I come to the floor today to speak in support of Senator TOOMEY's amendment to permanently ban the use of earmarks in Congress. The underlying bill, the STOCK Act, was designed to end a corrupt practice in Congress. I fully support that goal. But if we are serious about ending corruption in Congress, then we must begin by permanently banning earmarks. It is my belief that these two issues go hand and hand.

One of the most blatant examples of the corruption that stems from earmarking is the case of former U.S. Representative Randy Cunningham who now sits in a Federal penitentiary today for selling earmarks. Among the $2.4 million in bribes Cunningham admitted receiving were the sale of his house at an inflated price, the free use of a yacht, a used Rolls-Royce, antique furniture, Persian rugs, jewelry, and a $2,000 contribution for his daughter's college graduation party. In return, he earmarked untold millions of dollars and pressured the Department of Defense to award contracts to his co-conspirators.

Year after year I have been coming to the Senate floor to speak out against the corrupt practice of Congressional earmarking and I have been joined by many of my colleagues such as Senators COBURN and MCCASKILL. Even President Obama called for a ban on earmarks in last year's State of the Union speech. The time has come to end this practice once and for all, permanently.

Let me be clear, both Republicans and Democrats have been guilty of wasting valuable taxpayer dollars on these pet projects. And as the moratorium on earmarking expires at the end of this year, we must move forward with a permanent ban to protect the American taxpayer.

Let me remind my colleagues about our current fiscal situation. Our National debt now stands at over $15 trillion and our deficit stands at $1.3 trillion. In fact, this is the fourth year in a row with deficits over a trillion dollars. Unemployment in our country stands at 8.5 percent and according to CBO, unemployment is expected to remain above 8 percent until 2015. Given these dismal economic numbers, are we prepared to tell the American people that we want to go back to the corrupt practice of earmarking and spend their hard-earned tax dollars on pork barrel projects that have little purpose other than to improve the re-election prospects of their authors?

Some of my colleagues are ''happy'' with their earmarking pasts and have justified carrying on the practice by saying that they only account for a small percentage of our annual budget. That may be the case—but is that really reason enough to continue a practice that breeds corruption? I am very aware that earmarks consume a very small percentage of a budget measured in the trillions. But given the serious problems confronting American families, many of whom wake up every morning wondering if they will lose their job or their house, it is appalling that Congress will not stir itself to relinquish any of its self-serving prerogatives in solidarity with the people we serve, who have had to tighten their own budgets, change their spending habits and restrain their ambitions. It is all the more offensive given that we have had in recent times all the evidence we should require to understand that earmarks are so closely tied to acts of official corruption.

In a report titled ''Why Earmarks Matter'' The Heritage Foundation wrote:

> They Invite Corruption: Congress does have a proper role in determining the rules, eligibility and benefit criteria for federal grant programs. However, allowing lawmakers to select exactly who receives government grants invites corruption. Instead of entering a competitive application process within a federal agency, grant-seekers now often have to hire a lobbyist to win the earmark auction. Encouraged by lobbyists who saw a growth industry in the making, local governments have become hooked on the earmark process for funding improvement projects.
>
> They Encourage Spending: While there may not be a causal relationship between the two, the number of earmarks approved each year tracks closely with growth in Federal spending.
>
> They Distort Priorities: Many earmarks do not add new spending by themselves, but instead redirect funds already slated to be spent through competitive grant programs or by states into specific projects favored by an individual member. So, for example, if a member of the Nevada delegation succeeded in getting a $2 million earmark to build a bicycle trail in Elko in 2005, then that $2 million would be taken out of the $254 million allocated to the Nevada Department of Transportation (DOT) for that year. So if Nevada had wanted to spend that money fixing a highway in rapidly expanding Las Vegas, thanks to the earmark, they would now be out of luck.

If we want to show the American public that we are really serious about preventing corruption in Congress than we owe it to the American people to completely ban all earmarks in Congress. Senator TOOMEY's amendment proposes to do just that and I encourage my colleagues to support his amendment.

Mr. TOOMEY. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The Senator from Oklahoma.

Mr. INHOFE. Madam President, I wanted to inquire, is there any time remaining?

The PRESIDING OFFICER. There is no time remaining.

Mr. INHOFE. Madam President, I ask unanimous consent that I be recognized for 1 minute.

The PRESIDING OFFICER. Without objection, so ordered.

Mr. DURBIN. Reserving the right to object. I withdraw that reservation.

Mr. TOOMEY. Madam President, reserving the right to object, if the Senator will grant 1 minute on his amendment, then I will not object.

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

The Senator from Oklahoma.

Mr. INHOFE. Madam President, first of all, I appreciate the opportunity to be heard.

I agree with what the author, Senator TOOMEY, is trying to do in terms of what most people think of as an earmark. The problem is this: You can vote for this if you are voting for and are against all earmarks as it is defined. It depends on how you do it. In the House, it is defined, under their rules, and it has been defined here as any type of appropriation or authorization. I would suggest to you, if you get the Constitution and look up article I, section 9, it says that is what we are supposed to be doing here.

So if I knew that my next amendment would pass, which defines an earmark as an appropriation that has not been authorized, which I know Senator TOOMEY and several others agree would be a good idea, then I would be wholeheartedly in support of this. So obviously we should have had that vote first. So I would vote against this even though I agree with what they are trying to do. But my next amendment is going to be the one that is necessary.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the amendment. This amendment has a 60-vote threshold.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 40, nays 59, as follows:

[Rollcall Vote No. 8 Leg.]

YEAS—40

Ayotte	Graham	Nelson (FL)
Barrasso	Grassley	Paul
Bennet	Hagan	Portman
Boozman	Hatch	Risch
Brown (MA)	Heller	Rubio
Burr	Isakson	Snowe
Chambliss	Johanns	Stabenow
Coats	Johnson (WI)	Thune
Coburn	Kyl	Toomey
Corker	Lee	Udall (CO)
Cornyn	McCain	Vitter
Crapo	McCaskill	Warner
DeMint	McConnell	
Enzi	Moran	

NAYS—59

Akaka	Gillibrand	Murkowski
Alexander	Harkin	Murray
Baucus	Hoeven	Nelson (NE)
Begich	Hutchison	Pryor
Bingaman	Inhofe	Reed
Blumenthal	Inouye	Reid
Blunt	Johnson (SD)	Roberts
Boxer	Kerry	Rockefeller
Brown (OH)	Klobuchar	Sanders
Cantwell	Kohl	Schumer
Cardin	Landrieu	Sessions
Carper	Lautenberg	Shaheen
Casey	Leahy	Shelby
Cochran	Levin	Tester
Collins	Lieberman	Udall (NM)
Conrad	Lugar	Webb
Coons	Manchin	Whitehouse
Durbin	Menendez	Wicker
Feinstein	Merkley	Wyden
Franken	Mikulski	

NOT VOTING—1

Kirk

The PRESIDING OFFICER. Under the previous order, requiring 60 votes for the adoption of this amendment, the amendment is rejected.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1500

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided, with 1 minute controlled by the Senator from Pennsylvania, Mr. TOOMEY, on amendment No. 1500, offered by the Senator from Oklahoma, Mr. INHOFE. This amendment is also subject to a 60-vote threshold.

Mr. INHOFE. Madam President, I have the utmost respect for Senator TOOMEY and what he is trying to do. To me, this amendment is compatible with what he is trying to do. It merely defines an earmark as an appropriation that has not been authorized.

My junior Senator said on the Senate floor a year ago that, in a way that is good, because if a bad earmark comes up, we have two shots at it—one on authorization and one on appropriation. Senator TOOMEY, Senator MCCAIN, and others have been supportive of the idea that we should go back to authorizing.

We have been fighting this battle since 1816, and it is time we end it. This is a way of doing it, merely defining it as an earmark that hasn't been authorized. I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Madam President, I point out that the Constitution doesn't make a distinction between an authorizing committee and an appropriating committee. I don't think we ought to be having the discussion and argument over who gets the earmark and who doesn't. It is the process that is flawed. It is the process that doesn't have the kind of scrutiny and the transparency and is not subject to competition the way it ought to be before taxpayer dollars are spent. So my objection is to this process wherever this occurs in the Senate or the House.

While I respect the intentions of my colleague from Oklahoma, I disagree with him. I suggest a ''no'' vote.

Mr. INHOFE. Madam President, I further say that after the stimulus bill, all of the 102 most egregious votes last year—or earmarks, not one was a congressional earmark. They were all bureaucratic earmarks. If we don't do our constitutional job under article I, section 9 of the Constitution, the President will be doing our job.

The PRESIDING OFFICER. The Senator's time has expired. The question is on agreeing to the amendment.

Mr. INHOFE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 26, nays 73, as follows:

[Rollcall Vote No. 9 Leg.]

YEAS—26

Alexander	Corker	Portman
Begich	Graham	Roberts
Blunt	Hutchison	Sessions
Boxer	Inhofe	Shelby
Brown (MA)	Isakson	Snowe
Casey	Kohl	Stabenow
Chambliss	Kyl	Thune
Cochran	Murkowski	Wicker
Collins	Nelson (FL)	

NAYS—73

Akaka	Conrad	Hoeven
Ayotte	Coons	Inouye
Barrasso	Cornyn	Johanns
Baucus	Crapo	Johnson (SD)
Bennet	DeMint	Johnson (WI)
Bingaman	Durbin	Kerry
Blumenthal	Enzi	Klobuchar
Boozman	Feinstein	Landrieu
Brown (OH)	Franken	Lautenberg
Burr	Gillibrand	Leahy
Cantwell	Grassley	Lee
Cardin	Hagan	Levin
Carper	Harkin	Lieberman
Coats	Hatch	Lugar
Coburn	Heller	Manchin
McCain	Pryor	Toomey
McCaskill	Reed	Udall (CO)
McConnell	Reid	Udall (NM)
Menendez	Risch	Vitter
Merkley	Rockefeller	Warner
Mikulski	Rubio	Webb
Moran	Sanders	Whitehouse
Murray	Schumer	Wyden
Nelson (NE)	Shaheen	
Paul	Tester	

NOT VOTING—1

Kirk

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Mr. President, I ask unanimous consent to vitiate the 60-vote requirement threshold on amendment No. 1471 and amendment No. 1483.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BROWN of Massachusetts. I would also ask unanimous consent to have the yeas and nays by voice vote on amendment No. 1471 and amendment No. 1483 as well.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 1471

Mr. BROWN of Massachusetts. Mr. President, further, before I yield to Senator MCCAIN, I would like to briefly set up amendment No. 1471.

