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Senate

The Senate met at 10 a.m. and was called to order by the Honorable JIM WEBB, a Senator from the Commonwealth of Virginia.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Gracious God, infuse our Senators with the spirit of peace in the midst of the twists and turns of these uncertain times as You guide them to do what is best for this land we love. Lord, guide them beyond the meager resources of their talents so they will trust and lean on You. Give them the wisdom to believe that in every circumstance You can provide them exactly what they need. May they find opportunities to honor You in each challenge they face as You empower them to lift burdens that are heavier than they can bear.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM WEBB led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 11, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM WEBB, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks we will be in a period of morning business for 1 hour. The majority will control the first half, the Republicans the final half. Following morning business we will resume consideration of the motion to proceed to S. 3637.

The Senate will recess as we normally do on Tuesdays from 12:30 p.m. to 2:15 p.m. to allow for our weekly caucus meetings.

At 2:15 p.m. there will a cloture vote on the motion to proceed to S. 3637. There could be additional votes today.

TRIBUTES TO DEPARTING SENATORS

JIM WEBB

Mr. REID. Mr. President, I would note the Acting President pro tempore today. I had the good fortune of being able to come to the floor last week to talk about the Acting President pro tempore's tenure in the Senate—some 6 years—and I talked about some of the many accomplishments he had in that relatively short period of time, as we call Senate time.

But I am reminded again of the Senator from Virginia, having spent an hour on Friday with Bob Kerrey. Bob Kerrey and I reflected back on his experience here in the Senate, and one memorable meeting he and I had. The purpose of that meeting was for Bob Kerrey to introduce me to Senator WEBB. It was a wonderful meeting because when the meeting finished—and I won't go into the details of everything I said, but the Senator from Virginia knows—I came out of that meeting recognizing what kindred spirits these two gallant warriors were and are, both having been highly decorated, one in the Navy, the other a marine; one with a Medal of Honor, the other—the Acting President pro tempore—the Navy Cross, Silver Star, more than one Bronze Star for Valor, and a number of Purple Hearts.

So I say again, but I can't say it too much, what an honor and pleasure it has been to serve in this body with the Senator from Virginia, JIM WEBB. I have learned so much about what a difference a positive attitude will make. And there is no better example of that than the new GI bill of rights. To think a new Senator—a brand new Senator—would have the idea, the confidence that he could do this; not only the confidence that this bill is important, but he wrote it himself. The Acting President pro tempore wrote that bill himself. He didn't go to bill drafters, as most of us do, he wrote it himself and proceeded to get it passed. So this is a man I will miss a whole lot.

DANIEL AKAKA

Mr. President, I want to spend a little time today talking about the junior Senator from Hawaii, DANIEL AKAKA, as he retires from a life dedicated to his community and this country.

Senator AKAKA's service to this Nation began during wartime, when he was a teenager. He graduated from high school and the war was ongoing. Of course, people were watching Hawaii very closely because they had such a huge Asian population—a huge Japanese-American population. So it was watched very closely, and for reasons that weren't valid, but that is what we did then.

DAN AKAKA spent 2 years as a civilian worker with the U.S. Army Corps of Engineers and 2 years on active duty in the U.S. Army. His duties with the Army, as I recall, having talked to DAN

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

AKAKA, were to protect the water in Honolulu.

After the war, DAN attended the University of Hawaii, using the original GI bill. Years later, he would receive his master's degree from the University of Hawaii as well as his bachelor's disagree. Senator AKAKA believes he would never have become a U.S. Senator if not for the GI benefits he received through his service in the military. That is why, as a member and past chairman of the Veterans' Affairs Committee, he has worked to make important improvements to the 21st Century GI Bill. Today's GI bill is modeled, after the work done by JIM WEBB, after the educational opportunity program that DAN took advantage of when he was a young boy.

Senator AKAKA was chairman of the Veterans' Affairs Committee from 2007 to 2010, as thousands and thousands of Iraqi and Afghanistan veterans were coming home from combat. As Democrats collectively worked to bring our troops home from Iraq, DAN AKAKA labored with the Veterans' Administration to meet the needs and challenges of a new generation of veterans. The 21st Century GI Bill ensures those veterans get the educational opportunities they deserve.

DAN so valued his own education that he went on to serve his community as a teacher after he graduated from college. He became a principal, worked for the Department of Health, Education and Welfare, and the Hawaii Office of Economic Opportunity. He served 14 years in the House of Representatives before he was appointed to the Senate in 1990. He won election to the Senate later that year.

As chairman of the Indian Affairs Committee, DAN has been a strong voice and tireless advocate for Native Americans. He has taught us all about history—the history of Hawaii and its native communities, as well as the issues facing indigenous Hawaiians today.

Senator AKAKA is a descendent of native Hawaiians. He is 75 percent Hawaiian and he has Hawaiians on both sides of his family. He is very proud of his heritage. DAN was the first Native Hawaiian in the Senate.

He is also a deeply religious man who comes from a strong faith tradition. His devout mother taught her children a custom of charity. His mother was really a soft touch. Anyone coming by with a sad story, she would invite them in. Sometimes her hospitality only allowed her—because she had nothing else—to give them something to drink. His family was very poor when he was young. But DAN was able to work through this. Even if his mother had spent the grocery money for the month, strangers were always welcome at her table.

A friend of DAN's brother came to Hawaii from Chicago for a very brief period of time, and his mother took him in. He never left. He basically was raised in the Akaka home. A boy named Anthony from Chicago, as I indicated, came to visit DAN's brother and he never left. Anthony became such a part of that family that, before he died, he wanted to make sure he was buried in Hawaii. He wanted to be buried with DAN's siblings and family in Hawaii. And he was.

Senator AKAKA served as choir director of the Hawaii Christian mother church, where his brother was minister. His brother was minister there for some 17 years. Senator AKAKA is still a member of that church.

He is blessed with a wonderful family as well as a rewarding career. He and his wife Millie have 5 children, 15 grandchildren, and 14 great-grandchildren.

Senator AKAKA has served his constituents well and with distinction. He has served not only his constituents and the State of Hawaii but our country with distinction. He has enjoyed a long and productive career and his presence in the Senate will be missed.

I offer congratulations to Senator AKAKA on his dedicated military and public service and wish him and Millie happiness in their retirement.

RECOGNITION OF THE MINORITY LEADER

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

THE FISCAL CLIFF

Mr. MCCONNELL. Mr. President, with the fiscal cliff fast approaching, I feel the need to point out something this morning that is perfectly obvious to most Americans but which Democrats in Washington still don't seem to grasp. I am referring to the fact that any solution to our spending and debt problem has to involve cuts to out-of-control Washington spending.

I know that might sound obvious to most people, but for all the President's talk about the need for a balanced approach, the truth is he and his Democratic allies simply refuse to be pinned down on any spending cuts. Americans overwhelmingly support some level of cuts to government spending as part of a plan to cut the Federal deficit. Yet the President will not commit to it. He refuses to lead on the issue. The President seems to think if all he talks about is taxes, and that is all reporters write about, somehow the rest of us will magically forget that government spending is completely out of control and that he himself has been insistent on balance.

A couple of weeks ago we saw his plan. After four straight trillion-dollar deficits and 2 years of running around calling for a balanced approach to bring those deficits under control, we saw his idea of balance—a $1.6 trillion tax hike, new and totally unprecedented power to raise the Federal debt limit at his whim, and a $50 billion stimulus for infrastructure; in other words, even more spending.

So when it came to offering his idea of a balanced approach, the President was vague about cuts but very specific in his request for more government spending—something no reasonable person had publicly contemplated previously. It raises the question: Do Democrats even believe their own rhetoric on spending? Or, contrary to the clear wishes of the majority of Americans, do they just want more tax revenue to fund a government without any limits—any limits whatsoever—which keeps getting bigger and bigger with every passing year?

Think about it. The Federal Government spent $1.8 trillion in 2001, and last year—10 years later—$3.6 trillion. These are nominal dollars, I realize, but by any measure the size of government has grown well beyond its means. Government spending is completely and totally out of control and we need to start acting like it.

Yesterday the Government Accountability Office revealed that government workers and private contractors are doing the same exact work on Medicaid claims, leading to billions in waste. Meanwhile, Senator COBURN has shown all of us some of the ridiculous things taxpayers are paying for with their tax dollars—some of the things that caused us to spend a trillion dollars more than we take in every single year.

Last year he put out a report showing how we could save more than $100 billion—about one-tenth of the annual deficit—by eliminating duplicative and overlapping government programs. We have 94 Federal initiatives aimed at encouraging green building through 11 different Federal agencies. We have 14 programs with the sole purpose of reducing diesel emissions.

A few weeks ago Senator COBURN issued a study that showed taxpayers are funding Moroccan pottery classes, promoting shampoo and other beauty products for cats and dogs, and a video game that allows them to relive prom night.

Taxpayers also just spent $325,000 on a robotic squirrel named Robo-Squirrel. The President just sent us a 73-page report detailing how $60 billion in Sandy funds would be spent. Don't you think he could put together a list of spending cuts that would at least include Robo Squirrel?

We are still waiting. Why? Because for Democrats apparently every dollar in Federal spending is sacred; once secured, it can't be cut. That is why we have trillion-dollar deficits. The truth is, until the President gets specific about cuts, nobody should trust Democrats to put a dime in new revenue toward real deficit reduction or to stop their shakedown of the taxpayers at the top 2 percent. As one liberal lawmaker put it last week, that's just the beginning.

When it comes to deficit deals, the taxpayers need to trust but verify. On cuts, that means specifics.

RICHARD LUGAR

Mr. President, as we enter the final weeks of the 112th Congress, one of the toughest tasks for me is saying goodbye to colleagues who will not be with us at the start of the next Congress.

I would like to kick it off this morning by spending just a few minutes bragging on my longtime friend and neighbor to the north, Senator DICK LUGAR.

Let me start by saying I am grateful to have served alongside this good man and to have had a front-row seat for much of his illustrious career.

To give an idea of the kind of career DICK LUGAR has had, consider this: He was an Eagle Scout, first in his class in high school, first in his class in college, a Rhodes Scholar, Naval intelligence briefer, corporate turnaround artist, and big-city mayor. That was all by the age of 35. He has excelled at everything he has ever done. Most incredibly, he has done it with perfectly smooth elbows. Walk into any office on Capitol Hill and you would not find a single person who would say a bad word about DICK LUGAR. He has earned the respect and admiration of everyone who ever crossed his path. I assure you, in the world of politics, that is nothing short of a miracle. Now DICK has decided to press his luck. He is moving into the only line of work where rivalries are even more vicious than in politics—he is becoming a college professor.

DICK and I go all the way back to my first Senate race in 1984. He was the head of the NRSC at the time. He took a chance on me, and I have always been grateful. He has been a friend ever since.

A lot of Hoosiers cross the Ohio River every day to work in Kentucky, but it is not often a Hoosier Senator crosses it to help a Kentuckian making his first bid for the Senate. Since we are from neighboring States, our work in the Senate has often overlapped over the years. I truly lucked out. DICK has always been helpful and cooperative and a perfect gentleman.

With his six terms in the Senate, Senator LUGAR is the longest serving Member of Congress in Indiana history. He ranks 10th on the list of Senators who have cast the most rollcall votes.

As the longtime chair or ranking member on the Foreign Relations Committee, he has become one of America's most respected voices on matters pertaining to foreign policy. Indeed, Senator LUGAR commands the highest respect not only from his peers in the Senate but around the world, for his deep knowledge of foreign policy, national security, agriculture, and trade.

To a lot of liberals, he is a walking contradiction: a Republican intellectual. He has always worn that reputation lightly. Anyone who has ever been on a CODEL with DICK has seen his method. He stuffs his carry-on to the point of bursting with memos, newspapers, magazines, journals, reports, survey data, you name it. Apparently, Trent Lott sat next to him on the plane once and was horrified at the way he tore out the pages and scribbled notes on them. We all know Trent would never be so indelicate.

Senator LUGAR has always had a global view. It started during his days as a Rhodes Scholar and an intelligence briefer in the Navy and he brought that global view back to Indiana. After the untimely death of his dad, DICK and his brother took over the family business and reinvented it from a struggling domestic operation to a global leader in the manufacture of baking machinery.

He went from success to success, moving from a seat on the Indianapolis school board into the mayor's office, and then, in 1996, on to the Senate. What a Senate career it has been.

For my part, I think Senator LUGAR's achievement in passing the Nunn-Lugar Cooperative Threats Reduction Program in 1991 was a great achievement, not just for himself but for the entire world.

The Nunn-Lugar program provides assistance to former Soviet states such as Russia, Ukraine, Kazakhstan, and Belarus in helping them dismantle and destroy their nuclear, chemical, and biological weapons, in order to prevent them from coming under the control of terrorists.

As of 2011, Nunn-Lugar has deactivated over 7,600 strategic warheads, 791 intercontinental ballistic missiles, 669 submarine-launched ballistic missiles, 32 nuclear submarines, and 194 nuclear test tunnels. It has neutralized 1,395 metric tons of chemical weapons, and it has certified that the countries of the Ukraine, Kazakhstan, and Belarus—which once held the third, fourth, and eighth largest nuclear arsenals in the world, respectively—are now nuclear-free. What an incredible legacy.

After the September 11 attacks, Senator LUGAR called for and helped pass the expansion of the Nunn-Lugar approach, resulting in the Global Threat Reduction Initiative, which aims to prevent chemical and biological weapons from falling into the hands of terrorists. He has been a leader in Congress on the issue of ensuring food safety and supply internationally for years.

It is the mark of a leader that he thinks not only of his own moment in time but of the future of his community and of his fellow man, here and around the world. I think it is safe to say few Senators embody that spirit as fully as Senator LUGAR. That is not just my opinion. For his work to make the world a safer place, Senator LUGAR has been justly nominated for the Nobel Peace Prize.

Senator LUGAR was first elected to the Senate in 1976 and has served for six terms. He is beloved in his home State of Indiana and in bordering Kentucky too. There is not only a lot of admiration but a lot of affection for this giant of the Senate just south of Hoosier territory.

Senator LUGAR has put his extraordinary talent to the service of this institution and his fellow countrymen, and I have no doubt he will be remembered as one of the best.

Senator LUGAR would probably tell us his greatest achievement was marrying Char. They have been married now for more than 50 years. They are proud of their four sons and their 13 grandchildren, and they can be proud of the great teamwork they have had together over the years, from their time as co-presidents of their senior class at Denison University. Char and the boys were involved in all his campaigns. The Senate family is sad to see them go as well.

