

standards that are as stringent as the standards under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

By Mr. ROCKEFELLER:

S. 408. A bill to provide for the temporary retention of sole community hospital status for a hospital under the Medicare program; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today to introduce the Community Hospital Jobs Act of 2011, legislation that gives Fairmont General Hospital, a small community hospital in West Virginia, the chance to make an important transition.

Many of Marion County's residents were born at Fairmont General Hospital—founded in 1939. And many of the hospital's 700 employees are from the surrounding area. That is why, when Fairmont's leaders told me the hospital was going to lose a large portion of its Medicare payments because it was going to lose its status as a Sole Community Hospital, I knew it was important to make sure Fairmont General maintained its role as a vibrant health care leader in our community—and I began looking for ways to help.

Over the last couple of years, I have worked extensively with Fairmont officials and with other members of the West Virginia delegation to identify possible solutions to Fairmont's problem, which the hospital did nothing to cause. First we looked for a regulatory solution. However, after speaking extensively with federal and hospital officials, scrutinizing every regulation, we determined that without intervention from Congress, Fairmont would lose its status as the sole community hospital—and with it, additional federal payments that are helping the hospital stay afloat and maintain jobs, as many as 70 of which may be at stake.

Once it became clear that legislation was necessary, I got to work again on behalf of Fairmont. Last fall, I started to work on a legislative solution to allow Fairmont to retain its sole community hospital status. And, when the Senate began consideration of an end-of-the-year health care bill, I pushed for the inclusion of legislative language to allow Fairmont to keep its sole community hospital status for a three-year transition period. Unfortunately, this language was not ultimately included in the final Medicare and Medicaid Extenders Act of 2010—but I am not going to give up.

Fairmont General does not give up on its patients, and I am not giving up on Fairmont. That is why I am introducing this important legislation today.

I urge my colleagues to support the Community Hospital Jobs Act.

By Mr. GRASSLEY (for himself, Mr. SCHUMER, Mr. LEAHY, Mr. GRAHAM, Mr. CORNYN, Mr. DURBIN, and Ms. KLOBUCHAR):

S. 410. A bill to provide for media coverage of Federal court proceedings; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, today, I reintroduce the Sunshine in the Courtroom Act, a bipartisan bill which will allow judges at all federal court levels to open their courtrooms to television cameras and radio broadcasts.

Openness in our courts improves the public's understanding of what goes on there. Our judicial system is a secret to many people across the country. Letting the sun shine in on federal courtrooms will give Americans an opportunity to better understand the judicial process. Courts are the bedrock of the American justice system. Allowing greater access to our courts will inspire faith in and restore appreciation for our judges who pledge equal and impartial justice for all.

For decades, states such as my home state of Iowa have allowed cameras in their courtrooms with great results. As a matter of fact, only the District of Columbia prohibits trial and appellate court coverage entirely. Nineteen States allow news coverage in most courts; 16 allow coverage with slight restrictions; and the remaining 15 allow coverage with stricter rules.

The bill I am introducing today, along with Senator SCHUMER and five other cosponsors from both sides of the aisle, including Judiciary Chairman LEAHY, will greatly improve public access to Federal courts. It lets Federal judges open their courtrooms to television cameras and other electronic media.

The Sunshine in the Courtroom Act is full of provisions that ensure that the introduction of cameras and other broadcasting devices into the courtrooms goes as smoothly as it has at the state level. First, the presence of the cameras in Federal trial and appellate courts is at the sole discretion of the judges—it is not mandatory. The bill also provides a mechanism for Congress to study the effects of this legislation on our judiciary before making this change permanent through a 3 year sunset provision. The bill also protects the privacy and safety of non-party witnesses by giving them the right to have their faces and voices obscured. Finally, it includes a provision to protect the due process rights of any party, and prohibits the televising of jurors.

We need to open the doors and let the light shine in on the Federal Judiciary. This bill improves public access to and therefore understanding of our federal courts. It has safety provisions to ensure that the cameras won't interfere with the proceedings or with the safety or due process of anyone involved in the cases. Our states have allowed news coverage of their courtrooms for decades. It is time we join them.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 410

*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 "Sunshine in the Courtroom Act of 2011".

**SEC. 2. FEDERAL APPELLATE AND DISTRICT COURTS.**

(a) DEFINITIONS.—In this section:

(1) PRESIDING JUDGE.—The term "presiding judge" means the judge presiding over the court proceeding concerned. In proceedings in which more than 1 judge participates, the presiding judge shall be the senior active judge so participating or, in the case of a circuit court of appeals, the senior active circuit judge so participating, except that—

(A) in en banc sittings of any United States circuit court of appeals, the presiding judge shall be the chief judge of the circuit whenever the chief judge participates; and

(B) in en banc sittings of the Supreme Court of the United States, the presiding judge shall be the Chief Justice whenever the Chief Justice participates.