Fannie and Freddie have cost the American taxpayers billions of dollars. This year, they paid exorbitant bonuses to their executives.

I wish to commend Senator MCCAIN for his work on this very important issue and his leadership, and I encourage everybody to vote yes on it.

I now yield to Senator MCCAIN.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I don't have anything more to say. On behalf of myself and Senator ROCKEFELLER, I offer this amendment.

I yield the floor.

Mr. LIEBERMAN. Through the Chair, I was going to ask my friend from Arizona if he is feeling all right.

The PRESIDING OFFICER. The Senator looks just fine.

Mr. LIEBERMAN. He does.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1471) was agreed to.

Mr. BROWN of Massachusetts. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 1483

Mr. LEAHY. Mr. President, am I correct that amendment No. 1483, the Leahy-Cornyn amendment, is next?

The PRESIDING OFFICER. The amendment is now pending.

SECTIONS 205 AND 211

Mr. LEVIN. Mr. President, Senator LEAHY and Senator CORNYN have introduced a rather substantial amendment to the STOCK Act that would strengthen the tools that prosecutors and investigators use to detect and prosecute corruption by public officials. I would like to ask my colleagues a few clarifying questions about how their amendment achieves this laudable goal.

Mr. LEAHY. We would be happy to answer the Senator's questions.

Mr. LEVIN. My first question refers to section 205 of your amendment, covering bribery and graft. What is the purpose of including the phrase ''former public official''? How is it possible to bribe a former public official?

Mr. LEAHY. You cannot bribe a former public official, at least not under the terms of this amendment. Section 205 does ensure that when a public official accepts a bribe in return for taking an official act, the official cannot escape liability by leaving public service before the bribe is received or discovered.

Mr. LEVIN. Under section 205, an ''official act'' can refer to any matter which may ''at any time be pending.'' What prevents this definition from being overbroad and covering matters that a former public official, for example, never anticipated would be pending?

Mr. LEAHY. The former public official must accept the bribe or gratuity ''for or because of'' the official act. If the public official does not know that a matter is pending, the public official cannot accept a bribe ''for or because'' of it.

Mr. LEVIN. Section 205 also refers to an official's ''place of trust and profit.'' What is a ''place of trust and profit''?

Mr. LEAHY. This phrase is in the current bribery and gratuities statute and has been part of the law for decades. Our amendment does not change its definition or the scope of its use. It appears in section 205 because of the way that the amendment is drafted, and it is interpreted consistent with the extensive body of case law on corruption.

Mr. LEVIN. I thank my colleague. Turning to section 211 of your amendment, the ''Prohibition on Undisclosed Self-Dealing By Public Officials,'' what is purpose of codifying this prohibition?

Mr. LEAHY. Without this codification, there is no Federal law prohibiting certain public officials from acting in their own financial interest, at the expense of the public, and in violation of existing State and local law.

Mr. LEVIN. Why is it necessary to make it a Federal crime for a local official to engage in undisclosed self-dealing?

Mr. LEAHY. This is an area where there is a particular Federal interest because if the corrupt official is in State or local law enforcement, there may be no other way to ferret out the corruption. In fact, in Skilling v. United States, the Supreme Court invited Congress to criminalize undisclosed self-dealing in the specific and narrowly tailored way we do today.

Mr. LEVIN. Does this amendment create the potential for arbitrary or politically motivated prosecutions of local officials?

Mr. LEAHY. No, it does not. Criminal liability only attaches when the public official acts with fraudulent intent and does so in knowing violation of existing rules and regulations.

Mr. LEVIN. Why isn't there a magnitude requirement for the financial interest underlying undisclosed self-dealing? If one just reads this section, it appears as though even a trivial, attenuated financial benefit could lead to a violation.

Mr. LEAHY. A trivial, attenuated financial benefit could not lead to this violation because the public official must still act knowingly and with fraudulent intent to receive the benefit, and they must do so in violation of existing law. For example, if State ethics rules do not require disclosure of financial interests below a certain threshold, then undisclosed self-dealing—even with fraudulent intent—below that threshold could not be charged under this statute. Moreover, the amendment requires the public official to act for the purpose of benefiting a financial interest.

Mr. LEVIN. Suppose a local official has not disclosed, as required by a local ordinance, that he owns a home in a targeted improvement district in his county. Then this official votes to install street lights in his town, which lowers crime, improves commerce, and consequently increases the value of his and other homes. Has he committed a Federal offense?

Mr. LEAHY. No, the local official has not committed a Federal offense in the hypothetical you describe. Criminal liability under Federal law only exists if the official knowingly fails to disclose the interest and further intentionally acts to benefit that financial interest and does so with the fraudulent intent required of the mail and wire fraud statute. In the hypothetical you describe, there is no fraud and therefore no criminal activity.

Mr. LEVIN. I thank my colleague for his helpful explanation. There is one more issue I would like to discuss. Section 211 of your amendment includes a definition of ''material information.'' I want to be absolutely clear that this definition is specific to section 211 and is in no way intended to provide any meaning to the phrase ''material information'' as used elsewhere in the STOCK Act or anywhere else in law.

Mr. LEAHY. Senator CORNYN and I worked hard to ensure that our amendment addresses the issue of undisclosed self-dealing in a narrow and precise manner. To make sure there are no ambiguities in the updated honest services statute our amendment creates, we carefully defined the term ''material information'' and made sure we did so in such a way that our definition would apply only to the precise section of the Criminal Code where the new undisclosed self-dealing provision will appear.

Mr. LEVIN. One question that has arisen is whether the definition of ''material information'' in the new Criminal Code section your amendment creates is intended to or could affect other parts of the STOCK Act since the same term also appears in a very different context in other parts of the bill.

Mr. LEAHY. Our definition will have no effect on the term ''material information'' as it appears in other parts of the STOCK Act because it is drafted to apply only to the new Criminal Code provision and not to other criminal laws or the Federal securities laws. On page 12, line 11 of amendment 1483, it says ''definitions—as used in this section:'' and then provides a set of definitions which includes ''material information.'' That provision very clearly applies the definition only to that new Criminal Code section, not to the rest of title 18, to the remainder of the STOCK Act, or to Federal securities law. In fact, this language was drawn from S. 401, the Leahy-Cornyn Public Corruption Prosecutions Improvement Act, and it is the legislative history of that bill and not that of the STOCK Act, that will apply when our amendment is interpreted.

Mr. LEVIN. I thank the Senator for that clarification. In addition to the precise wording of amendment 1483 and clear congressional intent that the phrase used in the new Criminal Code section not be imported to Federal securities law, the definition actually used in your amendment has no applicability or relevance to the materiality considerations that arise in insider trading cases.

I ask Senator CORNYN, does he agree with Senator LEAHY regarding our discussion of the amendment?

Mr. CORNYN. I agree.

Mr. LEVIN. I thank both of my colleagues for working with me to address my questions about the Leahy-Cornyn amendment.

Mr. COBURN. Mr. President, I rise to express my concerns about amendment No. 1483 to the STOCK Act. While we all oppose public corruption and recognize the need for tough laws in this area, I believe this amendment may blur the line between innocent behavior and criminal public corruption offenses. This amendment expands the Federal criminal gratuities statute to cover the gift of anything of value, over $1,000, that is given to a public official simply because of their status as a public official. A unanimous Supreme Court in United States v. Sun-Diamond Growers of California interpreted the honest services law to require the government to actually prove a link between the thing of value given and the specific act. The Court said the thing of value must be given ''for or because

of'' an official act. I am concerned that expanding the crime to include items given merely on the basis of the public official's status goes too far and criminalizes some legitimate conduct.

However, my primary concern with this amendment is the section that gives the Federal Government the authority to interpret, prosecute, and enforce State and local laws. I believe this provision violates the basic principles of federalism embodied in our Constitution. Amendment No. 1483 expands the definition of ''scheme or artifice to defraud'' in Federal criminal law to include the ''undisclosed self-dealing'' of an ''officer, employee, or elected or appointed representative, or person acting for or on behalf of the United States, a State, or a subdivision of a State, or any department, agency or branch of government.'' The amendment defines ''undisclosed self-dealing'' as an official act that furthers or benefits a financial interest of the official or certain family members and associates of the official. Undisclosed self-dealing also occurs when the official knowingly falsifies, conceals, or covers up material information that is required to be disclosed by any Federal, State, or local statute, rule, regulation, or charter or the knowing failure to disclose material information in a manner that is required by a Federal, State, or local statute, rule, regulation, or charter. Thus, this provision makes it a Federal crime for a State or local official to fail to comply with a State or local law, including the mere filing requirements of State or locality. This provision gives the Federal Government the power to enforce State and local laws.

I do not believe our Founders intended for Federal prosecutors to be able to bring Federal criminal cases against State or local officials based on that official allegedly breaking or failing to comply with a State or local law, and the Founders did not intend for Federal judges and Federal courts to be interpreting the State or local laws, expect in limited circumstances. Corruption of State and local officials is a serious problem, but it is not the Federal Government's problem to solve. For these other reasons, I oppose this amendment in its current form.

Mr. LEAHY. Mr. President, the Leahy-Cornyn amendment is drawn from our Public Corruption Prosecution Improvements Act. Our bill has been supported by the United States Department of Justice in a March 2009 letter, and this amendment is supported by the National Taxpayers Union, the FBI Agents Association, the National Association of Assistant United States Attorneys, the nonpartisan Campaign Legal Center, the League of Women Voters, Citizens for Responsibility and Ethics in Washington, Common Cause, and Democracy 21. I am working with Senator CORNYN, the lead Republican cosponsor of our bill and this amendment. We thank Senators CASEY and KIRK for cosponsoring this amendment.

This amendment will provide investigators and prosecutors with the tools they need to hold officials at all levels of government accountable when they act corruptly by closing legal loopholes. This amendment, which reflects a bipartisan, bicameral agreement, will strengthen and clarify key aspects of Federal criminal law and help investigators and prosecutors attack public corruption nationwide. The Senate Judiciary Committee has now reported this bill with bipartisan support in three successive Congresses. The House Judiciary Committee recently reported a companion bill unanimously. It is time for Congress to act to pass serious anti-corruption legislation.

Importantly, the amendment includes a fix to reverse a major step backward in the fight against fraud and corruption. In Skilling v. United States, the Supreme Court sided with a former executive from Enron and greatly narrowed the honest services fraud statute, a law that has been used for decades as a crucial weapon to combat public corruption and self-dealing. The Court's decision leaves corrupt conduct unchecked. Most notably, the Court's decision would leave open the opportunity for state and Federal public officials to secretly act in their own financial self-interest, rather than in the interest of the public. This amendment closes this gaping hole in our anti-corruption laws.