Senator, you are a treasure to the Senate and a model of the public servant. We are sorry to see you go, and I am sorry to lose your wise counsel. I know that whatever you turn to next, you will be a great success, and I look forward to hearing all about it. Thank you for your tremendous service to this body, to the State of Indiana, and to the Nation.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes, the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half.

The Senator from Illinois.

RICHARD LUGAR

Mr. DURBIN. Mr. President, let me first echo the comments of the Republican leader, Senator MCCONNELL, about our colleague and friend, Senator DICK LUGAR of Indiana.

It has been my good fortune now for some 16 years to serve in the Senate with Senator DICK LUGAR and to come to know him and his wife Char and, more importantly, to come to know their work together on behalf of Indiana and the United States. DICK LUGAR is truly a giant in the Senate. We are going to miss him. There aren't many with the vision of DICK LUGAR.

There is something about standing in the middle of this country, Adlai Stevenson II once noted, with the flatlands all around you that gives you a perspective on the world a little different. DICK LUGAR's perspective on the world has been so insightful and so important for decades.

His work with Senator Nunn in dealing with the proliferation of nuclear weaponry and the dissolution of the Soviet Union was truly historic and

may have saved the world from catastrophe time and again. He reached out to a young Senator from Illinois by the name of Barack Obama and took him on a congressional delegation tour to look into this issue. I think at the end of the day their friendship was solid, and President Obama notes it was one of the more important overseas visits he made as a Member of the Senate.

I know DICK LUGAR as well from the many times we came together with our wives at the Aspen Institute. It is truly unfortunate that there aren't more Senators participating in the Aspen Institute. It is a meeting, usually overseas, of members of the Senate and their spouses with experts to discuss some of the most important problems facing us in this world. No lobbyists are allowed to attend; it is truly 2 or 3 days of work. But it is also a time in the evening to sit together and come to know a family. Loretta and I have come to know Char and DICK LUGAR as exceptional people. Char and I would sit and talk about books—which she loves to read and I do too—and DICK and I would talk about the topic of the day, and we created a bond of friendship in those experiences.

He has done so much work in the Senate, as Senator MCCONNELL noted, starting as the mayor of Indianapolis and working his way up to the Senate. He became a powerful force in the Senate Foreign Relations Committee, and I was honored to serve on that committee over the last several years and watch his work unfold and evolve.

DICK LUGAR is going on to great things, I am sure. This is not the end of his service to our country. I wish him and Char the very best, whatever their next undertaking may be.

As you receive praise from the Senator from Kentucky to the south of Indiana, accept some from the Senator from west of Indiana in the State of Illinois. I am honored to count DICK LUGAR as a friend, and I am sure going to miss you. You have been an extraordinary ally and colleague on so many important issues.

DANIEL AKAKA

Mr. President, I also add my comments in chorus to what the majority leader said about Senator DAN AKAKA of Hawaii.

I came to know him—and I have spoken about this on the floor—and Millie who are the perfect Senate family. They have devoted a major part of their lives to serving Hawaii and serving in the national interest.

The legacy Senator AKAKA leaves behind is substantial when it comes to legislation, particularly in helping veterans and agricultural issues. But, more important, what DAN AKAKA leaves behind is the feeling of kinship and camaraderie which he has with so many Members of the Senate. He is a stalwart at the Senate Prayer Breakfast, leading the singing every Wednesday morning, and it is heartfelt and very genuine.

As Senator REID mentioned earlier, his family background of Hawaii—which he shared with us one afternoon at a lunch—is a tradition of giving and hospitality which we find built in to DANNY AKAKA. We are going to miss him.

JIM WEBB

To the Presiding Officer—I said a few words on the floor before—we thank you for your service. You did an extraordinary job here. There aren't many one-termers who make a mark in the Senate and on the Nation. You did it.

I can remember—I thought it was a little bold of you, maybe even more—when you came in and said: I want to rewrite the GI bill, and you did it and it was exceptional. You have helped thousands of men and women who have served in our military come back to America and be welcomed and be productive parts of our future.

In so many ways, I wish to thank Senator JIM WEBB, our Presiding Officer, for being an important and viable part of the Senate. I know you will continue to serve our Nation in many different capacities in the future, and I am sure they will be equally exceptional.

THE FISCAL CLIFF

Mr. DURBIN. Mr. President, I have to answer some of the comments made earlier by the Republican leader as he talked about the state of negotiations between the President and Congress as we face the fiscal cliff. He said at one point that the President is calling for raising taxes $1.6 trillion. That is true. But I would call to his attention that the Simpson-Bowles Commission suggested that 40 percent of the $4 trillion in deficit reduction comes from revenue and taxes. What the President is suggesting is entirely consistent with that bipartisan group's call for more revenue and taxes as part of our deficit reduction.

The President has made it clear, though, that he wants to protect and insulate middle-income families from any income tax increases, and I agree with him. We should not raise the income taxes on those making less than $250,000 a year. I voted that way in July. We sent the bill to the House. It sits there. It languishes in the House because the Speaker will not call it. He has his chance this week or next to call that bill on the floor of the House of Representatives to avoid any tax increase on middle-income families. That is an important bill for us to get done before we leave at the end of this particular session of Congress.

Let me say that $1.6 trillion in taxes over 10 years is not an unreasonable amount. The tax rate the President is asking for is the rate that was in place during the expansive period in our economy under President Bill Clinton. To argue that the President has gone too far in asking for tax and revenue is to ignore the obvious. It is the same percentage asked for by Simpson-Bowles, if not less, and it is a tax rate that, frankly, ruled in this country at a period of time when we had more jobs and businesses created than ever in recent history.

A second argument that was made by the Republican leader is that there is a proposal from the President to raise the debt ceiling at his whim. Those are his words. I beg to differ. What the President has proposed is exactly the McConnell procedure. Senator MCCONNELL of Kentucky suggested to us that we have a process for extending the debt ceiling that allows Members of Congress to vote to approve or disapprove and ultimately for the President to decide whether to sign into law—their resolution of disapproval, for example. That, of course, could lead to a veto and another opportunity for Congress to vote again.

This was a process Senator MCCONNELL suggested. It was a way out of a bind when the House Republicans and others threatened to shut down the economy over the debt ceiling extension, which is, in fact, the mortgage of the United States of America. It would have otherwise led to the first major default on America's debt in our history, with calamitous results when it came to the impact on our economy.

For the Republican leader to come to the floor and criticize the very same procedure he suggested and voted for I think is hard to understand and explain. Last week he came to the floor and suggested that we enshrine it in law. He offered the bill on the floor. Senator REID came and said: We accept your invitation, and we will take a rollcall vote on that, at which point Senator MCCONNELL filibustered his own bill that he had introduced, I recall, earlier in the day. I think he made history in the Senate, filibustering his own bill when we had a chance to vote and pass it.

I would say this notion that the President is looking for an extraordinary power when it comes to the debt ceiling is not quite accurate. I say to the Senator from Kentucky, if we accept your approach to it, it will give the Senate and House a voice, but we will not risk default.

Third, the Senator from Kentucky was lamenting the size of government growth. When we took a look at the last time we balanced the budget and had a surplus in Washington, it was under President William Jefferson Clinton, a little over 12 years ago. What has happened to spending since President Clinton's balanced budget? It has gone up substantially. Where has it gone up? In domestic discretionary accounts, which are often the target of speeches like Senator MCCONNELL's today? No. That has basically been flatlined when you take inflation into consideration. The dramatic growth in government spending since we were last in balance has been in two areas. One of those was in military spending. I might add that the reason it has grown dramatically is we have been at war in Afghanistan and Iraq. The

President has extricated us from Iraq, and we are in the process of leaving Afghanistan.

If you want to know why government spending has gone up so fast, there has been a 64-percent increase in military spending since the budget was last in balance. There was no increase in domestic discretionary spending when you take inflation into account but 64 percent in military spending. That is why spending has gone up. Yet, when they suggest we will cut spending in the sequester, people say: You cannot touch it; it has to continue to grow. I question that. I think we can be safe as a nation and really address the wasteful spending taking place in the Pentagon as well as every other government agency.

Where else is there a growth in government spending? The same analysis by Senator INOUYE says that since the budget was in balance, the expenditures in entitlement spending have gone up 30 percent—30 percent. It is a substantial pool of money. Why? Because yesterday 10,000 Americans reached the age of 65, today another 10,000, tomorrow another 10,000 and every day for the next 18 years as the boomers arrive. To lament the growth in entitlements is to ignore the obvious: we have more people calling on Social Security and Medicare for help. People have paid into these systems for a lifetime and now—I think quite rightfully—expect to be covered by the same programs they have supported for so many years in their working lives.

Is the Senator from Kentucky suggesting that we need to cut back when it comes to eligibility in Social Security and Medicare? That would sure restrain the growth, but it would be fundamentally unfair and unwise to tell people who paid in a lifetime to Social Security and Medicare that now you do not get your benefits.

Let's be honest about the growth in government spending. When you have wars that you do not pay for, when you have entitlement programs created, such as the Medicare prescription Part D, unpaid for, when you have a growth in entitlements just by the demographic growth in America, that accounts for a lot of the increase in spending.

There is one other key element. A large measure of the increase in Federal spending has been increased health care costs, and we estimate that in the next 10 to 20 years, 70 percent of Federal budget outlays will grow because of increased health care costs. We addressed this. We went after the growth in health care costs with the President's ObamaCare—the health care reform bill—in an attempt to contain it and had not one single Republican who would join us in that effort. Not one. We ended up passing it exclusively as a Democratic bill. That is a shame because I think Democrats and Republicans should share the same goal of trying to reduce the increased cost of health care spending.

When it comes to the President's offer, we need a bold approach again. We need to contain the spending costs as we already have, already cutting $1 trillion in spending to date. We need to have revenue sources, which the President has asked for, and we need to look at entitlement programs—I want to be very specific—not entitlement cuts per se but entitlement reform. Untouched, Medicare runs out of money in 12 years. That is a challenge to each and every one of us today—not 12 years from now but today. What will we do in the next year, looking at entitlement programs such as Medicare, to make sure they have a life well beyond 12 years? I think that is a responsibility we should face squarely, and it should be part of this deficit negotiation. I am not for a quick fix that is introduced in the next couple of days or hours; rather, I would like to see a thoughtful repair and reform of Medicare and other entitlement programs so they will continue to be in service in the future.

GREATER EXPORTS TO AFRICA

Mr. DURBIN. Mr. President, I have visited Africa many times. When I have, I have left with an amazing impression of this great continent and all that it contains. It really does lure one and draw you back to the different places in Africa that offer such a rich history but also offer great opportunity.

What I find in Africa today is that China has an increasing presence on that continent. China has a plan when it comes to the future of Africa. America does not. That is why I am going to offer as an amendment to the TAG bill which is currently pending before the Senate the American Jobs Through Greater Exports to Africa Act. My partners on the bill are Senators CHRIS COONS, BEN CARDIN, JOHN BOOZMAN, and MARY LANDRIEU, as well as support in the House from Representative CHRIS SMITH.

At the heart of this bill is the creation of jobs in America. Exporting more goods to Africa will help create jobs here. Every $1 billion in exports supports over 5,000 jobs. I believe we can increase exports from the United States to Africa by 200 percent in real dollars over the next 10 years, and we cannot wait any longer.

If there are some who say that Africa is so backward and so far behind, what is it in the United States they can afford to buy if they even wanted to, that is old thinking. Let me give you some new reality. In the past 10 years, 6 of the world's fastest growing economies are in Sub-Saharan Africa, and in the next 5 years Sub-Saharan Africa will boast seven of the top fastest growing economies in the world. The number of Africans with access to the Internet has increased over the last 10 years fourfold to 27 percent. From 1998 to today, the number of mobile phones on the continent have grown from 4 million to 500 million, and 78 percent of Africa's rural population has access to clean water. These are signs of a growing middle class.

China sees it. We have to see it. China is insinuating itself into the economy of major Africa nations. They are offering concessional loans, and they are offering their contractors, their engineers, and their investment in Africa. We are not. We are going to rue the day. Africa is a great opportunity for us, and this bill addresses it.

I sincerely hope my colleagues in the Senate will consider supporting this greater exports to Africa trade bill. This is something we can do to increase jobs in America, increase trade with Africa, and really build those countries that share our values. The difference between the United States, China, and other countries? We come to the marketplace with values, and we have to make certain those values are protected and encouraged. We can only do that if we are honest traders and we are actively engaged in expanding the markets for our goods and services.

Over the years and during my travels, I have heard from African leaders and American businesses the same story—the U.S. has fallen woefully behind other countries in its commercial engagement with Africa. And our government does not have a coordinated strategy to help match the aggressive efforts of other nations trying to invest in Africa. In endorsing this bill, the U.S. Chamber of Commerce has written that, ''Congress has an opportunity to reverse this decline.''

But why would U.S. businesses and groups representing them, groups like the U.S. Chamber of Commerce and the Corporate Council on Africa, think this effort is so important? As I have said, in the past 10 years, 6 of the world's fastest growing economies are in Sub-Saharan Africa, and in the next 5 years Sub-Saharan Africa will boast 7 of the top 10 fastest economies.

From 2000 to 2009, the number of Africans with access to the internet has increased four-fold to 27 percent.

From 1998 to today, the number of mobile phones on the continent has grown from 4 million to more than 500 million, and 78 percent of Africa's rural population has access to clean water.

These are signs of a growing middle class and what the World Bank has called ''the brink of an economic takeoff'' for Africa. U.S. businesses must be a part of that take-off, and our government must provide a cohesive system of support and a coherent national strategy to enable it. That is what this bill does, and it does so at almost no cost. It would develop a comprehensive strategy to coordinate the work of several U.S. government agencies that help U.S. businesses export American products and services to Africa.

The bill creates a Special Africa Export Strategy Coordinator to ensure that these government agencies are working together efficiently, and in a way that businesses of all sizes can navigate easily. It is smart, low cost,

and it creates enormous returns on investment in jobs, diplomatic influence, and engagement.

Meanwhile, other countries are positioning themselves to be there for the coming African economic boom—countries like Brazil, India, and you guessed it, China. China has aggressively moved in. In fact, today, China is Africa's largest trading partner. China has pumped billions of dollars into Africa, often in the form of concessional loans—loans below market rates that have favorable payback options. These loans are hard to resist for developing countries, and they're hard for American companies to compete with.