(2) APPELLATE COURT OF THE UNITED STATES.—The term "appellate court of the United States" means any United States circuit court of appeals and the Supreme Court of the United States.

(b) AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA COVERAGE OF COURT PROCEEDINGS.—

(1) AUTHORITY OF APPELLATE COURTS.—

(A) IN GENERAL.—Except as provided under subparagraph (B), the presiding judge of an appellate court of the United States may, at the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of any court proceeding over which that judge presides.

(B) EXCEPTION.—The presiding judge shall not permit any action under subparagraph (A), if—

(i) in the case of a proceeding involving only the presiding judge, that judge determines the action would constitute a violation of the due process rights of any party; or

(ii) in the case of a proceeding involving the participation of more than 1 judge, a majority of the judges participating determine that the action would constitute a violation of the due process rights of any party.

(2) AUTHORITY OF DISTRICT COURTS.—

(A) IN GENERAL.—

(i) AUTHORITY.—Notwithstanding any other provision of law, except as provided under clause (iii), the presiding judge of a district court of the United States may, at the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of any court proceeding over which that judge presides.

(ii) OBSCURING OF WITNESSES.—Except as provided under clause (iii)—

(I) upon the request of any witness (other than a party) in a trial proceeding, the court shall order the face and voice of the witness to be disguised or otherwise obscured in such manner as to render the witness unrecognizable to the broadcast audience of the trial proceeding; and

(II) the presiding judge in a trial proceeding shall inform each witness who is not a party that the witness has the right to request the image and voice of that witness to be obscured during the witness' testimony.

(iii) EXCEPTION.—The presiding judge shall not permit any action under this subparagraph—

(I) if that judge determines the action would constitute a violation of the due process rights of any party; and

(II) until the Judicial Conference of the United States promulgates mandatory guidelines under paragraph (5).

(B) NO MEDIA COVERAGE OF JURORS.—The presiding judge shall not permit the photographing, electronic recording, broadcasting, or televising of any juror in a trial proceeding, or of the jury selection process.

(C) DISCRETION OF THE JUDGE.—The presiding judge shall have the discretion to obscure the face and voice of an individual, if good cause is shown that the photographing, electronic recording, broadcasting, or televising of the individual would threaten—

- (i) the safety of the individual;
- (ii) the security of the court;
- (iii) the integrity of future or ongoing law enforcement operations; or
- (iv) the interest of justice.

(D) SUNSET OF DISTRICT COURT AUTHORITY.—The authority under this paragraph shall terminate 3 years after the date of the enactment of this Act.

(3) INTERLOCUTORY APPEALS BARRED.—The decision of the presiding judge under this subsection of whether or not to permit, deny, or terminate the photographing, electronic recording, broadcasting, or televising of a court proceeding may not be challenged through an interlocutory appeal.

(4) ADVISORY GUIDELINES.—The Judicial Conference of the United States may promulgate advisory guidelines to which a presiding judge, at the discretion of that judge, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described under paragraphs (1) and (2).

(5) MANDATORY GUIDELINES.—Not later than 6 months after the date of enactment of this Act, the Judicial Conference of the United States shall promulgate mandatory guidelines which a presiding judge is required to follow for obscuring of certain vulnerable witnesses, including crime victims, minor victims, families of victims, cooperating witnesses, undercover law enforcement officers or agents, witnesses subject to section 3521 of title 18, United States Code, relating to witness relocation and protection, or minors under the age of 18 years. The guidelines shall include procedures for determining, at the earliest practicable time in any investigation or case, which witnesses should be considered vulnerable under this section.

(6) PROCEDURES.—In the interests of justice and fairness, the presiding judge of the court in which media use is desired has discretion to promulgate rules and disciplinary measures for the courtroom use of any form of media or media equipment and the acquisition or distribution of any of the images or sounds obtained in the courtroom. The presiding judge shall also have discretion to require written acknowledgment of the rules by anyone individually or on behalf of any entity before being allowed to acquire any images or sounds from the courtroom.

(7) NO BROADCAST OF CONFERENCES BETWEEN ATTORNEYS AND CLIENTS.—There shall be no audio pickup or broadcast of conferences which occur in a court proceeding between attorneys and their clients, between co-counsel of a client, between adverse counsel, or between counsel and the presiding judge, if the conferences are not part of the official record of the proceedings.

(8) EXPENSES.—A court may require that any accommodations to effectuate this Act be made without public expense.

(9) INHERENT AUTHORITY.—Nothing in this Act shall limit the inherent authority of a court to protect witnesses or clear the courtroom to preserve the decorum and integrity of the legal process or protect the safety of an individual.