The amendment includes several other provisions designed to tighten existing law. It fixes the gratuities statute to make clear that public officials must not be bought. It reaffirms that public officials may not accept anything worth more than $1,000, other than what is permitted by existing rules and regulations, given to them because of their official position. It strengthens key sentences and gives prosecutors and investigators time to make complex and difficult cases.

As a former State prosecutor, I am sensitive to the dangers of creating too many Federal crimes. In the area of public corruption, however, sometimes it is only the Federal government that can effectively pursue complex corruption matters. Conflicts and relationships can make it difficult for State and local law enforcement, and these matters can require extensive resources that cannot be diverted from hard-pressed local budgets. This Federal law stands as a backstop to help ensure against public corruption.

I also know how important it is that our criminal laws be fair and precise, giving sufficient notice to those who may break the law. It is in that spirit that Senator CORNYN and I, working with Congressmen SENSENBRENNER and QUIGLEY, have refined this legislation. We have made it careful and precise and built in important safeguards. This amendment will only target corrupt conduct.

Right now, a mayor who takes a $1,000 payment to award a contract to a specific company can be prosecuted for corruption, but a mayor who conceals his interest in a company, awards a contract, and secretly makes $1 million out of the deal likely cannot be prosecuted. A contracting officer who accepts thousands of dollars in gifts from a frequent bidder hoping for favorable treatment on some unspecified future contract likely cannot be prosecuted. The Department of Justice has been dismissing counts and cases because of these gaps in the law. It is time to fix them.

If we are serious about addressing the kinds of egregious misconduct that we have witnessed in recent years in high-profile public corruption cases, Congress should enact meaningful legislation to give investigators and prosecutors the tools they need to enforce our laws. Public corruption erodes the faith the American people have in those who are given the privilege of public service. This amendment will help us to take real steps to restore confidence in government by rooting out criminal corruption.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I hope our colleagues will support this amendment that Senator LEAHY and I have worked on. This is an expansion of our Public Corruption and Prosecution Improvements Act which passed the Judiciary Committee last year.

Mr. President, I am proud to co-sponsor this important amendment with Senator PATRICK LEAHY, the distinguished chairman of the Judiciary Committee.

Our amendment is drawn from bipartisan, bicameral legislation—including our Public Corruption Prosecution Improvements Act, which passed the Judiciary Committee last year.

Public corruption is not a Republican or Democratic problem. It is a Washington, DC, problem. And it is a problem in statehouses and city halls across this country. Our citizens deserve to be governed by the rule of law, not the rule of man. Unfortunately, human nature being what it is, a few rotten apples have a tendency to spoil the bunch.

The amendment we will vote on today will strengthen the enforcement of U.S. Federal laws aimed at combating betrayals of public dollars and the public trust. Our amendment does this by making clarifications to public corruption laws and by giving prosecutors precise tools to use in their battle against corrupt officials.

Our amendment increases the maximum punishments on several offenses, including theft and embezzlement of federal funds, bribery, and a number of corrupt campaign contribution practices. For example, it cracks down on theft or bribery related to entities that receive Federal funds, by increasing the maximum sentence for a conviction from 10 to 15 years and lowering the threshold that prosecutors must prove, from $5,000 to $1,000.

It also clarifies the law in response to several court decisions narrowly interpreting the public corruption statutes. For example, the bill revises the definitions of ''illegal gratuities'' and ''official acts,'' clarifying that an entire ''course of conduct'' can be the result of bribery.

Federal investigators who seek to root out corrupt officials will benefit from new tools provided in this legislation. The bill would extend the statute of limitations on certain serious public corruption offenses, giving prosecutors more time to investigate and build a case.

And it expands the criminal venue provisions, allowing prosecutors to bring the case against corrupt officials in any district where some part of the corruption occurred. The bill similarly expands the venue for perjury and obstruction of justice.

I would like to take a minute or two to address concerns that I have heard, including from some on my side of the aisle.

One criticism I have heard is that this legislation ignores federalism principles.

This concern is directed at a portion of the amendment clarifying that the mail and wire fraud statute applies to any public official who uses the interstate mails or wires to advance a fraudulent scheme involving illegally undisclosed self-dealing.

The Supreme Court has interpreted the mail and wire fraud statutes more narrowly—asking that Congress clarify the definition of illegally undisclosed self-dealing.

Under this amendment, the Federal government would only be able to prosecute State officials where they can show, beyond a reasonable doubt, that the State official in question had knowingly or intentionally violated relevant State laws concerning the disclosure of material financial interests.

In other words, this legislation expressly defers to the States to determine what financial disclosures their public officials should be required to make.

Additionally, this provision would require the Federal government to show that the State official in question had engaged in an official act for the material purpose of benefitting the illegally concealed financial interest that they knowingly or intentionally failed to disclose.

Finally, the Federal government would have to show that the course of conduct included a constitutionally-sufficient federal nexus via use of the interstate mails or wires to perpetrate the fraud.

As for federalism principles generally, it is important to note that, under current law, the Federal government still has the authority to prosecute corrupt State officials for bribery and kickback schemes under the mail and wire fraud statutes.

This amendment simply updates and clarifies the honest services fraud statute to reach corrupt conduct—i.e., undisclosed self-dealing—that Congress intended to be part of the criminal law.

Some opponents of this amendment believe that we should repeal portions of current law so that the Federal government has no role whatsoever in rooting out public corruption at the State and local level. I fundamentally disagree.

Consider the all-too-common case of a corrupt State governor or State judge that local prosecutors are loathe to indict—or even investigate—for fear of reprisal.

Finally, I have heard some ask: Would this legislation criminalize the giving of baseball caps, jerseys, or other ceremonial gifts to Members of Congress?

The answer is very simple: No, it would not.

First, the amendment would only apply to status gratuities worth more than $1,000. Second, the amendment would also require prosecutors to prove that the government official in question knowingly accepted the illegal gratuity in violation of the relevant ethics rules or regulations governing their conduct.

I urge my colleagues to support the amendment. I look forward to engaging with any of my colleagues who have concerns or questions.

I thank Chairman LEAHY for his leadership on this and other legislation we have crafted together. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I wish to briefly thank the Senators from Vermont and Texas for this amendment. It strengthens the bill, as does the preceding amendment offered by Senator MCCAIN, and I urge its adoption.

The PRESIDING OFFICER. The question is agreeing to the amendment.

The amendment (No. 1483) was agreed to.

AMENDMENT NO. 1473

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Coburn amendment.

The Senator from Oklahoma.

Mr. COBURN. This is a simple, bipartisan amendment, and we have voted on an identical amendment before, 63 yeas, 33 nays. My colleague, the Senator from Colorado, has been gracious enough to support this amendment. This is straightforward. We just need to know what we are doing when we do it. It requires the CRS to show us if we have duplicated anything before a bill comes before the Senate.

I yield to my colleague from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I rise in support of amendment No. 1473. Senator COBURN and I have introduced this critical amendment to curb Congressional temptations to create more programs, laws and regulations, without first analyzing what already exists. Senator HATCH and I have also introduced legislation to create an official ''Unauthorizing Committee'' that would reinstitute a committee in Congress to rid our government of outdated and ineffective laws.

In the next few weeks, the GAO will release a report showing the extent of the wasteful and duplicative programs in the federal government. It shows that too often Congress focuses on creating new programs and regulations while neglecting our important role of overseeing and reforming existing laws. Our amendment would require that any new bill that is reported from committee contain an analysis from the Congressional Research Service determining if the bill creates any new federal program, office, or initiative that would overlap existing programs. Opponents worry that this amendment will slow the legislative process, but I believe that we must first pursue informed legislating and efficient government.

Senator COBURN and I don't always agree on the reach of government and the investments we ought to make, but we agree that our government ought to be smart, it ought to be efficient, and we shouldn't have duplication. This amendment would see us to that goal. Sixty-three of us voted for this amendment last year. Let's get 63 votes and more.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I respectfully oppose the amendment put in by my two friends. This would amend the Senate rules to make it out of order for the Senate to proceed to any bill or joint resolution unless the committee of jurisdiction has posted on its Web site a CRS analysis of whether the bill would create a new program, office, or initiative that duplicates or overlaps an existing one. So it sounds pretty good on the surface, but there are two problems. One is that CRS tells us it would be hard-pressed to carry out this responsibility, certainly in a timely manner. The second results from the first, which is that this would be another way to slow legislation because it did not yet have the CRS analysis.

A final point is this: The committees of jurisdiction ought to be making their own judgment and probably know better than CRS whether they are creating a new program that duplicates or overlaps an existing one.

So, respectfully, I would urge a ''no'' vote.

Mr. COBURN. Mr. President, I ask unanimous consent for an additional 30 seconds.

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

Mr. COBURN. I have the greatest respect for my chairman on homeland security. I love him dearly.

GAO has already told us we are not doing our job. The first study of the Federal Government showed $100 billion worth of duplication. The second

study is coming. CRS will have this easy because GAO will have already shown them where all the duplication is.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. COBURN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

This amendment does require a two-thirds threshold.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

The yeas and nays resulted—yeas 60, nays 39, as follows:

[Rollcall Vote No. 10 Leg.]

YEAS—60

Alexander	Graham	Murkowski
Ayotte	Grassley	Nelson (NE)
Barrasso	Hatch	Nelson (FL)
Begich	Heller	Paul
Bennet	Hoeven	Portman
Blunt	Hutchison	Pryor
Boozman	Inhofe	Risch
Brown (MA)	Isakson	Roberts
Burr	Johanns	Rubio
Casey	Johnson (WI)	Sessions
Chambliss	Klobuchar	Shelby
Coats	Kyl	Snowe
Coburn	Lee	Stabenow
Cochran	Lugar	Tester
Collins	Manchin	Thune
Corker	McCain	Toomey
Cornyn	McCaskill	Udall (CO)
Crapo	McConnell	Vitter
DeMint	Merkley	Warner
Enzi	Moran	Wicker

NAYS—39

Akaka	Franken	Menendez
Baucus	Gillibrand	Mikulski
Bingaman	Hagan	Murray
Blumenthal	Harkin	Reed
Boxer	Inouye	Reid
Brown (OH)	Johnson (SD)	Rockefeller
Cantwell	Kerry	Sanders
Cardin	Kohl	Schumer
Carper	Landrieu	Shaheen
Conrad	Lautenberg	Udall (NM)
Coons	Leahy	Webb
Durbin	Levin	Whitehouse
Feinstein	Lieberman	Wyden

NOT VOTING—1

Kirk

The PRESIDING OFFICER. On this vote the yeas are 60, the nays are 39. Two thirds of the Senators voting not having voted in the affirmative, the amendment is rejected.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1488

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1488, offered by the Senator from South Carolina, Mr. DEMINT. This amendment is subject to a 60-vote threshold.