Between 2008 and 2010, China provided more financing to the developing world than the World Bank—loans totaling more than $110 billion. This money buys China access to markets, natural resources, consumers, and political influence. A recent story on CNN.com, entitled ''Chinese Media Make Inroads into Africa,'' shows the kind of aggressive engagement we are up against.

This past January, state-owned Chinese Central Television opened its first broadcast hub outside of Beijing. Where did they put it? Mumbai? London? Rio? Try Nairobi. Another Chinese state-run news organization has more than 20 bureaus on the African continent, part of what is called the China Africa News Service. According to the article, it's all part of an effort ''to win the hearts and minds of people in the continent and create a more fertile business environment.'' And it's at our expense. It should make us take a hard look at what the U.S. Government is doing to promote and support our own businesses. And that is what this bill does.

But this bill is not just good for American interests, it is also good for Africa—something our competitors are not always concerned with. While the Chinese may offer sweetheart deals that buyers can't resist, the price of doing business with China is much higher than just the cost of repaying loans.

To calculate the real price you have to add to the sum the precious natural resources that China gobbles up for its growing economy back home and the environmental devastation that comes from its general lack of concern for environmental standards. You have to add the cost of Africans losing out on work when the Chinese ship in their own labor to build the projects they are bankrolling. And when Africans do get the jobs you have to consider the cost of the poor labor standards and working conditions they have to endure. And lastly you have to consider China's indifference to democracy, corruption, and human rights standards.

A recent New York Times article illustrated an even greater cost—a far more deadly side of Chinese involvement in Africa. It dealt with the resurgence of ivory poaching in Uganda and Kenya and the DRC. It is a resurgence that has resulted in tens of thousands of elephants being slaughtered over the past several years and, get this, it is a resurgence fueled by Chinese demand—as much as 70 percent of the ivory is smuggled to China. In fact, the article goes on to say that there is growing evidence that ivory poaching actually increases in elephant-rich areas where Chinese construction workers are building roads.

Now, I said this was a deadly consequence of Chinese involvement in Africa, but I didn't mean just for elephants. Much of the money from this Chinese-fueled increase in the ivory trade ends up in the hands of international fugitive Joseph Kony and his band of murdering thugs. It is widely believed that Kony's Lord's Resistance Army has embraced ivory poaching to fund its reign of terror.

The U.S. Government should seek a level of engagement with our African partners that makes American companies and American products competitive alternatives to what China has to offer. That's what this bill does. It would establish a minimum number of commercial Foreign Service officers to be stationed at U.S. embassies in Africa and the multi-lateral investment banks. It would increase the Export Import Bank staff presence on the ground in Africa. That means better support for U.S. businesses on the continent and better interface with African governments. The bill would also formalize the training economic and commercial officers receive, so they are fully aware of all the tools available for export promotion and financing—a benefit to businesses who want to do business in Africa, or anywhere in the world. And finally, it would equip the U.S. government to counter the aggressive concessional—or below market—loans that many African nations cannot resist.

The Increasing American Jobs through Greater Exports to Africa Act has something for everyone to support. It is good for the American economy. It helps U.S. businesses create jobs here at home by tapping into a burgeoning overseas market hungry for our products. It is good U.S. foreign policy. It positions America to maintain our global leadership in a shifting geopolitical landscape. And it is good for the people of the African continent. Superior American products and business practices would become more competitive and financially accessible to them.

That is why the Senate Foreign Relations Committee unanimously approved this common sense bill. Now the full Senate has a chance to do the same. I urge all of my colleagues to support this critical effort. We must commit today that the United States will not be left behind in Africa. Every day we wait, countries such as China expand their economic, political, and diplomatic footprint on the continent.

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

WIND ENERGY TAX CREDIT

Mr. UDALL of Colorado. Mr. President, I come to the floor again to urge my colleagues to extend the production tax credit for wind energy. I would like to note that on the heels of Senator DURBIN's comments about China, we wish the Chinese energy industry well, but we do not want to outsource our wind energy jobs to China needlessly. We are on a path to do so.

I see my colleague from Iowa here, Senator GRASSLEY, who I know will speak later on the wind production tax credit, but it is going to expire in less than 1 month from now—December 31, to be specific—if we do not act. That means we are 1 month away from pulling the rug out from under an industry that is currently playing a key role in revitalizing American manufacturing, creating jobs, and powering our Nation. We are literally 1 month away from ending a credit that supports tens of thousands of workers right here in the United States.

Each day that we wait to extend the PTC, we risk losing more good-paying American jobs. We also risk doing away with a credit that is a major contributor to the success and development of our Nation's wind industry. This credit has helped companies leverage billions of dollars' worth of investments and created thousands of made-in-America manufacturing jobs.

If history is any guide, allowing this critical tax credit to expire would be disastrous. The expiration of the PTC in 2000, 2002, and 2004 led to massive drops in wind energy installation. Already in my home State of Colorado this year we have seen hundreds of layoffs across the Front Range due to our heel-dragging on the PTC.

Each time I discuss the PTC on the Senate floor, I highlight a different State to show the vitality of the wind industry in that particular State, how this important credit has created jobs for that State's economy. Today I am here to talk about Iowa, America's heartland and the homeland of the PTC.

In Iowa wind power is no longer an alternative source of energy. In fact, Iowa has become the Nation's No. 2 producer of wind energy, providing close to 20 percent of the State's electric power. Its potential is not even close to being fully tapped. Iowa's wind resources could someday produce up to 44 times the State's current electricity needs.

Let me share some specifics with my colleagues. Nearly 3,000 turbines spin statewide in Iowa, and Iowa is home to various manufacturing facilities that produce wind turbines and components. The industry employs nearly 7,000 Iowans, half of whom are located at manufacturing facilities all across the State.

Take, for example, Pocahontas County. We can see the map of Iowa here. There are a total of 216 wind turbines that have been constructed in Pocahontas County. When all turbines are

at full taxable value, they will contribute an estimated total of almost $190 million to the total county tax base. This means additional revenue for local budgets and additional money for investments in schools and critical community projects.

Iowans know the possibilities and potential a continued investment in wind energy holds for their future. However, I wish to underline again that if we do not act, good-paying jobs will continue to be lost and an industry that is critical to our energy independence will be hit very hard.

This is simply unacceptable. Already Siemens Energy is laying off 615 workers in three States, including Iowa. The company Siemens has acknowledged that difficult market conditions are due to congressional inaction on the PTC.

My colleagues from Iowa, Senators GRASSLEY and HARKIN, have been standing with me to fight for the renewal of the production tax credit. Senator GRASSLEY is known as the father of the wind production tax credit. He led the charge some 20 years ago to establish this credit, and I applaud him and Senator HARKIN for their work in the renewable energy sector and their dedication to extending this important credit. They know the PTC is a win for Iowa and a win for the United States. That is why it is so important—beyond important—to extend the PTC as soon as possible. The PTC equals jobs, and we ought to pass it as soon as possible.

As my colleagues keep telling me and we hear from the American people, there is no reason to outsource these jobs. There is no reason to outsource energy production, and there is no reason to damage a growing industry that is helping America become energy independent. Congress needs to pass an extension of the production tax credit today. We can't wait any longer.

Let's create jobs and build the clean energy economy of the future. Let's extend the wind production tax credit and let's do it now. It is that simple. The production tax credit equals jobs. Let's pass it ASAP.

Again, I wish to acknowledge my colleague from Iowa, Senator GRASSLEY, who has been a leader in this important policy area for the last 20 years.

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

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

The legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

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

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

Mr. GRASSLEY. Mr. President, first of all, I had an opportunity to hear what Senator UDALL of Colorado had to say about Iowa and my participation, and I thank him very much for his kind remarks.

This year Senator MARK UDALL is the champion of people speaking about the wind energy tax credit. I have spoken a few times, but he has spoken for every State that has a wind energy business. He has spoken many times more than I have, and I wish to compliment Senator UDALL from Colorado for doing that.

I think it is a foregone conclusion that after 20 years' of investment of taxpayer money in what we call the tax incentive for wind energy, and with the industry just about becoming a mature industry—and there are different points of view within the industry, but in just a few years it will be starting to phase out—this wind energy tax credit can go away because it will be a mature industry much as the ethanol tax credit went away at the end of last year. So with this tremendous investment, it seems to me it would be a shame not to continue it so we can get to maturity, and then in a sense ratify the decision of the good investment of taxpayer money that has already been made.

So today it is my privilege to join my colleague, Senator UDALL of Colorado, on the floor of the Senate to discuss the importance of wind energy and the need to extend the production tax credit for wind. I appreciate Senator UDALL's commitment to the production tax credit for wind energy. As I have said before, but I wish to say it again, he has come to the floor many times during the past several months to highlight the importance of wind energy in the various States. He has been a real leader on this issue.

As Senator UDALL has said, I have been a longtime supporter of the wind energy tax credit beginning with my authorship of the first wind production tax credit in 1992. At the time, I have to confess I didn't see coming, for my State or for the Nation as a whole, the big deal it has become not only in the production of wind energy and Iowa being No. 2 in the Nation, but also the component manufacturing that goes on in most every State involved in wind energy, including my own State. Particularly, I didn't foresee, at a time when most of our talk about exporting jobs is actually exporting jobs, and in my State, at least from two countries, Spain and Germany, we have been able to import jobs—or I should say import the ability to create jobs through foreign investment—for the component manufacturing. So it has been a success in so many ways.

Maybe one other point that ought to be emphasized at this time: Some Members—and maybe more Members in the other body—seem to be more cynical about any sort of investment in green energy because of Solyndra and other places where taxpayer money has gone in the way of grants and then there has been immediate bankruptcy, resulting in a waste of taxpayer money. There is absolutely no benefit from the wind energy tax credit unless energy is actually produced. So it is not going to be one of those situations where through taxpayer money, through a tax incentive, money is going to some company and not reaping the benefits of it, the end result in this case being the production of wind energy.

The production tax credit for wind is working and should be a part of the effort in Washington to get more Americans working. Nationally, the wind energy industry supports 75,000 jobs. There are more than 400 manufacturing facilities nationwide supplying wind components. Thirty-five percent of all new electricity generation added during the last 5 years was from wind, and this happens to be more than from coal and nuclear combined. Today, 60 percent of a wind turbine's value is produced in the United States, compared with just 25 percent in the year 2005.

As I have said so often, my home State of Iowa is a leader in wind energy production and component manufacturing. Nearly 20 percent of Iowa's electricity needs are met from wind energy, powering the equivalent of 1 million homes. Almost 3,000 utility-scale turbines in Iowa generate lease payments to landowners, worth $14 million every year. Iowa is behind only Texas nationally in terms of installed wind capacity. The wind energy employs more than 6,000 Iowans. These jobs are at risk because Congress has so far failed to extend the production tax credit which is set to expire at the end of the year.

In fact, hundreds of Iowans employed in wind energy have already been laid off because of slowing demand over uncertainty of tax credits, and there will be more laid off in my State except in one city where they are manufacturing components to go to Canada for use in wind energy in Canada. Certainty about tax policy and affordable energy, then, are factors for economic growth and getting unemployed workers back on the assembly line.

As much energy as possible—both traditional and renewable—should be produced at home to create jobs and strengthen national security. Wind energy is obviously a free resource, and it is abundant in many places around the country. I suppose we could say wind is abundant every place, but at speeds that make the production of energy from wind cost-effective.

In my State, most of these facilities are in northwest Iowa where the wind averages about 14 miles per hour compared to going diagonally down to the southeast corner of the State where it averages about 8 miles per hour. So if there is enough constant wind, this is very definitely a free resource.

Wind is also a homegrown resource. The electricity it generates is produced on local farms for local customers and often adds investment value to the community. A clean, renewable source such as wind is not dependent on faraway countries with leaders, in the case of petroleum, for instance, who happen to be so hostile to the United

States even as they take our energy dollars and maybe use those against us. That is why there is broad support for extending this worthwhile policy.

Legislation in the House of Representatives to extend the production tax credit has 119 cosponsors, including 25 Republicans. In August the Senate Finance Committee, with a bipartisan vote, passed my extension of the wind energy production tax credit amendment I offered at that particular time.

The Governors' Wind Energy Coalition and the Western Governors' Association have called for an extension of the production tax credit. The Western Governors' Association is an independent organization representing Governors of 19 States, and current membership includes 13 Republicans and 6 Democratic Governors. So there is pretty broad bipartisan consensus among Governors that this ought to be extended.

I was pleased to join a press conference a few weeks ago with Senator MARK UDALL and over 40 military veterans representing Operation Free. They were visiting Capitol Hill to meet with Members of Congress, encouraging Congress to extend the wind production tax credit.

The wind energy production tax credit was created to try to level the playing field with coal-fired and nuclear electricity generation. The production tax credit for wind is available only when wind energy is produced. There is no benefit for simply placing the turbine in the ground. It is a tax relief that rewards results, and that is much different than failed taxpayer-funded grants and loans made since 2009 when a lot of that money went to companies that are now bankrupt.

Those who want to do away with the wind energy tax incentive don't seem to mention that other forms of energy have received far more generous tax incentives for many decades longer than the wind energy industry. Oil and gas and nuclear power all received longstanding Federal support. I wish to emphasize, because I believe I read someplace, that one of the opponents of the wind energy tax credit being extended comes from nuclear.

Do my colleagues think we would even have a nuclear industry in the United States since the 1950s or 1960s if it weren't for the Price Anderson Act that supports it as kind of a super—or an insurer of last resort? It would never have developed, and it is still in existence. Isn't it a little bit intellectually dishonest to say that wind should not have the tax incentive when other industries wouldn't even exist if they hadn't had it already?

If we are going to have a discussion of which industries merit Federal support and which industries don't, the discussion needs to be intellectually honest. If we are having that discussion, everything needs to be on the table, not just wind energy. Can you think of 60 extenders that are going to sunset at the end of this year? Only one—wind—seems to be attacked right now.

This extension deserves a place in our year-end package of tax extenders to help give confidence investors want and employers need to keep and hire workers.

There is no reason to exacerbate the unemployment problem by failing to extend this successful incentive. America's security in the short- and long-term depends on a robust effort to develop domestic energy sources.