By Mr. LEVIN (for himself, Mrs. HUTCHISON, Mr. VITTER, Ms. LANDRIEU, Mr. SHELBY, Ms. STABENOW, Mrs. BOXER, Ms. KLOBUCHAR, Mr. WYDEN, Mr. FRANKEN, Mr. LIEBERMAN, Mr. BROWN of Ohio, Mrs. GILLIBRAND, and Mr. CORNYN):

S. 412. A bill to ensure that amounts credited to the Harbor Maintenance Trust Fund are used for harbor maintenance; to the Committee on Environment and Public Works.

Mr. LEVIN. Mr. President, in 1986, the Congress wisely established the Harbor Maintenance Trust Fund to pay for operation and maintenance of our Nation's harbors. This fund, which is fed by a tax based on the value of goods passing through our ports, today has a balance of more than \$5.7 billion—a significant sum of money to address our Nation's need for clear and navigable harbors connecting our Nation's farmers and manufacturers to the web of international commerce.

But that \$5.7 billion is not being used that way, or at least, not to the extent it should be. Despite that significant balance, our harbors are struggling because of unmet maintenance needs. In the Great Lakes region alone, more than 18 million cubic yards of material need to be dredged from harbors to ensure safe navigation. Dredging these harbors would be a \$200 million job. And on the coasts, similar backlogs threaten the safe and efficient movement of commerce that creates jobs and helps the American economy grow. The Army Corps of Engineers estimates that the nation's 59 busiest ports are available less than 35 percent of the time because they are inadequately maintained. Unless we act, the failure to address these maintenance needs could slow the flow of goods, reduce economic growth, cost jobs, and create hazards to navigation that could lead to accidents and environmental damage.

We need to address that maintenance backlog. The Harbor Maintenance Trust Fund can provide the funding to do so. But Congress must take action to ensure we address these needs. That is why today, Senator HUTCHISON and I, joined by 12 of our colleagues, have introduced the Harbor Maintenance Act of 2011.

Simply put, our legislation would connect our spending on harbor maintenance to the revenue collected in the Harbor Maintenance Trust Fund. As commerce continues to grow and shipping becomes an ever-more-important driver of economic growth, proper maintenance is vital.

A wise car owner does not ignore the need to change the oil. A smart homeowner makes sure the roof is in good shape. They do so because a small investment in maintenance today can prevent much bigger costs tomorrow. We should follow the same philosophy when it comes to our harbors. We should ensure that we make smart investments today that will pay off for years to come.

I thank Senator HUTCHISON and our co-sponsors for their work on behalf of this important legislation, and I urge my colleagues to help us ensure its passage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 412

*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 "Harbor Maintenance Act of 2011".

**SEC. 2. FUNDING FOR HARBOR MAINTENANCE PROGRAMS.**

(a) HARBOR MAINTENANCE TRUST FUND GUARANTEE.—

(1) IN GENERAL.—The total budget resources made available from the Harbor Maintenance Trust Fund each fiscal year pursuant to section 9505(c) of the Internal Revenue Code of 1986 (relating to expenditures from the Harbor Maintenance Trust Fund) shall be equal to the level of receipts plus interest credited to the Harbor Maintenance Trust Fund for that fiscal year. Such amounts may be used only for harbor maintenance programs described in section 9505(c) of such Code.

(2) GUARANTEE.—No funds may be appropriated for harbor maintenance programs described in such section unless the amount described in paragraph (1) has been provided.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) TOTAL BUDGET RESOURCES.—The term "total budget resources" means the total amount made available by appropriations Acts from the Harbor Maintenance Trust Fund for a fiscal year for making expenditures under section 9505(c) of the Internal Revenue Code of 1986.

(2) LEVEL OF RECEIPTS PLUS INTEREST.—The term "level of receipts plus interest" means the level of taxes and interest credited to the Harbor Maintenance Trust Fund under section 9505 of the Internal Revenue Code of 1986 for a fiscal year as set forth in the President's budget baseline projection as defined in section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177; 99 Stat. 1092) for that fiscal year submitted pursuant to section 1105 of title 31, United States Code.

(c) ENFORCEMENT OF GUARANTEES.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause total budget resources in a fiscal year for harbor maintenance programs described in subsection (b)(1) for such fiscal year to be less than the amount required by subsection (a)(1) for such fiscal year.

By Mr. LIEBERMAN (for himself, Ms. COLLINS, and Mr. CARPER):

S. 413. A bill to amend the Homeland Security Act of 2002 and other laws to enhance the security and resiliency of the cyber and communications infrastructure of the United States; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to join Senator LIEBERMAN and Senator CARPER in introducing the Cyber Security and Internet Freedom Act of 2011. This vital legislation would