Mr. DEMINT. Mr. President, it is unfortunate that the actions of a few make it necessary for us to create more rules for the many honest people who serve in Congress, but we must reassure Americans that we are here to serve them and not ourselves. Congressmen and Senators have lots of power and we know that power corrupts. The longer we stay in office the more power we have. Unfortunately, we have seen that power, over a period of time, creates more opportunity and temptation for us to benefit ourselves rather than our constituents.

All of the cases of corruption and bribery I have seen unfortunately come from more senior Members. No offense to my senior Members, please. But this is one of many reasons why we should have term limits in Congress.

My amendment is not a statute. It is a sense of the Senate that says we should have some form of constitutional limit on our terms in office. We are not specific in the number of years, the number of terms. It is a sense of the Senate that we should have some limit on the amount of time we serve. I encourage my colleagues to at least support this and get the debate started.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, for some Members of Congress, 2 years in office is too long. For some Members of Congress, 20 years in office is not long enough. Who should make that decision? The Constitution in its wisdom says the voters of America make that decision. Let's stand by that Constitution and its language and defeat this sense-of-the-Senate resolution.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 24, nays 75, as follows:

[Rollcall Vote No. 11 Leg.]

YEAS—24

Ayotte	Grassley	Moran
Blunt	Hatch	Paul
Boozman	Heller	Portman
Brown (MA)	Hutchison	Rubio
Coburn	Johanns	Sessions
Corker	Johnson (WI)	Thune
DeMint	Lee	Toomey
Graham	Manchin	Vitter

NAYS—75

Akaka	Cantwell	Crapo
Alexander	Cardin	Durbin
Barrasso	Carper	Enzi
Baucus	Casey	Feinstein
Begich	Chambliss	Franken
Bennet	Coats	Gillibrand
Bingaman	Cochran	Hagan
Blumenthal	Collins	Harkin
Boxer	Conrad	Hoeven
Brown (OH)	Coons	Inhofe
Burr	Cornyn	Inouye
Isakson	McConnell	Sanders
Johnson (SD)	Menendez	Schumer
Kerry	Merkley	Shaheen
Klobuchar	Mikulski	Shelby
Kohl	Murkowski	Snowe
Kyl	Murray	Stabenow
Landrieu	Nelson (NE)	Tester
Lautenberg	Nelson (FL)	Udall (CO)
Leahy	Pryor	Udall (NM)
Levin	Reed	Warner
Lieberman	Reid	Webb
Lugar	Risch	Whitehouse
McCain	Roberts	Wicker
McCaskill	Rockefeller	Wyden

NOT VOTING—1

Kirk

THE PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is rejected.

AMENDMENT NO. 1493

Under the previous order, there will be 2 minutes of debate, equally divided, prior to a vote in relation to amendment No. 1493 offered by the Senator from Iowa. This amendment is subject to a 60-vote threshold.

The Senator from Iowa.

Mr. GRASSLEY. This is a good government amendment. Similar to the underlying piece of legislation, it is a good government amendment. The manager is going to tell you it ought to be studied a little bit longer. We have gone for far too long not having enough transparency in government. What my amendment does is it takes these people whom you call political intelligence professionals and has them register just like every lobbyist registers, so it is totally transparent when these people come around to get information from you that they sell to hedge funds. You will know who they are. You don't know that now, and transparency in government is very important if you want accountability.

For the Senators and their staffs who have to abide by these laws, they want to make sure they are not doing anything unethical. They have to know who these people are. They can come around and ask us questions. I don't know how many times each of us has maybe been caught up in this. You give them information, and they have information that people don't have on Wall Street and they sell it. We ought to know what we are being used for, and this gives identity to these people. So I want these people registered like lobbyists.

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

Mr. LIEBERMAN. Mr. President, there may be a problem.

Mr. GRASSLEY. There is a problem.

Mr. LIEBERMAN. But this amendment doesn't fix it. In the bill before the committee, there was a provision to bring so-called political intelligence under the Lobbying Disclosure Act. Political intelligence is defined as information which is intended for use in analyzing securities or commodity markets or information investment decisions, but what does that mean? Does it apply to a retailer who wants to open new stores and calls the Armed

Services Committee to see whether there is a base that is going to be built in a particular neighborhood? Some would say yes; some would say no. Violation of the Lobbying Disclosure Act carries civil and criminal penalties. We just felt we wanted to get the anti-insider trading provision out quickly and study this more. The bill calls for a GAO study.

Senator COLLINS and I announced we are going to hold a hearing on this question. We need a little more time to do it thoughtfully. We are ultimately dealing with first-amendment rights, and we ought not to legislate until we are prepared to do so in a reasonable way.

I ask my colleagues to oppose this amendment.

Mr. GRASSLEY. Do I have time to tell the Senators not to vote for Wall Street, vote for my amendment?

The PRESIDING OFFICER. There is no time. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 12 Leg.]

YEAS—60

Ayotte	Graham	Moran
Barrasso	Grassley	Murkowski
Begich	Hatch	Murray
Bennet	Heller	Nelson (FL)
Blunt	Hoeven	Paul
Boozman	Hutchison	Portman
Brown (OH)	Inhofe	Reed
Cantwell	Isakson	Roberts
Cardin	Johnson (WI)	Rubio
Carper	Kerry	Sanders
Casey	Klobuchar	Sessions
Chambliss	Kohl	Shelby
Coats	Lautenberg	Snowe
Coburn	Leahy	Stabenow
Corker	Lugar	Tester
DeMint	Manchin	Thune
Enzi	McCain	Udall (CO)
Feinstein	McCaskill	Whitehouse
Franken	Menendez	Wicker
Gillibrand	Merkley	Wyden

NAYS—39

Akaka	Crapo	Mikulski
Alexander	Durbin	Nelson (NE)
Baucus	Hagan	Pryor
Bingaman	Harkin	Reid
Blumenthal	Inouye	Risch
Boxer	Johanns	Rockefeller
Brown (MA)	Johnson (SD)	Schumer
Burr	Kyl	Shaheen
Cochran	Landrieu	Toomey
Collins	Lee	Udall (NM)
Conrad	Levin	Vitter
Coons	Lieberman	Warner
Cornyn	McConnell	Webb

NOT VOTING—1

Kirk

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is agreed to.

AMENDMENT NO. 1481

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1481, as modified, offered by the Senator from Ohio, Mr. BROWN. This amendment is subject to a 60-vote threshold.

The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, the amendment Senator MERKLEY and I have proposed would require all Senators and their senior staff to sell individual stocks that create conflicts or to place their investments in blind trusts. You can still invest in broad-based mutual funds. You can keep your ownership interest in your family farm or small business.

If you are setting up a blind trust, you can instruct the trustee to hold on to your stock in your family company.

Current Senate ethics rules require committee staff making more than $25,000 a year to ''divest [themselves] of any substantial holdings which may be directly affected by the actions of the committee for which [they work].''

All Senator MERKLEY and I are saying is, Members of the Senate should hold ourselves to the same standard we already require of our committee staff and executive branch employees.

As Senator MERKLEY said, baseball players cannot bet on their games. We should not be able to hold stock in individual companies and then vote on issues that affect our holdings.

I ask for a ''yes'' vote.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I yield half of the time in opposition to Senator TOOMEY.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I thank the Senator from Maine.

I disagree with the fundamental premise of this amendment. I do not think we should all be forced to divest ourselves of all of our holdings. But I think it is worse than it was characterized by my friend from Ohio—worse in the sense that, as I read the definition of the securities that would be covered and as the securities attorneys have advised us on this—we would be required to divest ourselves even of our investment in a small family-owned business, a business that, perhaps, has absolutely no market whatsoever for the equity, and we would, nevertheless, be forced to sell that where there is no buyer.

I think that is a very unreasonable standard, so I would urge a ''no'' vote on this amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to oppose the amendment. This amendment would take Congress from where we have always been and are going to be after this law passes. In pursuit of disclosure and transparency, sunshine is the best guarantee of integrity. This would be the first time I am aware of that in the legislative branch we would require divestment of personal holdings. For that reason, I oppose the amendment.

Remember, in the underlying bill we have increased the public's access to information about our holdings and our transactions. Ultimately, that knowledge ought to be enough to guarantee the public or to energize the public to make sure we are following the highest ethical norms. Divestment, in my opinion, is a step too far.

Ms. COLLINS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 26, nays 73, as follows:

[Rollcall Vote No. 13 Leg.]

YEAS—26

Blumenthal	Klobuchar	Sanders
Brown (MA)	Levin	Shaheen
Brown (OH)	Manchin	Snowe
Carper	McCaskill	Stabenow
Casey	Menendez	Udall (CO)
Franken	Merkley	Udall (NM)
Heller	Murkowski	Whitehouse
Hutchison	Pryor	Wyden
Kerry	Reed	

NAYS—73

Akaka	Durbin	McConnell
Alexander	Enzi	Mikulski
Ayotte	Feinstein	Moran
Barrasso	Gillibrand	Murray
Baucus	Graham	Nelson (NE)
Begich	Grassley	Nelson (FL)
Bennet	Hagan	Paul
Bingaman	Harkin	Portman
Blunt	Hatch	Reid
Boozman	Hoeven	Risch
Boxer	Inhofe	Roberts
Burr	Inouye	Rockefeller
Cantwell	Isakson	Rubio
Cardin	Johanns	Schumer
Chambliss	Johnson (SD)	Sessions
Coats	Johnson (WI)	Shelby
Coburn	Kohl	Tester
Cochran	Kyl	Thune
Collins	Landrieu	Toomey
Conrad	Lautenberg	Vitter
Coons	Leahy	Warner
Corker	Lee	Webb
Cornyn	Lieberman	Wicker
Crapo	Lugar	
DeMint	McCain	

NOT VOTING—1

Kirk

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment, as modified, is rejected.

Under the previous order, the substitute amendment, as amended, is agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, there will now be 2

minutes of debate equally divided prior to a vote on passage.

Mr. LIEBERMAN. Mr. President, this has been a good, open process. We had a good bill that came in. We made it better. I yield back the remainder of my time.