Before I leave the floor, this can be done by the extender bill all by itself being passed or it can be, as we hope, that President Obama and Speaker BOEHNER have some sort of framework for us to put meat on that framework so we do not go over the cliff and have this bill be a part of it. When that whole fiscal cliff debate is about jobs, we do not want to forget about these 75,000 jobs that are in wind energy. A lot of these jobs have already led to some layoffs. We could bring those people back to work pretty fast.

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

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

The legislative clerk proceeded to call the roll.

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

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

SENATE RULES CHANGES

Mr. JOHANNS. Mr. President, the Founders of this great country clearly wanted the Senate to serve as a deliberative body anchored with the ability to fully amend and to fully debate issues. Yet there has been a lot of talk lately about Senate rules changes to limit Senators' ability to make their voices heard.

To many, this may sound like inside baseball, limited to the concerns of just a handful of Senators. But let me assure you this issue is so much more than that. The changes that are being contemplated would significantly impact everyday Americans, especially those who live in rural or less-populated States.

Take Nebraska, for example. We do not necessarily consider ourselves small. We have almost 2 million people and several Fortune 500 companies. But we also do not like the idea of getting steamrolled by high-population States; for example, California, New York or Illinois. But that is exactly what these Senate rules changes would allow.

This is not just some wild supposition on my part. The majority leader himself said the filibuster ''is a unique privilege that serves to aid small States from being trampled by the desires of larger states.'' He went on to say it is ''one of the most sacred rules of the Senate.''

Of course, that was a few years ago, before he proposed to do the very thing he has criticized. He now appears ready to undermine the most important rule, not by a two-thirds vote, as clearly required by Senate rule XXII, but by a simple majority fiat. This contradicts longstanding practice and disregards the 67-vote threshold President Lyndon Baines Johnson said ''preserves, indisputably, the character of the Senate.''

This is the same so-called nuclear option Democrats previously decried as breaking the rules to change the rules. For example, the senior Senator from New York previously opposed such a blatant power grab saying:

> The checks and balances that Americans prize are at stake. The idea of bipartisanship, where you have to come together and can't just ram everything through because you have a simple majority, is at stake. The very things we treasure and love about this grand republic are at stake.

Those are pretty powerful and unequivocal words, but it does not stop there.

The senior Senator from Illinois called it '' . . . attacking the very force within the Senate that creates compromise and bipartisanship.'' So that reflects a trifecta of the Democratic leadership saying it is a bad idea. Yet they keep pushing it like it has somehow magically been transformed into a good idea.

But it does not matter how long we polish the tin cup; it will not magically become the golden chalice. Again, you do not have to believe me. One of the Senate's great historians, Democratic Senator Byrd of West Virginia, was very clear on this issue. He said: ''Our Founding Fathers intended the Senate to be a continuing body that allows for open and unlimited debate and the protection of minority rights.''

When faced with the idea of limiting these basic underpinnings of the Senate, he concluded: ''We must never, ever, tear down the only wall—the necessary fence—this nation has against the excesses of the Executive Branch and the resultant haste and tyranny of the majority.''

I had the great privilege of working with Senator Byrd when I first came to the Senate. We offered an amendment together which would have prevented the majority from stretching the Senate rules to enact Draconian cap-and-trade legislation on a simple majority vote—interestingly enough, a situation not so different from today's proposals.

Senator Byrd was very wise in these matters, serving as his party's leader in both times of majority and minority. He had seen both sides of the fence, if you will. He had studied the Framers and had determined that such a blatant power grab could not stand. In fact, the vast majority of our colleagues, on a bipartisan basis, agreed and our amendment passed on a vote of 67 to 31. That is exactly what should happen. If changes are needed, a bipartisan supermajority should approve them, not a simple majority changing the rules to break the rules, not a simple majority steamrolling the Nation.

Senator Byrd left no doubt about his opinion of the so-called nuclear option when he implored us: '' . . . jealously guard against efforts to change or reinterpret the Senate rules by a simple majority, circumventing Rule 22 where a two-thirds majority is required.''

He concluded with a statement more eloquent than any original words I might speak. So allow me to once again quote him. I implore my colleagues to listen carefully:

> . . . the Senate has been the last fortress of minority rights and freedom of speech in the Republic for more than two centuries. I pray that Senators will pause and reflect before ignoring that history and tradition in favor of the political priority of the moment.

It is often said those who fail to study history are doomed to repeat it. I hope my colleagues will study this history, discover the wisdom of Senator Byrd, and decide to abandon this ill-advised hostile takeover of the Senate, this attempt to put a gag on the minority.

One of my favorite statements on this subject from Senator Byrd is: ''. . . before we get all steamed up, demanding radical changes of the Senate rules, let's read the rules.''

Let's do that. Senate rule V clearly states that ''the rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.''

Rule XXII is very clear. It unquestionably says the necessary affirmative vote shall be two-thirds of the Senators present and voting to change the Senate rules.

Again, very clearly, this is all about breaking the rules to change the rules.

The sad thing for our Senate and our great Nation is that once the bell is rung, it cannot be unrung. Simple majority votes to change our Senate rules, I guarantee you, will become commonplace. Whenever a new party takes control, they will change the rules by a majority vote. Whoever occupies the majority at the moment will then run roughshod over the minority party, the laws they passed when they were in the majority, and their constituents. It is absolutely inevitable.

Today's assurances that it only applies to motions to proceed will eventually ring hollow when it extends to judges, to bills, and then to conference reports. There will be nothing to stop it.

One day we will awaken with a Senate that basically is the House of Representatives, where majorities rule and only their leadership decides what amendments will be considered and what votes will occur and when they will occur. We will have a legislative branch that does not resemble even faintly what the Framers of our great Constitution envisioned.

But maybe, just as important, we would find entire states of constituents who have no voice in the policies that affect their daily lives. That would be a travesty.

I implore my colleagues one last time to listen to the wisdom of their leaders of today and throughout our history—people such as our majority leader, who said: ''For more than 200 years the rules of the Senate have protected the American people, and rightfully so,'' and Senator Byrd, who said: ''As long as the Senate retains the power to amend and the power of unlimited debate, the liberties of the people will remain secure.''

But, unfortunately, this great institution has evolved into a constant cycle of bringing flawed legislation to the floor, filling the amendment tree to prohibit all amendments, daring the minority party to vote no to protect the rights of their constituents, and when they do so, claim they are filibustering and obstructionist.

If we could fix this one basic problem, if we could return the Senate to its most basic principle of open debate and opportunity for amendments, maybe we would realize the folly of these proposed rules changes and we would get back in the business of being Senators again and working together again.

This quick fix is not the answer. I hope between now and January cooler heads will prevail, and we will put ourselves back on a path to finding bipartisan solutions to our Nation's most pressing problems.

I yield the floor.

Mr. UDALL of New Mexico. Mr. President, I ask through the Chair if the Senator from Nebraska will yield for a question.

The PRESIDING OFFICER. The Senator from New Mexico asks the Senator from Nebraska to yield.

Mr. JOHANNS. Yes, I will.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. The Senator from Nebraska has talked about the rules not being able to be changed because internally in the Senate rules there is a provision that says you need a supermajority, two-thirds of the Senate, to change the rules. This is the proposition we are hearing argued by many Senators, that we are breaking the rules to change the rules. We have heard that repeated several times over and over on the Senate floor.

The other side of the argument, as the Senator I think well knows, as he worked up here and was around and saw Senator Byrd, is that the Constitution is superior to the Senate rules. And the Constitution specifically says, in article 1, section 5, that each House may determine the rules of its proceedings. Statutory construction applied to that means a simple majority determines the rules of its proceedings. This is a standard interpretation construction.

We know supermajorities are only indicated at several places in the Constitution, and every place else it is implied that it is by a majority. Here you have a supermajority in the Senate rules and you have the Constitution saying at the beginning of a Congress you can change the rules by majority vote. So the question to the Senator is: Does not he agree the Constitution is superior to the Senate rules?

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. JOHANNS. Mr. President, the Constitution would always trump, but that is a misinterpretation of what we are doing here. Let me play this out, because I am pretty confident I know how this is going to work if this is pursued. What would happen in January is there would be a request for a ruling by the Parliamentarian, and the Parliamentarian would correctly rule that in order to change the rules you need two-thirds of the Senate. Then they would use the procedure of overruling our Parliamentarian with a majority vote. That will then stand as the ruling for the Senate. Very clearly what you are doing is you are skirting both the Constitution and the rules of the Senate.

Let me, if I might, take the Senator's question and show the shocking result we are going to end up with. Do you realize there was a day in this body where judges were not filibustered? We can look at Supreme Court judges who might be controversial to one side or the other who were approved by a majority vote.

So what happened? My friends on the other side of the aisle sat down, they brought in some constitutional scholar. He said: Well, why are you not filibustering judges? And now it is very routine and very common—and both sides do it. So here is what is going to happen. Every time you have a majority that comes to power—and we all know the pendulum swings. In our lifetime we will see Republicans returned to the majority. That is how elections go—once this is cracked open, then they as the majority party can come in to change the rules and basically say: It is open season. We will get a ruling from the Parliamentarian just as the Democrats did. We will overrule that ruling of the Parliamentarian by a 51-vote majority or 50, if you have the Vice President in the chair, and then Katy-bar-the-door. All laws passed by that majority are now subject to being repealed by a majority vote.

If you can do it on the motion to proceed, there is not any reason you cannot use this very flawed procedure to do it on every other piece and step along the way. That is what Senator Byrd was warning us about. He was basically saying: Members of the Senate, once you crack this door open, there is no turning back. And there will not be any turning back.

So what happens to our country? Well, No. 1, the minority becomes powerless in the Senate. As a Member of the minority, I could come down here, I could offer an amendment. I could join forces with Senator Byrd on using reconciliation on climate change, and we could get 67 votes. But all of a sudden what is going to happen here is your minority is going to be basically

without a voice in the Senate because the majority rules. That was never intended. That has not been part of our history.

So I think to directly answer the question, you are misinterpreting what this is all about. The net effect of where we are going to end up, if we go in this direction, I guarantee you, in our lifetime we will look back at that moment in history and we will say that changed the operation of the Senate forever.

As I said in my comments, once the bell is rung, it is impossible to unring the bell. We will not have stability in our laws and we will not have stability in our Senate and we will have a minority that is absolutely powerless. I do not believe that is what was intended.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

FOOD STAMPS

Mr. SESSIONS. Mr. President, that was very good debate. I would share the concern of Senator JOHANNS. I remember we backed off this dangerous trend of changing the rules when we fixed the filibuster politically in this political institution. We need to figure out a way to solve this problem. I would say, without any doubt in my own mind, the real reason we have had to filibuster is because the majority leader, to a degree unprecedented in history, is controlling and blocking the ability of the minority party to even have amendments on bills. That goes against the great heritage of the Senate and cannot be accepted. That is why we are having this problem.

I wanted to share a few thoughts this morning about the food stamp program and some of the developments that have been going on. America is a generous and compassionate Nation. We do not want and will not have people hungry in our country. We want to be able to be supportive to people in need.

But every program must meet basic standards of efficiency and productivity and wisdom and management. This program is resisting that. It is the fastest growing major program in the government. In the year 2000 we spent $20 billion on food stamps nationwide. Last year it was $80 billion. It has gone up fourfold in 10 years. That is a dramatic increase. It is increasing every year and virtually every month. The most recent report in September had one of the largest increases in the program's history—another 600,000 added to the rolls, totaling now 47.7 million. One out of every six Americans is receiving food stamps. Oddly, when we attempted to confront our debt and our spending, we had huge reductions for the Defense Department. Some other departments took big cuts. The food stamp program was set aside. President Obama and the Democratic leaders said: We will not even talk about it. No less money, no savings, no review of food stamps. It cannot be changed. It should be left alone.

Well, that is not a good plan. As the ranking member on the Budget Committee, I have begun to look at the program to see how it is we have had such great increases. The agriculture establishment says every single dollar that is spent is needed for hungry people. I offered an amendment that would have reduced spending over 10 years from $800 billion total to $789 billion, reducing spending by $11 billion based on closing a loophole, a categorical eligibility gimmick that should not be there, allowing people to receive benefits who did not qualify for them.

It was said: Oh, you want people to be hungry. It was voted down. I thought it was a very modest, reasonable change. By the way, agriculture spending in our government is different than a lot of people—Mr. President, what is the status of our time?

The PRESIDING OFFICER. The time for morning business has expired.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I have another 6 minutes.

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

Mr. SESSIONS. That is where we are, I think, in terms of spending on the program and the need to examine it and see how it works. The establishment says every dollar is needed, not a dime can be reduced. I certainly agree that no one should be hungry in America. But we must know that the SNAP program, the food stamp program as it is commonly known, is not the only benefit that people have.

Indeed, an average family without income in America today would receive as much as $25,000 in total benefits per year from the government if they did not have an income. They get things such as Temporary Assistance for Needy Families, they get SSI, housing allowance, free health care through Medicaid. They get food stamps and other benefits totaling at least $25,000.

By the way, if you took all of the means-tested welfare-type programs that are in existence in America today, there are over 80. If you divide it up by the number of households who fall below the poverty line in America, it would be $60,000 per household—$30 per hour, on average, for a 40-hour work week. That is how much it would amount to.

The median income in America is less than that. The median income—and they pay taxes on that—is maybe $25 an hour. This would be over $30 an hour based on if we were just to divide up our welfare programs. So to say we should not examine those programs and ask ourselves can we do better is a mistake. The question I would ask is, can we improve it? Can we help more people move from dependence to independence? Is the program functioning as we would like it to function?

I have been asking questions of the Secretary of Agriculture Tom Vilsack. He provided some information that was very troubling to me. I have submitted additional information to him. Now we are not getting any more answers. They have just shut the door. The Secretary basically said: Well, you are a Member of the Senate. You are asking too many questions. I am not giving you any more information. You raise concerns when I give you information. You point out problems. I do not like that. You are not getting any more.

I would note in some of our first inquires in the examination of their program, we found they are on a determined effort to expand the number of people who get on welfare or food stamps even if they do not want to be on food stamps. One of the things that is interesting is they gave a person in western North Carolina, one of the agricultural people, an award for overcoming ''mountain pride.'' Basically what they said was this lady should be given an award because when people in the mountains who are independent and believe they can take care of themselves, thank you—without the Federal Government—she overcame that. They have a brochure telling people what to say when people say, I do not need food stamps, to get them to sign up for food stamps.

I have to say, and I am not happy about it. So now the Secretary has failed to comply with oversight requests from the Senate Budget Committee. Secretary Vilsack has missed the October deadline that we asked him to meet by nearly 2 months. My staff has been provided no update despite repeated requests, and apparently no letter is being drafted from the Department in response to our request. Just stiff you guys.

Well, last I heard he worked for the American people. So do I. And one of my jobs is to make sure the American people's money is well spent. I am asking him about how he is spending our money, and he does not want to respond.

My letter asked questions about two main issues: First, the USDA's acknowledged relationship with Mexico to place foreign nationals almost immediately on food stamps. One of the questions I asked was simply how the U.S. Department of Agriculture interprets the Federal law.

Well, we make Federal law, we pass laws. I would like to know how they are enforcing them and what standards they are using. Federal law says those likely to be reliant on welfare cannot be admitted to the United States. If they want to come to the United States, and they meet the qualifications, they get to come. But they have to show they are not going to be dependent on the government for their food, aid, and health and everything when they come.

We have lots of people who want to come to America. Most of those people probably can come and sustain themselves. Why would we be admitting

those who can't, who are going to immediately go on the government assistance programs? But this law is effectively not being enforced.

Senators GRASSLEY, HATCH, and ROBERTS are ranking members on key committees, and I sent a letter.

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

Mr. SESSIONS. Mr. President, I ask unanimous consent for an additional 3 minutes.

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

Mr. SESSIONS. So another question I asked was concerning the Department's goal to place more people on food stamps. Here is part of the question from the letter: According to USDA, ''only 72 percent of those eligible for SNAP benefits participated,'' adding, ''their communities lose out on the benefits provided by new SNAP dollars flowing into local economies.''

If USDA's enrollment goals were reached, we asked, how many people would be receiving food stamps today? We have gone up dramatically; how many more would be of benefit? I would simply ask that question.

I will ask him again on the Senate floor. How many millions more people would be on the Food Stamp Program if 100 percent of those qualified had enrolled? In 2011 USDA gave a recruitment award, as I mentioned, for overcoming ''mountain pride.'' They produced a pamphlet instructing their recruiters on how to ''overcome the word 'no.' '' The USDA claims the chief obstacle to recruitment is a ''sense the benefits aren't needed.'' That is an obstacle.

USDA asserts that ''everyone wins when eligible people take advantage of benefits to which they are entitled,'' claiming that ''each $5 in new SNAP benefits generates almost twice that amount in economic activity for the community.''

Well, I guess we just ought to do it another fourfold. That would really make America prosperous.

USDA produced a Spanish-language ad in which the main character is pressured into accepting food stamps.

This is what is on the video: The lady said, ''I don't need anyone's help. My husband earns enough to take care of us.'' Her friend mocks her and replies—this is the Department of Agriculture pitch—''When are you going to learn?'' Eventually, she gives in to her friends who are pressuring her and agrees to enroll.

Is this the right approach for America? We need to work, to help people with pride, help people to assume their own independence, to be successful, take care of their own families and move them from dependence to independence. That ought to be the fundamental goal of our system. It was the goal in the reform of 1996 in the welfare reform that worked very well. More people prospered, fewer people are in poverty, and more people are taking care of themselves. It really was a success. We have been drifting back away from that.

What I sense is when you ask questions about it, you are treated as someone who doesn't care about people who are hungry, who do need our help. We want to help. All we are asking is, Can't we do it better? Can't we look back to the principles of independence, individual responsibility, and individual pride that Americans have and nurture that and use that as a way to help reduce dependence in this country? So those are the things I wanted to share.

I would just say this: The Secretary of Agriculture has the responsibility to answer.

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

Mr. SESSIONS. I don't want to get in a fight with it, but, if necessary, I will use what ability I have in the Senate to insist that we get responses.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TRANSACTION ACCOUNT GUARANTEE PROGRAM EXTENSION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed on S. 3637, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the consideration of Calendar No. 554, S. 3637, a bill to temporarily extend the transaction account guarantee program, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the time until 12:30 p.m. will be equally divided and controlled between the two leaders or their designees.

The Senator from New Mexico.

Mr. UDALL of New Mexico. Mr. President, I would ask to speak as if in morning business.

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

SENATE RULES CHANGES

Mr. UDALL of New Mexico. Mr. President, there has been much discussion about the need to reform the Senate rules, and I have listened closely to the arguments against these changes by the other side. Today I rise to address some of their concerns. My Republican colleagues have made impassioned statements in opposition to amending our rules at the beginning of the next Congress. They say the rules can only be changed with a two-thirds supermajority. They say any attempt to amend the rules by a simple majority is breaking the rules to change the rules. This simply is not true.

Repeating it every day on the Senate floor doesn't make it true. The supermajority requirement to change Senate rules is in direct conflict with the U.S. Constitution. The Constitution is very specific about when a supermajority is required and just as clearly when it isn't required.

Article I, section 5 of the Constitution States:

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

When the Framers require a supermajority, they explicitly said so. For example, for expelling a Member. On all other matters, such as determining the Chamber's rules, a majority requirement is clearly implied.

There have been three rulings by Vice Presidents sitting as President of the Senate. Sitting up where the Presiding Officer is sitting, three Vice Presidents have sat there. And the meaning of article I, section 5, as it applies to the Senate, this is what they were interpreting. In 1957, Vice President Nixon ruled definitively, and I quote from his ruling:

While the rules of the Senate have been continued from one Congress to another, the right of a current majority of the Senate at the beginning of a new Congress to adopt its own rules, stemming as it does from the Constitution itself, cannot be restricted or limited by rules adopted by a majority of a previous Congress. Any provision of Senate rules adopted in a previous Congress, which has the expressed or practical effect of denying the majority of the Senate in a new Congress the right to adopt the rules under which it desires to proceed is, in the opinion of the Chair, unconstitutional.

That was Vice President Nixon. Vice Presidents Rockefeller and Humphrey made similar rulings at the beginning of later Congresses.

I have heard many of my Republican colleagues quote Senator Robert Byrd's last statement to the Senate Rules Committee. The Presiding Officer knew Senator Byrd well. He is from his State of West Virginia. Senator Byrd came to that Rules Committee. I was at that Rules Committee, and I was at the hearing where he appeared—and I have great respect for Senator Byrd. He was one of the great Senate historians. He loved this institution, but we should also consider Senator Byrd's other statements and the steps he took as majority leader to reform this body.

In 1979 it was argued that the rules could only be amended in accordance with the previous Senate rules. Majority Leader Byrd said the following on the floor:

There is no higher law, insofar as our Government is concerned, than the Constitution. The Senate rules are subordinate to the Constitution of the United States. The Constitution in Article I, Section 5, says that each House shall determine the rules of its proceedings. Now we are at the beginning of Congress. This Congress is not obliged to be bound by the dead hand of the past.

That was Senator Robert Byrd. This Congress is not obliged to be bound by the dead hand of the past.

As Senator Byrd pointed out, the Constitution is clear. There is also a

longstanding common law principle upheld in the Supreme Court that one legislature cannot bind its successors. For example, the Senate cannot pass a bill with a requirement that it takes 75 votes to repeal it in the future. That would violate this common law principle and be unconstitutional. Similarly, the Senate of one Congress cannot adopt procedural rules that a majority of the Senate in the future cannot amend or repeal.

Many of my Republican colleagues have made the same argument. In 2003 Senator JOHN CORNYN wrote in a Law Review article—as many of you know, Senator CORNYN was an attorney general in Texas, was a distinguished justice. Senator CORNYN said the following in this Law Review article:

> Just as one Congress cannot enact a law that a subsequent Congress could not amend by a majority vote, one Senate cannot enact a rule that a subsequent Senate could not amend by a majority vote. Such power, after all, would violate the general common-law principle that one parliament cannot bind another.

That was Senator JOHN CORNYN.

Amending our rules at the beginning of a Congress is not breaking the rules to change the rules, it is reaffirming that the U.S. Constitution is superior to the Senate rules. And when there is a conflict between them, we follow the Constitution.

I find some of the rhetoric about amending our rules particularly troubling. We have heard comments that any such reforms, if done by a majority, would ''destroy the Senate.'' Again, I can turn to my Republican colleagues to answer this accusation.

In 2005 the Republican Policy Committee released a memo entitled ''The Constitutional Option: The Senate's Power to Make Procedural Rules by Majority Vote.'' That memo supports the same arguments I make today for reform by a majority, and it also refutes many of the recent claims about how the Senate will be permanently damaged.

One section of the memo titled, ''Common Misunderstandings of the Constitutional Option'' is especially interesting and enlightening. It responds to the argument that ''the essential character of the Senate will be destroyed if the constitutional option is exercised,'' and it responds with the following words:

> When Majority Leader Byrd repeatedly exercised the constitutional option to correct abuses of Senate rules and precedents, those illustrative exercises of the option did little to upset the basic character of the Senate. Indeed, many observers argue that the Senate minority is stronger today in a body that still allows for extensive debate, full consideration, and careful deliberation of all matters with which it is presented.

What is more important about the Republican memo is the reason they believed a change to the rules by a majority was justified. Because of what Republicans saw as a break in longstanding Senate tradition. They claimed they weren't using the constitutional option as a power grab, they were using it as a means of restoring the Senate to its historical norm.

This is exactly where we find ourselves today. Back then, the Republicans argued the constitutional option should be used because 10 of President Bush's judicial nominees were threatened with a filibuster. I believe the departure from Senate tradition now is far worse.

Since Democrats became the majority party in the Senate in 2007, we have faced the highest number of opposition filibusters ever recorded. Lyndon Johnson faced one filibuster during his 6 years as Senate majority leader. In the same span of time, HARRY REID has faced 386.

For most of our history, the filibuster was used very sparingly. But in recent years, what was rare has become routine. The exception has become the norm. Everything is filibustered—every procedural step of the way, with paralyzing effect. The Senate was meant to cool the process, not send it into a deep freeze.

Since the Democratic majority came into the upper Chamber in 2007, the Senates of the 110th, 111th, and current 112th Congresses have witnessed the three highest total of filibusters ever recorded. A recent report found the current Senate has passed a record low 2.8 percent of bills introduced. That is a 66-percent decrease from the last Republican majority in 2005 and 2006 and a 90-percent decrease from the high in 1955 and 1956.

So the Republicans argued in 2005, ''[a]n exercise of the constitutional option under the current circumstances would be an act of restoration.'' An act of restoration. I cannot improve on that statement. We must return the Senate to a time when every procedural step was not filibustered.

I respect the concerns some of my Republican colleagues have regarding the constitutional option, but there is an alternative. We don't have to reform the Senate rule with a majority vote in January. This is up to my colleagues on the other side of the aisle. Each time the filibuster rule has been amended in the past, a bipartisan group of Senators was prepared to use the constitutional option. But with a majority vote on the reforms looming, enough Members agreed on a compromise and passed the changes with two-thirds in favor. We could do that again in January.

I know many of my Republican colleagues agree with me that the Senate is not working. Some say we don't need to change the rules, we need to change behavior. But we tried that—the changing of behavior—with a gentleman's agreement at the beginning of this Congress. It failed. So now it is time to make some real reforms.

This is not a ''power grab,'' as some have charged. We want to make the Senate a better place—a place where real debate happens for both parties. So I ask my friends on the other side of the aisle to bring their own proposals to the table. Let's work together to restore the deliberative nature of the Senate where all sides have the opportunity to debate and be heard.

I said 2 years ago I would push for reforms at the beginning of the next Congress regardless of which party was in the majority. I will say again that our goal is to reform the abuse of the filibuster, not trample the legitimate rights of the minority party. I am willing to live with all the changes we are proposing whether I am in the majority or the minority.

The American people, of all political persuasions, want a government that actually gets something done, that actually works. We have to change the way we do business. The challenges are too great, the stakes are too high, and we do not want a government of gridlock to continue.

I thank the Chair for the time, 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. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RELEASE JOHNNY HAMMAR

Mr. NELSON of Florida. Mr. President, a very disturbing thing has happened in Mexico with one of my constituents—a U.S. marine who served honorably.

Johnny Hammar fought in Fallujah and was honorably discharged in 2007. He and another marine, both having suffered under posttraumatic stress disorder, were taking advantage of the fact they were surfers to lessen their stress. They had surfed up and down the east coast. This is a marine whose family lives in Miami, so they had gone to Cocoa Beach, and they were going to others. They wanted to go to Costa Rica to catch the big waves in the Pacific, and so Johnny bought a camper and entered Mexico at Matamoros.

As they crossed the border, he checked with United States Customs because he had a shotgun that was an antique that had been owned by his great-grandfather. He registered the weapon with U.S. Customs so that when he returned Customs would have a record of it. But when he went from the American side of the U.S.-Mexico line into Mexico, and openly showed his great-grandfather's antique shotgun, the Mexican authorities arrested him.

His companion, another marine, after interrogation was released, but they put Cpl Johnny Hammar, now age 27, in the general prison population in Matamoros, Mexico.

This case came to my attention last August, and I immediately responded. As a result of my contacting the Mexican Government, they moved him from the general population of the jail into an individual jail cell. But as they have

gone in to interrogate him, they have manacled him, shackled him, and at one point they had him chained to the bed.

This has gone on long enough. If it is against the law to take a gun into Mexico, even though he had already declared it at U.S. Customs, the Mexican authorities could have, when they released his fellow marine to go back into the United States, sent him back into the United States and told him don't bring your great-grandfather's shotgun into Mexico. If that is against Mexican law. But they didn't. They have put a U.S. Marine, who has honorably served his country, in a Mexican jail, and he has been there since last August.

Enough is enough. I called my friend Arturo, the great and well-respected Mexican Ambassador, yesterday and I can't get a return call from the Mexican Ambassador, so I am bringing this to the attention of the Senate so we can further get through to the Mexican Government and indicate to them they have made a bureaucratic mistake.

Obviously, if it is against Mexican law to take a weapon in, then under these circumstances, this young U.S. marine does not deserve the treatment he is getting—holding him in a Mexican jail at the border of the United States for the past 5 months.

I hope cooler heads will prevail. If it requires me speaking on the Senate floor day in and day out to keep this issue alive, I will do so. Clearly, it has been in the press. It has been in the Miami Herald several times, a much more detailed account of his background, his service to the country, and his struggling with PTSD ever since he got home.