Ms. COLLINS. Mr. President, I am pleased to have joined Chairman LIEBERMAN in helping bring this important bill to passage today.

I would also like to single out Senator SCOTT BROWN of Massachusetts, who was the first Member of this body to introduce legislation on this topic. His leadership in tirelessly moving this bill forward has been indispensable.

Today, we confirm that Members of Congress are not exempt from the country's insider trading laws. We have sent a strong message to the American people that we affirm that we come to Washington for public service, and not for private gain.

We have added several amendments today which I believe strengthened the bill's focus on transparency. We have also extended several of its provisions to encompass all branches of the Federal Government.

Again, I thank my colleagues for their hard work on the bill. And my thanks to our hard-working staff.

The PRESIDING OFFICER. The question is on passage of the bill, as amended.

Mr. CARDIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 14 Leg.]

YEAS—96

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

NAYS—3

Bingaman	Burr	Coburn

NOT VOTING—1

Kirk

The bill (S. 2038), as amended, was passed, as follows:

S. 2038

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Stop Trading on Congressional Knowledge Act of 2012'' or the ''STOCK Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MEMBER OF CONGRESS.—The term ''Member of Congress'' means a member of the Senate or House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

(2) EMPLOYEE OF CONGRESS.—The term ''employee of Congress'' means—

(A) an employee of the Senate; or

(B) an employee of the House of Representatives.

(3) EXECUTIVE BRANCH EMPLOYEE.—The term ''executive branch employee''—

(A) has the meaning given the term ''employee'' under section 2105 of title 5, United States Code; and

(B) includes—

(i) the President;

(ii) the Vice President; and

(iii) an employee of the United States Postal Service or the Postal Regulatory Commission.

(4) JUDICIAL OFFICER.—The term ''judicial officer'' has the meaning given that term under section 109(10) of the Ethics in Government Act of 1978.

SEC. 3. PROHIBITION OF THE USE OF NONPUBLIC INFORMATION FOR PRIVATE PROFIT.

The Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives shall issue interpretive guidance of the relevant rules of each chamber, including rules on conflicts of interest and gifts, clarifying that a Member of Congress and an employee of Congress may not use nonpublic information derived from such person's position as a Member of Congress or employee of Congress or gained from the performance of such person's official responsibilities as a means for making a private profit.

SEC. 4. PROHIBITION OF INSIDER TRADING.

(a) AFFIRMATION OF NON-EXEMPTION.—Members of Congress and employees of Congress are not exempt from the insider trading prohibitions arising under the securities laws, including section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder.

(b) DUTY.—

(1) PURPOSE.—The purpose of the amendment made by this subsection is to affirm a duty arising from a relationship of trust and confidence owed by each Member of Congress and each employee of Congress.

(2) AMENDMENT.—Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1) is amended by adding at the end the following:

''(g) DUTY OF MEMBERS AND EMPLOYEES OF CONGRESS.—

''(1) IN GENERAL.—For purposes of the insider trading prohibitions arising under the securities laws, including section 10(b) and Rule 10b–5 thereunder, each Member of Congress or employee of Congress owes a duty arising from a relationship of trust and confidence to the Congress, the United States Government, and the citizens of the United States with respect to material, nonpublic information derived from such person's position as a Member of Congress or employee of Congress or gained from the performance of such person's official responsibilities.

''(2) DEFINITIONS.—In this subsection—

''(A) the term 'Member of Congress' means a member of the Senate or House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico; and

''(B) the term 'employee of Congress' means—

''(i) an employee of the Senate; or

''(ii) an employee of the House of Representatives.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to impair or limit the construction of the existing antifraud provisions of the securities laws or the authority of the Commission under those provisions.''.

SEC. 5. CONFORMING CHANGES TO THE COMMODITY EXCHANGE ACT.

Section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) is amended—

(1) in paragraph (3), in the matter preceding subparagraph (A)—

(A) by inserting ''or any Member of Congress or employee of Congress (defined in this subsection as those terms are defined in section 2 of the Stop Trading on Congressional Knowledge Act of 2012)'' after ''Federal Government,'' the first place it appears;

(B) by inserting ''Member,'' after ''position of the''; and

(C) by inserting ''or by Congress'' before ''in a manner''; and

(2) in paragraph (4)—

(A) in subparagraph (A), in the matter preceding clause (i)—

(i) by inserting ''or any Member of Congress or employee of Congress'' after ''Federal Government,'' the first place it appears;

(ii) by inserting ''Member,'' after ''position of the''; and

(iii) by inserting ''or by Congress'' before ''in a manner'';

(B) in subparagraph (B), in the matter preceding clause (i), by inserting ''or any Member of Congress or employee of Congress'' after ''Federal Government,''; and

(C) in subparagraph (C)—

(i) in the matter preceding clause (i), by inserting ''or by Congress''—

(I) before ''that may affect''; and

(II) before ''in a manner''; and

(ii) in clause (iii), by inserting ''to Congress, or any Member of Congress or employee of Congress'' after ''Federal Government''.

SEC. 6. PROMPT REPORTING OF FINANCIAL TRANSACTIONS.

(a) REPORTING REQUIREMENT.—Section 101 of the Ethics in Government Act of 1978 is amended by adding at the end the following subsection:

''(j) Not later than 30 days after any transaction required to be reported under section 102(a)(5)(B), the following persons, if required to file a report under any other subsection of this section subject to any waivers and exclusions, shall file a report of the transaction:

''(1) A Member of Congress.

''(2) An officer or employee of Congress required to file a report under this section.

''(3) The President.

''(4) The Vice President.

''(5) Each employee appointed to a position in the executive branch, the appointment to which requires advice and consent of the Senate, except for—

''(A) an individual appointed to a position—

''(i) as a Foreign Service Officer below the rank of ambassador; or

''(ii) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O–6 or below; or

''(B) a special government employee, as defined under section 202 of title 18, United States Code.

''(6) Any employee in a position in the executive branch who is a noncareer appointee in the Senior Executive Service (as defined under section 3132(a)(7) of title 5, United States Code) or a similar personnel system for senior employees in the executive branch, such as the Senior Foreign Service, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public's confidence in the integrity of the Government.

''(7) The Director of the Office of Government Ethics.

''(8) Any civilian employee, not described in paragraph (5), employed in the Executive Office of the President (other than a special government employee) who holds a commission of appointment from the President.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions occurring on or after the date that is 90 days after the date of enactment of this Act.

SEC. 7. REPORT ON POLITICAL INTELLIGENCE ACTIVITIES.

(a) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Congressional Research Service, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform and the Committee on the Judiciary of the House of Representatives a report on the role of political intelligence in the financial markets.

(2) CONTENTS.—The report required by this section shall include a discussion of—

(A) what is known about the prevalence of the sale of political intelligence and the extent to which investors rely on such information;

(B) what is known about the effect that the sale of political intelligence may have on the financial markets;

(C) the extent to which information which is being sold would be considered non-public information;

(D) the legal and ethical issues that may be raised by the sale of political intelligence;

(E) any benefits from imposing disclosure requirements on those who engage in political intelligence activities; and

(F) any legal and practical issues that may be raised by the imposition of disclosure requirements on those who engage in political intelligence activities.

(b) DEFINITION.—For purposes of this section, the term ''political intelligence'' shall mean information that is—

(1) derived by a person from direct communications with an executive branch employee, a Member of Congress, or an employee of Congress; and

(2) provided in exchange for financial compensation to a client who intends, and who is known to intend, to use the information to inform investment decisions.

SEC. 8. PUBLIC FILING AND DISCLOSURE OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF.

(a) PUBLIC, ON-LINE DISCLOSURE OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF.—

(1) IN GENERAL.—Not later than August 31, 2012, or 90 days after the date of enactment of this Act, whichever is later, the Secretary of the Senate and the Sergeant at Arms of the Senate, and the Clerk of the House of Representatives, shall ensure that financial disclosure forms filed by Members of Congress, officers of the House and Senate, candidates for Congress, and employees of the Senate and the House of Representatives in calendar year 2012 and in subsequent years pursuant to title I of the Ethics in Government Act of 1978 are made available to the public on the respective official websites of the Senate and the House of Representatives not later than 30 days after such forms are filed.

(2) EXTENSIONS.—The existing protocol allowing for extension requests for financial disclosures shall be retained. Notices of extension for financial disclosure shall be made available electronically under this subsection along with its related disclosure.

(3) REPORTING TRANSACTIONS.—In the case of a transaction disclosure required by section 101(j) of the Ethics in Government Act of 1978, as added by this Act, such disclosures shall be filed not later than 30 days after the transaction. Notices of extension for transaction disclosure shall be made available electronically under this subsection along with its related disclosure.

(4) EXPIRATION.—The requirements of this subsection shall expire upon implementation of the public disclosure system established under subsection (b).

(b) ELECTRONIC FILING AND ON-LINE PUBLIC AVAILABILITY OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS, OFFICERS OF THE HOUSE AND SENATE, AND CONGRESSIONAL STAFF.—

(1) IN GENERAL.—Subject to paragraph (6) and not later than 18 months after the date of enactment of this Act, the Secretary of the Senate and the Sergeant at Arms of the Senate and the Clerk of the House of Representatives shall develop systems to enable—

(A) electronic filing of reports received by them pursuant to section 103(h)(1)(A) of title I of the Ethics in Government Act of 1978; and

(B) public access to financial disclosure reports filed by Members of Congress, Officers of the House and Senate, candidates for Congress, and employees of the Senate and House of Representatives, as well as reports of a transaction disclosure required by section 101(j) of the Ethics in Government Act of 1978, as added by this Act, notices of extensions, amendments and blind trusts, pursuant to title I of the Ethics in Government Act of 1978 through databases that—

(i) are maintained on the official websites of the House of Representatives and the Senate; and

(ii) allow the public to search, sort and download data contained in the reports.

(2) LOGIN.—No login shall be required to search or sort the data contained in the reports made available by this subsection. A login protocol with the name of the user shall be utilized by a person downloading data contained in the reports. For purposes of filings under this section, section 105(b)(2) of the Ethics in Government Act of 1978 does not apply.

(3) PUBLIC AVAILABILITY.—Pursuant to section 105(b)(1) of title I of the Ethics in Government Act of 1978, electronic availability on the official websites of the Senate and the House of Representatives under this subsection shall be deemed to have met the public availability requirement.

(4) FILERS COVERED.—Individuals required under the Ethics in Government Act of 1978 or the Senate Rules to file financial disclosure reports with the Secretary of the Senate or the Clerk of the House shall file reports electronically using the systems developed by the Secretary of the Senate, the Sergeant at Arms of the Senate, and the Clerk of the House.

(5) EXTENSIONS.—The existing protocol allowing for extension requests for financial disclosures shall be retained for purposes of this subsection. Notices of extension for financial disclosure shall be made available electronically under this subsection along with its related disclosure.

(6) ADDITIONAL TIME.—The requirements of this subsection may be implemented after the date provided in paragraph (1) if the Secretary of the Senate or the Clerk of the House identify in writing to relevant congressional committees an additional amount of time needed.

(c) RECORDKEEPING.—Section 105(d) of the Ethics in Government Act of 1978 is amended to read as follows:

''(d)(1) Any report filed with or transmitted to an agency or supervising ethics office or to the Clerk of the House of Representatives or the Secretary of the Senate pursuant to this title shall be retained by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be.

''(2) Such report shall be made available to the public—

''(A) in the case of a Member of Congress until a date that is 6 years from the date the individual ceases to be a Member of Congress; and

''(B) in the case of all other reports filed pursuant to this title, for a period of six years after receipt of the report.

''(3) After the relevant time period identified under paragraph (2), the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation or inquiry.''.

SEC. 9. OTHER FEDERAL OFFICIALS.

(a) PROHIBITION OF THE USE OF NONPUBLIC INFORMATION FOR PRIVATE PROFIT.—

(1) EXECUTIVE BRANCH EMPLOYEES.—The Office of Government Ethics shall issue such interpretive guidance of the relevant Federal ethics statutes and regulations, including the Standards of Ethical Conduct for executive branch employees, related to use of nonpublic information, as necessary to clarify that no executive branch employee may use non-public information derived from such person's position as an executive branch employee or gained from the performance of such person's official responsibilities as a means for making a private profit.

(2) JUDICIAL OFFICERS.—The Judicial Conference of the United States shall issue such interpretive guidance of the relevant ethics rules applicable to Federal judges, including the Code of Conduct for United States Judges, as necessary to clarify that no judicial officer may use non-public information derived from such person's position as a judicial officer or gained from the performance of such person's official responsibilities as a means for making a private profit.

(b) APPLICATION OF INSIDER TRADING LAWS.—

(1) AFFIRMATION OF NON-EXEMPTION.—Executive branch employees and judicial officers are not exempt from the insider trading prohibitions arising under the securities laws, including section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder.

(2) DUTY.—

(A) PURPOSE.—The purpose of the amendment made by this paragraph is to affirm a duty arising from a relationship of trust and confidence owed by each executive branch employee and judicial officer.

(B) AMENDMENT.—Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1), as amended by this Act, is amended by adding at the end the following:

''(h) DUTY OF OTHER FEDERAL OFFICIALS.—

''(1) IN GENERAL.—For purposes of the insider trading prohibitions arising under the securities laws, including section 10(b), and Rule 10b–5 thereunder, each executive branch employee and each judicial officer owes a duty arising from a relationship of trust and confidence to the United States Government and the citizens of the United States with respect to material, nonpublic information derived from such person's position as an executive branch employee or judicial officer or gained from the performance of such person's official responsibilities.

''(2) DEFINITIONS.—In this subsection—

''(A) the term 'executive branch employee'—

''(i) has the meaning given the term 'employee' under section 2105 of title 5, United States Code;

''(ii) includes—

''(I) the President;

''(II) the Vice President; and

''(III) an employee of the United States Postal Service or the Postal Regulatory Commission; and

''(B) the term 'judicial officer' has the meaning given that term under section 109(10) of the Ethics in Government Act of 1978.

''(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to impair or limit the construction of the existing antifraud provisions of the securities laws or the authority of the Commission under those provisions.''.

SEC. 10. RULE OF CONSTRUCTION.

Nothing in this Act, the amendments made by this Act, or the interpretive guidance to be issued pursuant to sections 3 and 9 of this Act, shall be construed to—

(1) impair or limit the construction of the antifraud provisions of the securities laws or the Commodities Exchange Act or the authority of the Securities and Exchange Commission or the Commodity Futures Trading Commission under those provisions;

(2) be in derogation of the obligations, duties and functions of a Member of Congress, an employee of Congress, an executive branch employee or a judicial officer, arising from such person's official position; or

(3) be in derogation of existing laws, regulations or ethical obligations governing Members of Congress, employees of Congress, executive branch employees or judicial officers.

SEC. 11. EXECUTIVE BRANCH REPORTING.

Not later than 2 years after the date of enactment of this Act, the President shall—

(1) ensure that financial disclosure forms filed by officers and employees referred to in section 101(j) of the Ethics in Government Act of 1978 (5 U.S.C. App.) are made available to the public as required by section 8(a) on appropriate official websites of agencies of the executive branch; and

(2) develop systems to enable electronic filing and public access, as required by section 8(b), to the financial disclosure forms of such individuals.

SEC. 12. PROMPT REPORTING AND PUBLIC FILING OF FINANCIAL TRANSACTIONS FOR EXECUTIVE BRANCH.

(a) TRANSACTION REPORTING.—Each agency or department of the Executive branch and each independent agency shall comply with the provisions of sections 6 with respect to any of such agency, department or independent agency's officers and employees that are subject to the disclosure provisions under the Ethics in Government Act of 1978.

(b) PUBLIC AVAILABILITY.—Not later than 2 years after the date of enactment of this Act, each agency or department of the Executive branch and each independent agency shall comply with the provisions of section 8, except that the provisions of section 8 shall not apply to a member of a uniformed service for which the pay grade prescribed by section 201 of title 37, United States Code is O–6 or below.

SEC. 13. REQUIRING MORTGAGE DISCLOSURE.

Section 102(a)(4)(A) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended by striking ''spouse; and'' and inserting the following: ''spouse, except that this exception shall not apply to a reporting individual—

''(i) described in paragraph (1), (2), or (9) of section 101(f);

''(ii) described in section 101(b) who has been nominated for appointment as an officer or employee in the executive branch described in subsection (f) of such section, other than—

''(I) an individual appointed to a position—

''(aa) as a Foreign Service Officer below the rank of ambassador; or

''(bb) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O–6 or below; or

''(II) a special government employee, as defined under section 202 of title 18, United States Code; or

''(iii) described in section 101(f) who is in a position in the executive branch the appointment to which is made by the President and requires advice and consent of the Senate, other than—

''(I) an individual appointed to a position—

''(aa) as a Foreign Service Officer below the rank of ambassador; or

''(bb) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O–6 or below; or

''(II) a special government employee, as defined under section 202 of title 18, United States Code; and''.

SEC. 14. TRANSACTION REPORTING REQUIREMENTS.

The transaction reporting requirements established by section 101(j) of the Ethics in Government Act of 1978, as added by section 6 of this Act, shall not be construed to apply to a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

(1)(A) the fund is publicly traded; or

(B) the assets of the fund are widely diversified; and

(2) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.

SEC. 15. APPLICATION TO OTHER ELECTED OFFICIALS AND CRIMINAL OFFENSES.

(a) APPLICATION TO OTHER ELECTED OFFICIALS.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8332(o)(2)(A) of title 5, United States Code, is amended—

(A) in clause (i), by inserting '', the President, the Vice President, or an elected official of a State or local government'' after ''Member''; and

(B) in clause (ii), by inserting '', the President, the Vice President, or an elected official of a State or local government'' after ''Member''.

(2) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8411(l)(2) of title 5, United States Code, is amended—

(A) in subparagraph (A), by inserting '', the President, the Vice President, or an elected official of a State or local government'' after ''Member''; and

(B) in subparagraph (B), by inserting '', the President, the Vice President, or an elected official of a State or local government'' after ''Member''.

(b) CRIMINAL OFFENSES.—Section 8332(o)(2) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking clause (iii) and inserting the following:

''(iii) The offense—

''(I) is committed after the date of enactment of this subsection and—

''(aa) is described under subparagraph (B)(i), (iv), (xvi), (xix), (xxiii), (xxiv), or (xxvi); or

''(bb) is described under subparagraph (B)(xxix), (xxx), or (xxxi), but only with respect to an offense described under subparagraph (B)(i), (iv), (xvi), (xix), (xxiii), (xxiv), or (xxvi); or

''(II) is committed after the date of enactment of the STOCK Act and—

''(aa) is described under subparagraph (B)(ii), (iii), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvii), (xviii), (xx), (xxi), (xxii), (xxv), (xxvii), or (xxviii); or

''(bb) is described under subparagraph (B)(xxix), (xxx), or (xxxi), but only with respect to an offense described under subparagraph (B)(ii), (iii), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvii), (xviii), (xx), (xxi), (xxii), (xxv), (xxvii), or (xxviii).''; and

(2) by striking subparagraph (B) and inserting the following:

''(B) An offense described in this subparagraph is only the following, and only to the extent that the offense is a felony:

''(i) An offense under section 201 of title 18 (relating to bribery of public officials and witnesses).

''(ii) An offense under section 203 of title 18 (relating to compensation to Member of Congress, officers, and others in matters affecting the Government).

''(iii) An offense under section 204 of title 18 (relating to practice in the United States Court of Federal Claims or the United States Court of Appeals for the Federal Circuit by Member of Congress).

''(iv) An offense under section 219 of title 18 (relating to officers and employees acting as agents of foreign principals).

''(v) An offense under section 286 of title 18 (relating to conspiracy to defraud the Government with respect to claims).

''(vi) An offense under section 287 of title 18 (relating to false, fictitious or fraudulent claims).

''(vii) An offense under section 597 of title 18 (relating to expenditures to influence voting).

''(viii) An offense under section 599 of title 18 (relating to promise of appointment by candidate).

''(ix) An offense under section 602 of title 18 (relating to solicitation of political contributions).

''(x) An offense under section 606 of title 18 (relating to intimidation to secure political contributions).

''(xi) An offense under section 607 of title 18 (relating to place of solicitation).

''(xii) An offense under section 641 of title 18 (relating to public money, property or records).

''(xiii) An offense under section 666 of title 18 (relating to theft or bribery concerning programs receiving Federal funds).

''(xiv) An offense under section 1001 of title 18 (relating to statements or entries generally).

''(xv) An offense under section 1341 of title 18 (relating to frauds and swindles, including as part of a scheme to deprive citizens of honest services thereby).

''(xvi) An offense under section 1343 of title 18 (relating to fraud by wire, radio, or television, including as part of a scheme to deprive citizens of honest services thereby).

''(xvii) An offense under section 1503 of title 18 (relating to influencing or injuring officer or juror).