Mr. President, I thank the Chair for the opportunity to bring this to the attention of my colleagues, and once again I say to the Mexican Government: Send this marine home. Now that you have a new President installed in Mexico, relations with the United States are especially important and United States citizens who are peaceful in their intent, innocent in their observation of the Mexican laws, where no harm has been done, should be treated respectfully. Send that U.S. marine back to America and back to his family in Miami.

Mr. President, 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. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. JOHNSON of South Dakota. Mr. President, I want to express my support for S. 3637, a temporary extension of the Transaction Account Guarantee, or TAG, Program.

The program, which is administered by the FDIC for insured depository institutions and the NCUA for credit unions, provides unlimited insurance for non-interest-bearing accounts at banks and credit unions. These transaction accounts are used by businesses, local governments, hospitals, and other nonprofit organizations for payroll and other recurring expenses, and this program provides certainty to businesses in uncertain times.

These accounts are also important to our Nation's smallest financial institutions. In fact, 90 percent of community banks with assets under $10 billion have TAG deposits. This program allows these institutions to serve the banking needs of the small businesses in their communities, keeping deposits local. In my State of South Dakota, I know that the TAG Program is important to banks, credit unions, and small businesses.

Our Nation's economy is certainly in a different place than it was in 2008 at the height of the financial crisis when this program was created, but with concerns about the fiscal cliff in the United States and continued instability in European markets, I believe a temporary extension is needed. Therefore, I believe that a clean 2-year extension makes the most sense and provides the most certainty for business and financial institutions and also provides time to prepare for the end of the program in 2 years.

I wish to note that this legislation has a cost recovery provision that ensures no taxpayer is on the hook for this insurance. Financial institutions pay for the coverage. This is not and never will be a bailout. This is simply additional insurance paid for by the banks to ensure these accounts remain stable.

I thank Leader REID for making this issue a priority in the lameduck session. I also thank Senator SHERROD BROWN for being a great partner for many months on this important topic. The administration has just issued a SAP in support of TAG, and I ask unanimous consent to have it printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, December 11, 2012.

STATEMENT OF ADMINISTRATION POLICY

S. 3637—TRANSACTION ACCOUNT GUARANTEE PROGRAM TEMPORARY EXTENSION

(Sen. Reid, D–NV)

The Administration supports Senate passage of S. 3637, which would temporarily extend the unlimited deposit insurance coverage for noninterest-bearing transaction accounts. The Transaction Account Guarantee (TAG) Program played an important role in maintaining financial stability and banking system liquidity for consumers and businesses during the financial crisis. While the Administration supports a temporary extension of the program, it remains committed to actively evaluating the use of this emergency measure created during extraordinary times and a responsible approach to winding down the program. The Administration looks forward to working with the Congress to move forward other measures that will support small businesses and accelerate the economic recovery.

Mr. JOHNSON of South Dakota. I ask my colleagues to support the extension of TAG.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

RECESS

Mr. JOHNSON of South Dakota. Mr. President, I ask unanimous consent that the Senate recess until 2:15, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:21 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer, (Mr. COONS).

TRANSACTION ACCOUNT GUARANTEE PROGRAM EXTENSION ACT—MOTION TO PROCEED—Continued

The PRESIDING OFFICER (Mr. COONS). The Senate will come to order.

The clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to calendar No. 554, S. 3637, a bill to temporarily extend the transaction account guarantee program, and for other purposes.

Harry Reid, Joseph I. Lieberman, Jeff Bingaman, Richard Blumenthal, Mark Begich, Jon Tester, Max Baucus, Herb Kohl, Kay R. Hagan, Barbara A. Mikulski, Tim Johnson, Mary L. Landrieu, Kent Conrad, Jeanne Shaheen, Jeff Merkley, Daniel K. Akaka, Mark L. Pryor.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 3637, a bill to temporarily extend the transaction account guarantee program, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

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

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

The yeas and nays resulted—yeas 76, nays 20, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—76

Akaka	Franken	Moran
Alexander	Gillibrand	Murkowski
Baucus	Grassley	Murray
Begich	Hagan	Nelson (NE)
Bennet	Harkin	Nelson (FL)
Bingaman	Hoeven	Portman
Blumenthal	Hutchison	Pryor
Blunt	Isakson	Reed
Boozman	Johanns	Reid
Boxer	Johnson (SD)	Rockefeller
Brown (MA)	Kerry	Sanders
Brown (OH)	Klobuchar	Schumer
Burr	Kohl	Shaheen
Cantwell	Kyl	Snowe
Cardin	Landrieu	Stabenow
Carper	Leahy	Tester
Casey	Levin	Udall (CO)
Coats	Lieberman	Udall (NM)
Cochran	Lugar	Vitter
Collins	Manchin	Warner
Conrad	McCain	Webb
Coons	McCaskill	Whitehouse
Cornyn	McConnell	Wicker
Durbin	Menendez	Wyden
Enzi	Merkley	
Feinstein	Mikulski	

NAYS—20

Ayotte	Hatch	Roberts
Barrasso	Heller	Rubio
Coburn	Inhofe	Sessions
Corker	Johnson (WI)	Shelby
Crapo	Lee	Thune
DeMint	Paul	Toomey
Graham	Risch	

NOT VOTING—4

Chambliss	Kirk
Inouye	Lautenberg

The PRESIDING OFFICER. On this vote, the yeas are 76, the nays are 20. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The motion to proceed is agreed to.

TRANSACTION ACCOUNT GUARANTEE PROGRAM EXTENSION ACT

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3637) to temporarily extend the transaction account guarantee program, and for other purposes.

AMENDMENT NO. 3314

Mr. REID. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3314.

The amendment is as follows:

At the end, add the following new section:

SEC. ____.

This Act shall become effective 5 days after enactment.

Mr. REID. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3315 TO AMENDMENT NO. 3314

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3315 to amendment No. 3314.

The amendment is as follows:

In the amendment, strike ''5 days'' and insert ''4 days''.

MOTION TO COMMIT WITH AMENDMENT NO. 3316

Mr. REID. Mr. President, I have a motion to commit the bill with instructions, which is at the desk.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] moves to commit the bill, S. 3637, to the Senate Committee on Banking, Housing, and Urban Affairs, with instructions to report back forthwith with an amendment numbered 3316.

The amendment is as follows:

At the end, add the following new section:

SEC. ____.

This Act shall become effective 3 days after enactment.

Mr. REID. I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3317

Mr. REID. Mr. President, I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3317 to the instructions (amendment No. 3316) of the motion to commit.

The amendment is as follows:

In the amendment, strike ''3 days'' and insert ''2 days''.

Mr. REID. Mr. President, I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3318 TO AMENDMENT NO. 3317

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3318 to amendment No. 3317.

The amendment is as follows:

In the amendment, strike ''2 days'' and insert ''1 day''.

CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 3637, a bill to temporarily extend the transaction account guarantee program, and for other purposes.

Harry Reid, Debbie Stabenow, Tom Harkin, Jeff Bingaman, Robert Menendez, Tom Udall, Jack Reed, Kay R. Hagan, Tim Johnson, Richard Blumenthal, Bill Nelson, Patrick J. Leahy, Sherrod Brown, Robert P. Casey, Jr., Max Baucus, John F. Kerry, Thomas R. Carper.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. REID. Mr. President, as provided under the previous order, at 4 p.m. today, the Senate will proceed to executive session to consider Calendar Nos. 762 and 829. For the information of the Senate, we expect at least one rollcall vote on the nomination of John E. Dowdell to be U.S. district judge for the Northern District of Oklahoma and Jesus G. Bernal to be U.S. district judge for the Central District of California at about 4:30 today.

The PRESIDING OFFICER. The Senator from Utah.

SENATE RULES CHANGES

Mr. HATCH. Mr. President, some things never change in the Senate. For more than 200 years, our practice of extended debate has been the single most defining characteristic of the Senate. For more than 200 years, extended debate has annoyed the majority and empowered the minority.

What has changed, however, is that the majority today threatens not only to change Senate rules and practice in order to cripple this tradition and consolidate power but to use unprecedented tactics to do it. I urge my colleagues on both sides of the aisle to come together and preserve the fundamental integrity of this body, even if we may disagree about some of the political issues.

I wish to explain to my colleagues why neither the ends nor the means that the majority has been discussing are legitimate. First, there is no debate crisis on the Senate floor, none whatsoever.

In fact, it is easier to end debate today than during most of American history. For more than a century since we had no cloture rule at all, ending debate required unanimous consent. A single Senator could filibuster merely by objecting. From 1917 to 1975, ending debate required a supermajority of two-thirds, higher than the three-fifths required today. As I said a minute ago, extended debate has always annoyed the majority.

Today is no different. Yet we hear the majority claiming there have been hundreds of filibusters, that the rules are being abused, that obstruction is at

an alltime high. The American people likely do not know the particulars of our debate rules and practices but Senators making such claims certainly should.

The majority pumps up the filibuster numbers by claiming that every cloture motion is evidence of a filibuster. They know that is not true. As the Congressional Research Service says:

> The Senate leadership has increasingly utilized cloture as a routine tool to manage the flow of business, even in the absence of any apparent filibuster. . . . In many instances, cloture motions may be filed not to overcome filibusters in progress, but to preempt ones that are only anticipated.

That is what is going on today. The majority leader often files a cloture motion as soon as a motion or a bill becomes pending. He does that to prevent debate from starting, not to end debate that is underway. In the last three Congresses under this majority, a much higher percentage of cloture motions got withdrawn without any cloture vote at all than under the last three Congresses under a Republican majority.

The majority leader appears to think that debate itself is simply dilatory. While extended debate has long been annoying to the majority, this majority leader apparently believes any debate is annoying.

Neither filing a cloture motion nor taking a cloture vote is evidence of a filibuster. A filibuster occurs when an attempt to end debate, such as a cloture vote, fails. That is why some on the other side of the aisle want to address what they claim is a filibuster problem by changing the cloture rule.

Let's use some common sense and stop misleading our fellow citizens about how this body operates. A filibuster is a debate that cannot be stopped. During this 112th Congress a much smaller percentage of cloture votes have failed than in the past. That is right. Cloture votes today are more successful in preventing filibusters than in the past.

The same is true about motions to proceed, which is the particular focus of those who are now threatening to weaken debate by forcing a rules change. In the 112th Congress, 32 percent of cloture votes on motions to proceed have failed, compared to an average of 54 percent during the previous dozen congresses. Put simply, the current Senate majority has used cloture to prevent filibusters on motions to proceed more effectively than in the past.

By the way, during the last several Congresses when the Democrats were in the minority, the current majority leader and majority whip voted to filibuster motions to proceed dozens of times. As I said, extended debate has always annoyed the majority and empowered the minority.

Once again, it is easier to end debate today than during most of American history. The majority has done so more effectively in the current Congress than in the past, both in general and on motions to proceed. There simply is no crisis, no unprecedented abuse that requires some sort of fundamental change in the rules and traditions of this body.

Rather than blowing up the Senate, I suggest that the majority actually try working with the minority. That is something we have not seen under the current majority leader's tenure. Since the Democrats took control of the Senate in 2007, the majority leader has not only routinely filed cloture motions to prevent debate, but he has severely limited the minority's ability to offer amendments. Since the majority leader is at the front of the line in this body, he uses that preference to offer amendments so the minority cannot. He did that here just a few minutes ago.

The current majority leader has used this tactic more than 60 times, more than any previous majority leader of either party. In fact, he has done so more than all previous majority leaders combined. It is one thing to require a majority to pass an amendment, but the effect or, rather, the intent of this tactic is to require Senators in the minority to obtain the majority leader's permission to even offer amendments in the first place.

Isn't that ironic? The majority leader uses the rules to his legislative advantage but wants to strip from the minority the ability to do the same. The Senate is not supposed to work that way and did not when Democrats were in the minority. Back in April 2005, when he was the minority whip, our distinguished current majority leader defended the minority's ability to offer even nongermane amendments because doing so prompted Senate consideration of subjects that the majority may have ignored.

That was then; this is now. Today it does not require three-fifths to block an amendment. The majority leader can and has done the same thing all by himself. This kind of silencing of minority views does not even happen in the House of Representatives, which operates by majority rule across the board. In the House, the majority party, either Republican or Democratic, often limits amendments, sometimes barring them entirely.

But at times the minority is entitled, before final passage, to a motion to recommit, which means a chance to propose a different version of the bill. This motion is not merely symbolic. Not infrequently that motion carries. In contrast, when the Senate majority leader fills the amendment tree, as he just did, he precludes anything such as the House's motion to recommit.

When the minority's rights are trampled like this, what is it to do? Acquiesce or respond in self-defense? Frankly, it should be no surprise that a minority blocked from influencing legislation through amendments would demand extended debate by opposing cloture. But look what happens. The majority obstructs the minority's right to participate in the development of legislation and then attacks the minority for opposing the passage of that same legislation.

Again, that is not the way the Senate is supposed to operate. It is not just the minority who suffers from this strategy. More to the point, the American people suffer. They sent us to be real Senators, individuals who represent them and their concerns. They expect us actually to legislate, which means to amend as well as debate legislation, not simply to vote on whatever the majority puts in front of us.

Our constituents want us to force attention to public issues, even when the majority would prefer to avoid them. This is the caliber of representation our constituents both demand and deserve. The rules and practices of the Senate have been designed to facilitate just this kind of representation. It is these same rules that the majority now seeks to change because they find them inconvenient.

There is a conceit expressed in Washington that what happens in Congress is beyond the comprehension of interest of most Americans. But that is not so. When our voice is stifled, full representation for our constituents is denied. When we are gagged, the people are gagged. Nothing can be easier to grasp or to provoke greater public indignation.

So my first point is that debate is not the problem. If there is a crisis, it is the majority's gambit of preventing amendments and then filing hundreds of cloture motions to prevent debate. My second point is that the unprecedented tactic threatened by the majority to limit debate even more will only further undermine the integrity of this body.

Some of those pushing in that direction have never served in the minority. But all Senators should be alarmed by this prospect. The majority has talked about changing Senate rules to eliminate the opportunity to filibuster motions to proceed. This opportunity has been available to Senators since at least 1949, and as I have mentioned, the majority leader himself repeatedly seized that opportunity when he was in the minority.

I do not believe the cloture rules need to be changed. I do believe, however, that if the Senate is to consider a change, it should follow the process laid out in our rules.

That process exists for a reason. It is the process we have used to change rules in the past, and there is no reason other than a raw power grab to do it any other way.