''(xviii) An offense under section 1505 of title 18 (relating to obstruction of proceedings before departments, agencies, and committees).

''(xix) An offense under section 1512 of title 18 (relating to tampering with a witness, victim, or an informant).

''(xx) An offense under section 1951 of title 18 (relating to interference with commerce by threats of violence).

''(xxi) An offense under section 1952 of title 18 (relating to interstate and foreign travel or transportation in aid of racketeering enterprises).

''(xxii) An offense under section 1956 of title 18 (relating to laundering of monetary instruments).

''(xxiii) An offense under section 1957 of title 18 (relating to engaging in monetary transactions in property derived from specified unlawful activity).

''(xxiv) An offense under chapter 96 of title 18 (relating to racketeer influenced and corrupt organizations).

''(xxv) An offense under section 7201 of the Internal Revenue Code of 1986 (relating to attempt to evade or defeat tax).

''(xxvi) An offense under section 104(a) of the Foreign Corrupt Practices Act of 1977 (relating to prohibited foreign trade practices by domestic concerns).

''(xxvii) An offense under section 10(b) of the Securities Exchange Act of 1934 (relating to fraud, manipulation, or insider trading of securities).

''(xxviii) An offense under section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) (relating to fraud, manipulation, or insider trading of commodities).

''(xxix) An offense under section 371 of title 18 (relating to conspiracy to commit offense or to defraud United States), to the extent of any conspiracy to commit an act which constitutes—

''(I) an offense under clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi), (xvii), (xviii), (xix), (xx), (xxi), (xxii), (xxiii), (xxiv), (xxv), (xxvi), (xxvii), or (xxviii); or

''(II) an offense under section 207 of title 18 (relating to restrictions on former officers, employees, and elected officials of the executive and legislative branches).

''(xxx) Perjury committed under section 1621 of title 18 in falsely denying the commission of an act which constitutes—

''(I) an offense under clause (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi), (xvii), (xviii), (xix), (xx), (xxi), (xxii), (xxiii), (xxiv), (xxv), (xxvi), (xxvii), or (xxviii); or

''(II) an offense under clause (xxix), to the extent provided in such clause.

''(xxxi) Subornation of perjury committed under section 1622 of title 18 in connection with the false denial or false testimony of another individual as specified in clause (xxx).''.

SEC. 16. LIMITATION ON BONUSES TO EXECUTIVES OF FANNIE MAE AND FREDDIE MAC.

Notwithstanding any other provision in law, senior executives at the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation are prohibited from receiving bonuses during any period of conservatorship for those entities on or after the date of enactment of this Act.

SEC. 17. DISCLOSURE OF POLITICAL INTELLIGENCE ACTIVITIES UNDER LOBBYING DISCLOSURE ACT.

(a) DEFINITIONS.—Section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602) is amended—

(1) in paragraph (2)—

(A) by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''; and

(B) by inserting after ''lobbyists'' the following: ''or political intelligence consultants''; and

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

''(17) POLITICAL INTELLIGENCE ACTIVITIES.—The term 'political intelligence activities' means political intelligence contacts and efforts in support of such contacts, including preparation and planning activities, research, and other background work that is intended, at the time it is performed, for use in contacts, and coordination with such contacts and efforts of others.

''(18) POLITICAL INTELLIGENCE CONTACT.—

''(A) DEFINITION.—The term 'political intelligence contact' means any oral or written communication (including an electronic communication) to or from a covered executive branch official or a covered legislative branch official, the information derived from which is intended for use in analyzing securities or commodities markets, or in informing investment decisions, and which is made on behalf of a client with regard to—

''(i) the formulation, modification, or adoption of Federal legislation (including legislative proposals);

''(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government; or

''(iii) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license).

''(B) EXCEPTION.—The term 'political intelligence contact' does not include a communication that is made by or to a representative of the media if the purpose of the communication is gathering and disseminating news and information to the public.

''(19) POLITICAL INTELLIGENCE FIRM.—The term 'political intelligence firm' means a person or entity that has 1 or more employees who are political intelligence consultants to a client other than that person or entity.

''(20) POLITICAL INTELLIGENCE CONSULTANT.—The term 'political intelligence consultant' means any individual who is employed or retained by a client for financial or other compensation for services that include one or more political intelligence contacts.''.

(b) REGISTRATION REQUIREMENT.—Section 4 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting after ''whichever is earlier,'' the following: ''or a political intelligence consultant first makes a political intelligence contact,''; and

(ii) by inserting after ''such lobbyist'' each place that term appears the following: ''or consultant'';

(B) in paragraph (2), by inserting after ''lobbyists'' each place that term appears the following: ''or political intelligence consultants''; and

(C) in paragraph (3)(A)—

(i) by inserting after ''lobbying activities'' each place that term appears the following: ''and political intelligence activities''; and

(ii) in clause (i), by inserting after ''lobbying firm'' the following: ''or political intelligence firm'';

(2) in subsection (b)—

(A) in paragraph (3), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities'';

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by inserting after ''lobbying activities'' the following: ''or political intelligence activities''; and

(ii) in subparagraph (C), by inserting after ''lobbying activity'' the following: ''or political intelligence activity'';

(C) in paragraph (5), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities'';

(D) in paragraph (6), by inserting after ''lobbyist'' each place that term appears the following: ''or political intelligence consultant''; and

(E) in the matter following paragraph (6), by inserting ''or political intelligence activities'' after ''such lobbying activities'';

(3) in subsection (c)—

(A) in paragraph (1), by inserting after ''lobbying contacts'' the following: ''or political intelligence contacts''; and

(B) in paragraph (2)—

(i) by inserting after ''lobbying contact'' the following: ''or political intelligence contact''; and

(ii) by inserting after ''lobbying contacts'' the following: ''and political intelligence contacts''; and

(4) in subsection (d), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''.

(c) REPORTS BY REGISTERED POLITICAL INTELLIGENCE CONSULTANTS.—Section 5 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604) is amended—

(1) in subsection (a), by inserting after ''lobbying activities'' the following: ''and political intelligence activities'';

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by inserting after ''lobbying activities'' the following: ''or political intelligence activities'';

(ii) in subparagraph (A)—

(I) by inserting after ''lobbyist'' the following: ''or political intelligence consultant''; and

(II) by inserting after ''lobbying activities'' the following: ''or political intelligence activities'';

(iii) in subparagraph (B), by inserting after ''lobbyists'' the following: ''and political intelligence consultants''; and

(iv) in subparagraph (C), by inserting after ''lobbyists'' the following: ''or political intelligence consultants'';

(B) in paragraph (3)—

(i) by inserting after ''lobbying firm'' the following: ''or political intelligence firm''; and

(ii) by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''; and

(C) in paragraph (4), by inserting after ''lobbying activities'' each place that term appears the following: ''or political intelligence activities''; and

(3) in subsection (d)(1), in the matter preceding subparagraph (A), by inserting ''or a

political intelligence consultant'' after ''a lobbyist''.

(d) DISCLOSURE AND ENFORCEMENT.—Section 6(a) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1605) is amended—

(1) in paragraph (3)(A), by inserting after ''lobbying firms'' the following: '', political intelligence consultants, political intelligence firms,'';

(2) in paragraph (7), by striking ''or lobbying firm'' and inserting ''lobbying firm, political intelligence consultant, or political intelligence firm''; and

(3) in paragraph (8), by striking ''or lobbying firm'' and inserting ''lobbying firm, political intelligence consultant, or political intelligence firm''.

(e) RULES OF CONSTRUCTION.—Section 8(b) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1607(b)) is amended by striking ''or lobbying contacts'' and inserting ''lobbying contacts, political intelligence activities, or political intelligence contacts''.

(f) IDENTIFICATION OF CLIENTS AND COVERED OFFICIALS.—Section 14 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1609) is amended—

(1) in subsection (a)—

(A) in the heading, by inserting ''OR POLITICAL INTELLIGENCE'' after ''LOBBYING'';

(B) by inserting ''or political intelligence contact'' after ''lobbying contact'' each place that term appears; and

(C) in paragraph (2), by inserting ''or political intelligence activity, as the case may be'' after ''lobbying activity'';

(2) in subsection (b)—

(A) in the heading, by inserting ''OR POLITICAL INTELLIGENCE'' after ''LOBBYING'';

(B) by inserting ''or political intelligence contact'' after ''lobbying contact'' each place that term appears; and

(C) in paragraph (2), by inserting ''or political intelligence activity, as the case may be'' after ''lobbying activity''; and

(3) in subsection (c), by inserting ''or political intelligence contact'' after ''lobbying contact''.

(g) ANNUAL AUDITS AND REPORTS BY COMPTROLLER GENERAL.—Section 26 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1614) is amended—

(1) in subsection (a)—

(A) by inserting ''political intelligence firms, political intelligence consultants,'' after ''lobbying firms''; and

(B) by striking ''lobbying registrations'' and inserting ''registrations'';

(2) in subsection (b)(1)(A), by inserting ''political intelligence firms, political intelligence consultants,'' after ''lobbying firms''; and

(3) in subsection (c), by inserting ''or political intelligence consultant'' after ''a lobbyist''.

TITLE II—PUBLIC CORRUPTION PROSECUTION IMPROVEMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Public Corruption Prosecution Improvements Act of 2012''.

SEC. 202. VENUE FOR FEDERAL OFFENSES.

(a) IN GENERAL.—The second undesignated paragraph of section 3237(a) of title 18, United States Code, is amended by adding before the period at the end the following: ''or in any district in which an act in furtherance of the offense is committed''.

(b) SECTION HEADING.—The heading for section 3237 of title 18, United States Code, is amended to read as follows:

''SEC. 3237. OFFENSE TAKING PLACE IN MORE THAN ONE DISTRICT.''.

(c) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 211 of title 18, United States Code, is amended so that the item relating to section 3237 reads as follows:

''Sec. 3237. Offense taking place in more than one district.''.

SEC. 203. THEFT OR BRIBERY CONCERNING PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 666(a) of title 18, United States Code, is amended—

(1) by striking ''10 years'' and inserting ''20 years'';

(2) by striking ''$5,000'' the second place and the third place it appears and inserting ''$1,000'';

(3) by striking ''anything of value'' each place it appears and inserting ''any thing or things of value''; and

(4) in paragraph (1)(B), by inserting after ''anything'' the following: ''or things''.

SEC. 204. PENALTY FOR SECTION 641 VIOLATIONS.

Section 641 of title 18, United States Code, is amended by striking ''ten years'' and inserting ''15 years''.