Senate rules specify that ending debate on a rules change needs approval by two-thirds of Senators present and voting, and there is a very good reason this is so. This cloture hurdle on rules changes exists to ensure that such amendments are not made without bipartisan cooperation. If anything should require broad consensus, it should be the rules by which this institution itself operates.

That is how, for example, we changed the rules in 2007 concerning the content of conference reports and the use of earmarks or how we established a way to provide for public disclosure of holds. All of these changes, some of which require amending the rules, occurred during the tenure of the present majority leader. None was muscled through by majority fiat or forced on an unwilling minority. Bipartisanship was possible because these changes were good for the Senate.

But now we have learned that the majority may begin the next Congress by disregarding our rules and attempting to change those they find inconvenient by a simple partisan majority. They threaten, as they did before the start of the current Congress, to use the so-called nuclear option to force new rules by single-party will. The substantive changes they have proposed would be degrading enough to the Senate. The method they propose to impose them would be catastrophic.

I urge my colleagues, from freshmen to the most senior Members, to take some guidance from our predecessors, such as Senator Mike Mansfield, who served in the minority and later became majority leader. In 1975, when Senators similarly proposed using this same nuclear option similarly to change the cloture rule by simple majority, he said this tactic would ''destroy the very uniqueness of this body . . . and . . . diminish the Senate as an institution of this government.'' He said it would ''alter the concept of the Senate so drastically that I cannot under any circumstances find any justification for it.''

Senator REID expressed a similar view in 2003 when he was the minority whip, arguing that rules changes should be considered through regular order, through the process our rules provide. Senator REID reaffirmed that view in 2005 when he was minority leader, saying that the so-called nuclear option would amount to breaking the rules to change the rules.

Senator REID further observed:

> One of the good things about this institution we have found . . . is that the filibuster, which has been in existence since the beginning, from the days of George Washington—we have changed the rules as it relates to it a little bit but never by breaking the rules.

In other words, if the majority wants to grab even more power, if blocking amendments is not enough for them, if debate is too annoying for them, if they want to rig the rules to further sideline the minority, then they should use the process we have here in place in the Senate. They should make their case and present their arguments, and if they are compelling enough to attract a wide consensus, then the rules of this body can be changed. That is the way we have changed rules in the past. Senator REID expressed this view when he was in the minority.

Former Senator Chris Dodd, a good friend to many of us still in this Chamber and someone who, I would surmise, would be sympathetic to the current majority's views on policy, did so while in the majority. He stated in his farewell address his opposition to changing the Senate rules in the way the majority leader presently proposes.

My friend Senator Dodd had this to say:

> I have heard some people suggest that the Senate, as we know it, simply can't function on such a highly charged political environment, that we should change the Senate rules to make it more efficient, more responsive to the public mood, more like the House of Representatives . . . I appreciate the frustration many have with the slow pace of the legislative process . . . Thus, I can understand the temptation to change the rules that make the Senate so unique—and simultaneously, so frustrating.''

Senator Dodd continued:

> But whether such a temptation is motivated by a noble desire to speed up the legislative process, or by pure political expedience, I believe such changes would be unwise.

In conclusion, Senator Dodd said:

> We 100 Senators are but temporary stewards of a unique American institution, founded upon universal principles. The Senate was designed to be different, not simply for the sake of variety, but because the framers believed that the Senate could and should be the venue in which statesmen would lift America up to meet its unique challenges.

Those who know both Senator Dodd and me know that we didn't agree on much during our years together in the Senate. However, on this point, I have to say that Senator Dodd couldn't have been more right. We did agree on a number of things, but it took bipartisan agreement to be able to accomplish that.

Rules changes such as the ones proposed by the majority would alter the very nature of the Senate and undermine its unique purpose. For more than two centuries, the procedural rights of individual Senators, both in the majority and in the minority, have been a hallmark of this body. Those rights and the rules and practices developed to protect them have earned us the reputation as the world's greatest deliberative body. Among those rights are the minority's right to offer amendments and debate. The majority has already put the former under attack, and now the majority leader threatens to undermine the latter. Quite simply, the majority would weaken this institution in a partisan quest for power. Do these steps serve the Constitution? Do they maintain checks and balances? Do they foster bipartisanship? Do they benefit the American people? The answer to all of these questions is resoundingly negative.

I urge my good friend the majority leader and my friends and colleagues on the other side to exercise serious self-restraint over whether and how Senate rules changes proceed. Those who are unhappy with the rules are free to propose amendments. As we have done in the past, those proposals should be referred to the Rules Committee and considered in the regular course of business. If the proposals have merit, support for them will cross party lines.

Bipartisan solutions are urgently needed to resolve the Nation's problems. I speak as a Senator with a long record of working with Democrats to achieve bipartisan consensus and answers. But invoking the nuclear option will unnecessarily start a new Congress on a divisive and discordant tone. It will generate a poisonous climate guaranteed to impair our capacity to cooperate. No majority can expect the minority to stand on the side lines while its rights are destroyed and its place in this body is diminished. Any minority of either party would defend its place and defend the integrity of this body. We will do so now if the majority pursues this reckless and entirely unnecessary course.

I urge the majority to respect the traditions of the Senate and to follow our rules. I urge the majority to avoid rather than generate those crises.

I have to say that we do not want to be like the House. This is a place where legislation has to be cooled, according to Washington. This is a place where we have to do more reflection. This is a place where there are rights in the minority that are time-honored rights, for good reasons. Yes, we don't always get our will or our way here. That is tough for some of us sometimes. But, on the other hand, rather than throw these rules out or to modify them in ways that really diminish them and to use a nuclear option, it is less than honorable, in my opinion.

But the fact is that I have been through a lot of this, and I have to say there is a reason these rules are in existence, and you don't just throw them out the door for political advantage. The fact is that this body was never intended to be one where you could just sluice things through any way you want to and where the majority could get its will no matter what happens. This is a body where literally we have to deliberate. This is a body where we need to bring about a bipartisan consensus. Now, that is hard sometimes, it is painful sometimes, it is irritating as can be sometimes, but it is the right thing to do.

I really don't believe the majority leader is going to push this. I think he is a better man than that. And I don't believe most Senators in the majority would put up with that because they are better men and women than that.

I have to say, on our side, we would like to see full debate. We get a little tired of the majority leader calling up the bill, filing cloture immediately, and then filling the amendment tree so no amendments can be brought up unless he approves them. That is not the Senate's way. I am not saying you can never fill the amendment tree, but that should only be used at the end of the debate when it has gone on too long and it has to be brought to a close. It should not be used at the beginning of

the debate. This is a body where we allow nongermane amendments. It is a body where we have rights. It is what makes it the greatest deliberative body in the world. It is a body where rules make a difference.

Even though they are to our disadvantage now, I will argue exactly the same if anybody on our side, when we get in the majority, decides to change these rules this way. So I hope we all think it through because there will be all-out war from this day on, from the day on that we use the nuclear option to change perhaps the most important rule in the Senate.

The filibuster rule is a time-honored right by the minority. It is one of the only protections the minority has—or should I say one of the few protections the minority has—and it should not be thrown away frivolously.

I say to my colleagues on the other side, you may not believe it, but someday you are going to be in the minority, and you don't want to see these rules thrown out any more than we do. If we ignore this, ''Katy, bar the door.'' We will have obstructed and hurt the greatest deliberative body in the world and the system that has allowed us to be the greatest deliberative body in the world.

I yield the floor.

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

Mrs. BOXER. I ask unanimous consent to speak as if in morning business.

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

Mrs. BOXER. Mr. President, I rise to speak on a number of matters.

Before Senator HATCH leaves the floor, I really do think it is important that we listen to what he said, but I also think his criticism of the majority leader was really over the top. We just finished a defense bill, I say to my friend, that had over 100 amendments. I chair the Environment and Public Works Committee. We had a transportation bill that had endless amendments.

Mr. HATCH. Would the Senator yield for a colloquy?

Mrs. BOXER. I yield to the Senator.

Mr. HATCH. There was no intention in my mind to disparage the majority leader. I disparage what the majority leader is doing.

Mrs. BOXER. I am glad the Senator cleared that up.

Mr. HATCH. Well, I want to clear it up because he is a friend.

Mrs. BOXER. That is fine.

Mr. HATCH. But these rules are friends, too, and I feel really deeply about this. I hope the Senator and other Democrats feel deeply about it too, because you might wind up in the minority someday when some people on our side might want to do what is being done here today. There is a reason for these rules.

Mrs. BOXER. Reclaiming my time.

Mr. HATCH. I appreciate that.

Mrs. BOXER. I was here in the minority, and I was able to exercise the filibuster, and I was able to stop a lot of legislation that came over from Newt Gingrich's House. I believe in the filibuster completely, and I think it is important to protect minority rights. But I do think there is such a thing as the use of the filibuster versus the abuse of the filibuster. So my position has always been clear that I think the abuse of the filibuster is wrong.

When I first came here, I thought, well, we should just do away with the 60-vote rule. I came to understand that I didn't really, at the end of the day, wind up believing that was wise. So I am working with colleagues to figure out a way we can have a talking filibuster but protect the rights of the minority. But I have to say, I don't think there ought to be a filibuster allowed on a motion to proceed to a bill. We have seen that abused and abused and overused. These are the kinds of things we should get together on as colleagues, as friends, across the issues that divide us and not engage in filibusters on a motion to proceed to a bill. There is plenty of time to filibuster the bill itself. There is plenty of time to argue. But it seems to me whoever is the majority leader, be it a Democrat or a Republican, he or she should have the right to take us to a bill. I think that is a power that should lie with the majority, whoever that majority is. So I would certainly approve of fixing that problem.

In addition, how many filibusters do we have to have before we go to conference? I will support one and we will fight it out. But three motions that can be filibustered before going to conference? That is not doing the people's business. Imagine if a bill gets all the way to that conference phase. Remember, it has gone through the committees of the House and Senate, it has gone through the votes of the House and Senate, it has gone through the conference committee to a vote of the conference committee. Why on Earth should we be allowed to filibuster three motions? So I think there are ways we can work together.

I know my friends from Tennessee and New York at one point were working on ways to prevent any President, be it a Democrat or Republican, from facing filibusters on more or less routine nominations. I could support that change too. But I do want to say, as I look at the abuse of the filibuster versus use of the filibuster—and, again, I believe the rights of the minority must be protected—we have to look at the bold, stark facts. Since HARRY REID became the leader here, he has had to face 388 filibusters. The last time the Democrats were in the minority we forced half as many. I think that is too much, but it is only half as many. So we have our majority leader facing twice as many as Democrats led, and it has gotten out of hand.

Members can stand up here and say it is a horrible thing to try to change the rules, but my test is abuse versus use. I think we can come together and avert any type of showdown at the OK Corral. That is ridiculous. We don't need that. We can talk as friends and figure out some of these commonsense reforms that we can do without having to get angry at one another. I don't think it serves anyone's purpose if we are all angry at one another over this.

THE FISCAL CLIFF

My last comments have to do with the fiscal cliff. I stand here 21 days before a tax increase on all Americans is going to occur. This tax increase will go up $2,200 for an average middle-class family.

That is the bad news. Taxes are going to rise. Here is the great news. The great news is the Senate already passed legislation to fix the problem. And guess what. We didn't do it yesterday or the day before yesterday. We saw it coming and we passed it on July 25, 2012. We passed the middle-class tax cuts. My understanding is we took care of the AMT.

The fact is all that now has to happen is for the House to take up our bill. If they take up our bill and they pass our bill, we will see everyone in America keep their tax cuts up to $250,000 in income, and after that $250,000 we will go back to the Clinton rates.

But here is the really good news, if we do that: We will raise $1 trillion and reduce our debt by $1 trillion. There is no reason why Speaker BOEHNER shouldn't bring this bill to a floor vote. He will win the vote because I know Democrats and some Republicans will definitely support him. He needs to be Speaker of the House, not Speaker of the Republicans, just as Tip O'Neill, when I was there, wasn't Speaker of the Democrats, he was Speaker of the House.

As a matter of fact, the way Tip did it is, he would get half the Democrats and half the Republicans—and he didn't care what you were, an Independent, whatever your affiliation, conservative, liberal—and he would go up to you and say: Can you be with me on this? It is good for the country. Ronald Reagan and I agree.

That was Tip O'Neill. And I know what that is like. Ronald Reagan and Tip O'Neill. So it ought to be President Obama and JOHN BOEHNER saying: We should pass this middle-class tax cut.

Here is the thing I don't get. When the Bush tax cuts went into place they were passed overwhelmingly by Republicans. Why wouldn't the same Republicans want to make sure they continue for 98 percent of the people? I don't get it. I did not vote for the Bush tax cuts then. I am going to vote for them now, for the 98 percent, because we are coming out of a tough time. I didn't vote for them then. You know why? I said we would go into huge deficits. And I don't want to say I was right, but we did go into a huge period of deficits. It was that, plus two wars on a credit card, and it was a prescription drug benefit that was not paid for by allowing Medicare to negotiate for lower prices. I voted against that too.

So here we are at a magic moment in time—a magical moment because it is the holiday season—and we know the Senate passed the middle-class tax cuts in July, and we know there are 21 days left before taxes go up on 98 percent of the people. Rhetorically, I ask the Speaker: Why don't you just pass this?

Today I read the Speaker of the House said: Well, I don't want to do this until I see what programs Barack Obama is going to cut. That is his latest thing. To which I respond: Here is the deal. In the debt ceiling fight we cut $1 trillion of spending. It is shown in those caps that we vote on. Very tough, $1 trillion in spending cuts over 10 years. That equals what we will get from the tax hikes on those over $250,000. Plus, as part of health care reform, we found savings in Medicare of $700 billion.

By the way, the Republicans ran ads against our people saying the Democrats cut Medicare, and we explained they were savings, because what we did is we told providers: Cut down on fraud and abuse—you are overcharging. Be that as it may, the Republicans were just wiping their brow and crying for the Medicare recipients and saying we cut Medicare. Now they want more Medicare cuts. They have come up with a plan which would raise the age of Medicare, which I think is completely disastrous, and I will tell you why.