SEC. 205. BRIBERY AND GRAFT; CLARIFICATION OF DEFINITION OF "OFFICIAL ACT"; CLARIFICATION OF THE CRIME OF ILLEGAL GRATUITIES.

(a) DEFINITION.—Section 201(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) by amending paragraph (3) to read as follows:

''(3) the term 'official act'—

''(A) means any act within the range of official duty, and any decision or action on any question, matter, cause, suit, proceeding, or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official's official capacity or in such official's place of trust or profit; and

''(B) may be a single act, more than 1 act, or a course of conduct; and''; and

(3) by adding at the end the following:

''(4) the term 'rule or regulation' means a Federal regulation or a rule of the House of Representatives or the Senate, including those rules and regulations governing the acceptance of gifts and campaign contributions.''.

(b) CLARIFICATION.—Section 201(c)(1) of title 18, United States Code, is amended to read as follows:

''(1) otherwise than as provided by law for the proper discharge of official duty, or by rule or regulation—

''(A) directly or indirectly gives, offers, or promises any thing or things of value to any public official, former public official, or person selected to be a public official for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official;

''(B) directly or indirectly, knowingly gives, offers, or promises any thing or things of value with an aggregate value of not less than $1000 to any public official, former public official, or person selected to be a public official for or because of the official's or person's official position;

''(C) being a public official, former public official, or person selected to be a public official, directly or indirectly, knowingly demands, seeks, receives, accepts, or agrees to receive or accept any thing or things of value with an aggregate value of not less than $1000 for or because of the official's or person's official position; or

''(D) being a public official, former public official, or person selected to be a public official, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept any thing or things of value for or because of any official act performed or to be performed by such official or person;''.

SEC. 206. AMENDMENT OF THE SENTENCING GUIDELINES RELATING TO CERTAIN CRIMES.

(a) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission forthwith shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 201, 641, 1346A, or 666 of title 18, United States Code, in order to reflect the intent of Congress that such penalties meet the requirements in subsection (b) of this section.

(b) REQUIREMENTS.—In carrying out this subsection, the Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect Congress's intent that the guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1), the incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the extent to which the guidelines may or may not appropriately account for—

(A) the potential and actual harm to the public and the amount of any loss resulting from the offense;

(B) the level of sophistication and planning involved in the offense;

(C) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(D) whether the defendant acted with intent to cause either physical or property harm in committing the offense;

(E) the extent to which the offense represented an abuse of trust by the offender and was committed in a manner that undermined public confidence in the Federal, State, or local government; and

(F) whether the violation was intended to or had the effect of creating a threat to public health or safety, injury to any person or even death;

(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 207. EXTENSION OF STATUTE OF LIMITATIONS FOR SERIOUS PUBLIC CORRUPTION OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3302. Corruption offenses

''Unless an indictment is returned or the information is filed against a person within 6 years after the commission of the offense, a person may not be prosecuted, tried, or punished for a violation of, or a conspiracy or an attempt to violate the offense in—

''(1) section 201 or 666;

''(2) section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official;

''(3) section 1951, if the offense involves extortion under color of official right;

''(4) section 1952, to the extent that the unlawful activity involves bribery; or

''(5) section 1962, to the extent that the racketeering activity involves bribery

chargeable under State law, involves a violation of section 201 or 666, section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official, or section 1951, if the offense involves extortion under color of official right.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

''3302. Corruption offenses.''.

(c) APPLICATION OF AMENDMENT.—The amendments made by this section shall not apply to any offense committed before the date of enactment of this Act.

SEC. 208. INCREASE OF MAXIMUM PENALTIES FOR CERTAIN PUBLIC CORRUPTION RELATED OFFENSES.

(a) SOLICITATION OF POLITICAL CONTRIBUTIONS.—Section 602(a)(4) of title 18, United States Code, is amended by striking ''3 years'' and inserting ''5 years''.

(b) PROMISE OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 600 of title 18, United States Code, is amended by striking ''one year'' and inserting ''3 years''.

(c) DEPRIVATION OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 601(a) of title 18, United States Code, is amended by striking ''one year'' and inserting ''3 years''.

(d) INTIMIDATION TO SECURE POLITICAL CONTRIBUTIONS.—Section 606 of title 18, United States Code, is amended by striking ''three years'' and inserting ''5 years''.

(e) SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS IN FEDERAL OFFICES.—Section 607(a)(2) of title 18, United States Code, is amended by striking ''3 years'' and inserting ''5 years''.

(f) COERCION OF POLITICAL ACTIVITY BY FEDERAL EMPLOYEES.—Section 610 of title 18, United States Code, is amended by striking ''three years'' and inserting ''5 years''.

SEC. 209. ADDITIONAL WIRETAP PREDICATES.

Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by inserting ''section 641 (relating to embezzlement or theft of public money, property, or records), section 666 (relating to theft or bribery concerning programs receiving Federal funds),'' after ''section 224 (bribery in sporting contests),''; and

(2) by inserting ''section 1031 (relating to major fraud against the United States)'' after ''section 1014 (relating to loans and credit applications generally; renewals and discounts),''.

SEC. 210. EXPANDING VENUE FOR PERJURY AND OBSTRUCTION OF JUSTICE PROCEEDINGS.

(a) IN GENERAL.—Section 1512(i) of title 18, United States Code, is amended to read as follows:

''(i) A prosecution under section 1503, 1504, 1505, 1508, 1509, 1510, or this section may be brought in the district in which the conduct constituting the alleged offense occurred or in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected.''.

(b) PERJURY.—

(1) IN GENERAL.—Chapter 79 of title 18, United States Code, is amended by adding at the end the following:

''§ 1624. Venue

''A prosecution under section 1621(1), 1622 (in regard to subornation of perjury under 1621(1)), or 1623 of this title may be brought in the district in which the oath, declaration, certificate, verification, or statement under penalty of perjury is made or in which a proceeding takes place in connection with the oath, declaration, certificate, verification, or statement.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 79 of title 18, United States Code, is amended by adding at the end the following:

''1624. Venue.''.

SEC. 211. PROHIBITION ON UNDISCLOSED SELF-DEALING BY PUBLIC OFFICIALS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by inserting after section 1346 the following new section:

''§ 1346A. Undisclosed self-dealing by public officials

''(a) UNDISCLOSED SELF-DEALING BY PUBLIC OFFICIALS.—For purposes of this chapter, the term 'scheme or artifice to defraud' also includes a scheme or artifice by a public official to engage in undisclosed self-dealing.

''(b) DEFINITIONS.—As used in this section:

''(1) OFFICIAL ACT.—The term official act—

''(A) means any act within the range of official duty, and any decision or action on any question, matter, cause, suit, proceeding, or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official's official capacity or in such official's place of trust or profit; and

''(B) may be a single act, more than one act, or a course of conduct.

''(2) PUBLIC OFFICIAL.—The term 'public official' means an officer, employee, or elected or appointed representative, or person acting for or on be half of the United States, a State, or a subdivision of a State, or any department, agency or branch of government thereof, in any official function, under or by authority of any such department, agency, or branch of government.

''(3) STATE.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

''(4) UNDISCLOSED SELF-DEALING.—The term 'undisclosed self-dealing' means that—

''(A) a public official performs an official act for the purpose, in whole or in material part, of furthering or benefitting a financial interest, of which the public official has knowledge, of—

''(i) the public official;

''(ii) the spouse or minor child of a public official;

''(iii) a general business partner of the public official;

''(iv) a business or organization in which the public official is serving as an employee, officer, director, trustee, or general partner;

''(v) an individual, business, or organization with whom the public official is negotiating for, or has any arrangement concerning, prospective employment or financial compensation; or

''(vi) an individual, business, or organization from whom the public official has received any thing or things of value, otherwise than as provided by law for the proper discharge of official duty, or by rule or regulation; and

''(B) the public official knowingly falsifies, conceals, or covers up material information that is required to be disclosed by any Federal, State, or local statute, rule, regulation, or charter applicable to the public official, or the knowing failure of the public official to disclose material information in a manner that is required by any Federal, State, or local statute, rule, regulation, or charter applicable to the public official.

''(5) MATERIAL INFORMATION.—The term 'material information' means information—

''(A) regarding a financial interest of a person described in clauses (i) through (iv) paragraph (4)(A); and

''(B) regarding the association, connection, or dealings by a public official with an individual, business, or organization as described in clauses (iii) through (vi) of paragraph (4)(A).''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 63 of title 18, United States Code, is amended by inserting after the item relating to section 1346 the following new item:

''1346A. Undisclosed self-dealing by public officials.''.

(c) APPLICABILITY.—The amendments made by this section apply to acts engaged in on or after the date of the enactment of this Act.

SEC. 212. DISCLOSURE OF INFORMATION IN COMPLAINTS AGAINST JUDGES.

Section 360(a) of title 28, United States Code, is amended—

(1) in paragraph (2) by striking ''or'';

(2) in paragraph (3), by striking the period at the end, and inserting ''; or''; and

(3) by inserting after paragraph (3) the following:

''(4) such disclosure of information regarding a potential criminal offense is made to the Attorney General, a Federal, State, or local grand jury, or a Federal, State, or local law enforcement agency.''.

SEC. 213. CLARIFICATION OF EXEMPTION IN CERTAIN BRIBERY OFFENSES.

Section 666(c) of title 18, United States Code, is amended—

(1) by striking ''This section does not apply to''; and

(2) by inserting ''The term 'anything of value' that is corruptly solicited, demanded, accepted or agreed to be accepted in subsection (a)(1)(B) or corruptly given, offered, or agreed to be given in subsection (a)(2) shall not include,'' before ''bona fide salary''.

SEC. 214. CERTIFICATIONS REGARDING APPEALS BY UNITED STATES.

Section 3731 of title 18, United States Code, is amended by inserting after ''United States attorney'' the following: '', Deputy Attorney General, Assistant Attorney General, or the Attorney General''.

The PRESIDING OFFICER. The Senator from Utah.

MORNING BUSINESS

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

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

Mr. HATCH. Madam President, I ask unanimous consent that I be permitted to deliver my full speech regardless of the time.

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

RECESS APPOINTMENTS

Mr. HATCH. Madam President, our Nation faces grave challenges. We are looking at our fourth straight $1 trillion deficit, our credit rating has been downgraded, and public spending is out of control. The Nation demands leadership.

At some moments in our Nation's history—at moments of crisis—leaders have emerged, put partisanship aside, and worked to solve our greatest challenges. Although our current President has compared himself to both Franklin Roosevelt and Abraham Lincoln, his leadership is falling well short of their examples. Instead of taking the reins