If we were to raise the age of Medicare recipients, we would leave 300,000 seniors uninsured. Just what we want. Happy New Year, Merry Christmas, and Happy Hanukkah all in one. We would increase the cost to businesses by $4.5 billion because people would stay longer on the business payroll—their medical payroll—at an age when they are getting older. We would increase out-of-pocket health care costs for those age 65 and 66 by over $3 billion. We would increase costs to the States by $700 million. We would cost millions of seniors age 65 and 66 $2,200 more for health care. And we would increase premiums for all other seniors enrolled in Medicare by 3 percent because the population enrolled in Medicare would be older and less healthy.

In other words, we would be pulling the healthiest seniors out of Medicare so that those who are left are sicker, and premiums would go up on everybody else.

The source for these statistics is the Kaiser Family Foundation and the Congressional Budget Office. I ask unanimous consent to have printed in the RECORD these facts regarding the raising of the Medicare eligibility age.

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

Raising the Medicare eligibility age would:
Leave nearly 300,000 seniors uninsured.
Increase costs to businesses by $4.5 billion.
Increase out-of-pocket health care costs for those aged 65 and 66 by $3.7 billion.
Increase costs to states by $700 million.
Cost millions of seniors age 65 and 66 an average of $2,200 more for health care.
Increase premiums for all other seniors enrolled in Medicare by about 3 percent, because the population enrolled in Medicare would be older and less healthy.

Mrs. BOXER. I want to say this rhetorically to Speaker BOEHNER, and I will quote Senator STABENOW, who is quite eloquent on this point. You have a three-legged stool here: You have reductions in spending, which we did in the debt ceiling argument of $1 trillion. It is done. You have cuts in the so-called entitlements of $700 billion, which was done under Obamacare—that is Medicare. The only thing we haven't taken care of is the third leg, which is revenues, and we are suggesting for that $1.7 trillion that we get $1 trillion in revenues.

There have been no revenues put on the table. The Republicans in the House are defending the billionaires, the millionaires—the Koch brothers and all the rest—from having to pay their fair share.

In closing, I would say the American people are very smart. I believe they understand this. They understand what it means to raise the age of Medicare, which we are not going to do. They understand what it means if we do not make sure they get that renewed tax cut. They understand what it means when they see millionaires and billionaires who not only have made even more millions and billions, but the disparity between the middle class and the millionaires and billionaires has grown wildly.

This last election was a lot about that. In this election that was not a side issue—that millionaires and billionaires aren't paying their fair share. It was not a side issue that we should have a budget issue that is fair. It is not a side issue.

It is very easy to resolve this. It is not a good idea for us to fall off that cliff. It is not a necessary thing. So I say to the Republicans, you want a tax cut for everyone, including billionaires. How about taking it for 98 percent of the people? I think that is a deal you should grab and leave Medicare alone. Let's do this now, and when we come back we can get a budget deal that is fair all around.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I ask unanimous consent to speak as if in morning business.

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

Mr. ALEXANDER. Mr. President, while the Senator from California is still on the Senate floor, I want to thank her for her comments on the Senate rules.

I would agree this is something we should be able to talk amongst ourselves and work out. Some of us who have been here for a little while and watch the Senate know it is a unique institution. Fundamentally, most of us on both sides of the aisle know we are not functioning as effectively as we should. And there are only two things that need to happen: We need to get bills to the floor, and then we need to have amendments. Historically, it has been the responsibility of the majority to decide what comes to the floor, and historically the minority—whoever that happens to be—has an opportunity to have amendments.

Over the last 25 years, a couple of things have happened. One is the motion to proceed has been used to block bills coming to the floor. That happened rarely 25 years ago. But, on the other hand, something else happened over the last 25 years: a procedure called filling the tree—which is really a gag rule on amendments—was once rarely used but is now abused. During his tenure, Senator Bob Dole used the so-called filling the tree procedure, and used it seven times. Later, Senator Byrd used it three times when he was the majority leader. Senator Mitchell used it three times; Senator Lott, 11; Senator Daschle, only once, this gag rule; Senator Frist, 15. All those leaders used it 40 times. Our majority leader, Senator REID, has used it 68 times.

So we can all come up with statistics on both sides, but shouldn't we just resolve that what we would like to do is show the country we are grown-up, responsible adults; that we can sit down and say, yes, we can agree on ways to make sure that most bills come to the floor and Senators get to offer most of the amendments they want to offer on the bill? I think we can do that. I think there is a spirit on both sides of the aisle to do that, and I am working toward that goal and I know a number of Democrats and Republicans are doing that. I appreciate the spirit of the Senator's remarks on the rules.

The Senator from California also mentioned the fiscal cliff, and I would like to talk about that in two ways. I have a little different perspective.

The campaign is over. Congratulations to President Obama. He won it. He won the campaign. Isn't this an opportunity for the President to now shift gears, to become President of the United States—to do for the debt that we have, for the social safety net programs that are in jeopardy, to show the same kind of leadership on those issues that President Eisenhower did on the Korean war; that President Lincoln did on the Civil War; that President Reagan did working with Tip O'Neill as was mentioned on Social Security—that was a difficult thing to do back in the early 1980s—and President Clinton did on welfare reform.

Robert Merry, who wrote the biography of James K. Polk, said the other day: In the history of the United States every great crisis has been solved by Presidential leadership or not at all.

A number of us have made our suggestions about what to do about the fact that our debt is too big, we are spending money we don't have, and one way or the other we have to fix it. It is that simple. We shouldn't be borrowing 42 cents of every dollar we spend. So we have to fix it. And a number of us have said on the Republican side: We will hold our noses and do some things we normally wouldn't do.

If the President will come forward with a reasonable proposal on restraining entitlement spending, we will help

raise revenues and we will put the two together, and that makes a budget agreement that the new Foreign Minister of Australia described in this way: The United States of America is one budget agreement away from reasserting its global preeminence, one budget agreement away from stopping all talk in the Pacific area of America's decline, one budget agreement away from showing that we can govern ourselves.

So why don't we do that? Well, I was Governor of a State. That is a much smaller potatoes job—I know that—than being President. But if we needed better roads—which we did—and I waited around for the legislature to come up with a road program, we would still be driving on dirt roads. If I wanted to recruit the Japanese industry to Tennessee—which we did—and I waited around for the legislature to decide which country to go, we wouldn't have any of the auto jobs we now have. If we needed to reward outstanding teaching, and I waited around for the legislature to decide how to be the first State to pay more for teaching well, we wouldn't be doing it at all—which we are now leading the country in doing.

I am trying to say that the way our constitutional system works, at the smaller level in a State with the Governor, or at the national level with the President, the President sets the agenda.

Lyndon Johnson's press secretary, George Reedy, said: The President's job is, No. 1, to see an urgent need; No. 2, to develop a strategy to deal with the need; No. 3, persuade at least half the people he is right. Well, President Obama has done 1 and 3, but he hasn't done 2. We are all sitting around waiting for the President's proposal on what to do about fixing the debt. He has told us what he wants to do about taxes, but he has not yet said what to do about spending on runaway entitlement programs which we all know we have to fix. If he will do that, we will get a result.

We are not the President. We wanted to be. We tried to be. Some of us have even run for the office, but we are not. He is. It is a great privilege. He won the election. We congratulate him for that. So let's have the President's proposal. We need Presidential leadership on the question.

And it is not just an abstract matter of a budget agreement so that the Australian Foreign Minister is happy with the United States, his ally.

I know a lot of people in Tennessee—hundreds of thousands of them actually—who can't wait until they are 65 years old in order to get Medicare so they can be assured they can afford their health care bills. There are hundreds of thousands of people in our State for whom Social Security is their only or most of their income.

What do we say to them? Do we say to them that we are going to ignore the fact—let's just take Medicare—that they are not going to be able to depend on Medicare unless we take some steps to save it? I mean, we can all count. We know, from the Urban Institute, the average two-earner couple who retires this year will have paid about $122,000 into Medicare during their lifetime and are going to take $387,000 out, that simply can't continue. One way or another we have to make certain that the millions of Americans who are looking forward to Medicare can count on it when they become eligible for Medicare. We have the same responsibility with Social Security.

So I would hope the President would recognize there are a lot of us on both sides of the aisle who want to reach a budget agreement. We are waiting for his leadership. He is not sitting around a table as one Senator anymore. He is the President. He is the agenda setter. We need his proposal. Then we can react to it and then we can agree on it. He is not the Speaker. He is not the majority leader of the Senate or the minority leader. He is the President of the United States.

Just as President Eisenhower, President Reagan, President Lincoln, all of the Presidents who have led in resolving great crises, I hope President Obama will as well.

I want him to succeed in resolving this crisis, and the crisis includes not just raising taxes on rich people—I mean, of course, most people are in favor of raising taxes on the guy with the bigger house down the street. It includes finding a way to fix the debt.

I would make one other point on the fiscal cliff. I mentioned that I thought the campaign was over, but the President was in Michigan yesterday on what looked like a campaign event. It seems to me, that time would have been better spent here in Washington, D.C. working on the fiscal cliff, but he was in Michigan. By my way of thinking, he was doing two things: First, he was encouraging the people of Michigan to continue to deny working people the right to get or keep a job without having to pay union dues; and, second, to continue to perpetuate a system that will keep our auto industry from being able to compete in the world marketplace.

Michigan is on the verge of becoming the 24th right-to-work State in the United States. The state Senate and the House each passed separate bills in Michigan last week. They passed a final bill today, and I understand the Governor is about to consider whether to sign it. This is what it will do:

It will ensure that employees in Michigan do not have to pay union dues in order to get or keep a job.

The President said yesterday that Michigan legislators shouldn't be taking away the people's right to bargain for better wages or working conditions. But no one, in passing a right-to-work law, is taking away workers' rights. They're actually giving them a new right—the right not to have to pay union dues in order to get or keep a job. Workers have the right to collectively bargain. Federal laws have recognized that since the 1930s. But since 1947, the Federal Government has also said that States have the right to determine whether to a state may prohibit compulsory unionism. So if Michigan goes the way of the right-to-work law, 24 States have made that decision.

The President also said that these right-to-work laws ''have nothing to do with economics and everything to do with politics.'' I would respectfully disagree with that based upon my life's experience. Thirty years ago, Tennessee was the third poorest State. I was looking around for a way to increase family incomes and to attract new jobs. So I went off to Japan to recruit Nissan. We had virtually no auto jobs in Tennessee at the time. They took a look at a map of the United States at night with the lights on, showing that most of the people lived in the east. While most of the people lived in the east, the center of the market is where you wanted to be if you are making big heavy things, and the center of the market had moved toward the southeast. So Tennessee and Kentucky were more in the center of the market than Michigan or other states where autos had normally been manufactured. So Nissan looked aggressively at Tennessee, Kentucky, and Georgia. But then they looked at something else.

None of the States north of us had a right-to-work law. They had a very different labor environment. So Nissan came to Tennessee. They weren't the only ones. General Motors and the United Auto Workers partnership came to Tennessee with a Saturn plant. They still have an important General Motors plant there where the workers are members of the United Auto Workers, but it is in a right-to-work State. Over the last 30 years, there have probably been a dozen large assembly plants built in the Southeastern United States. There are about 1,000 suppliers in our State today.

What has been the effect of the arrival of the auto industry in Tennessee, attracted by, among other things, our right-to-work law? One-third of our manufacturing jobs today are auto-related jobs. And what has been the effect on the United States? It has maintained a competitive environment where those who want to sell cars in the United States can make them in the United States. Without that competitive environment, my guess is that most of those cars would be made in Mexico or some other place around the world.

If you don't believe me, read David Halberstam's work in 1986, a book called ''The Reckoning'' about the American auto industry. In Mr. Halberstam's words, the big three carmakers and the United Auto Workers, had enjoyed setting wages, setting prices, and ultimately became uncompetitive. They laughed at these little Datsuns that Nissan was selling on the

west coast and these little Beetles that Volkswagen was selling in the United States in the 1960s and 1970s. They ignored the warning of Mitt Romney's father, George Romney, the president of the American Motors Corporation, who said there is nothing more vulnerable than entrenched success. He said that in the 1960s. And what happened? The American automobile industry nearly collapsed.

I believe what saved the industry, as much as anything else, was the right-to-work laws and the existence of a competitive environment in the Southeastern United States, where workers could make cars efficiently, be paid well for their work, and make them here in the United States, instead of in Japan. What President Carter said to me when I was Governor of Tennessee was: Governors, go to Japan, persuade them to make in the United States what they want to sell in the United States. They did that and they did well. In fact, the Nissan plant has, for year in and year out, been the most efficient and successful auto plant in North America.

The right-to-work law has been about jobs and it has made a difference in Tennessee. I am not entirely sure why Michigan has had a difficult time with its economy lately, but perhaps not being a right-to-work state is one reason. Michigan's right to adopt this law has been an important part of our law in Tennessee. I have literally grown up with it. I remember, as a 7-year-old, Senator Taft arguing the Taft-Hartley Act, or at least I heard my parents talk about it. Section 14(b) of the Taft-Hartley Act gave States the right to say that workers in their State did not have to pay union dues to get or keep a job.

And I well remember Everett Dirksen's arguments on the Senate floor in the mid-1960s. President Johnson, at the behest of union leaders, wanted to repeal Section 14(b). Dirksen rose up against it. He said:

> It is the right of the State to do it if it so desires; if the Governor signs the bill, or if they override the Governor's veto. That should be their prerogative in a country where the States and those who represented the States in the Constitutional Convention in 1787 were safeguarded by that residual clause in the Constitution. The right of States to prohibit compulsory union membership has been challenged repeatedly by union officials. But that right has been upheld consistently by the judiciary, including the U.S. Supreme Court.

Finally, as a Tennessean, I could be upset that Indiana, and now it appears Michigan, has adopted right-to-work laws. That puts Tennessee at less of a competitive advantage. I believe in States rights. I believe States have the right to be wrong as well as the right to be right. With all these Midwestern States having the right to be wrong and not having right-to-work laws, we benefited enormously in our State by the arrival of the auto industries and other manufacturers.

But for our country to exist over the next 20 or 30 years in a very competitive world, where jobs can be anywhere, where things can be manufactured anywhere, we want at least those things that are going to be sold here to be made here. Having a right-to-work law which permits the UAW and General Motors to have a partnership at one plant in Tennessee and Nissan and Volkswagen to have a nonunion plant at another place in Tennessee, by vote of the employees, I submit, will make us a stronger, competitive country.

It has everything to do with economics, and I wish the President yesterday had spent his time on the fiscal cliff instead of going to Michigan and arguing in favor of denying workers their right get or keep a job without having to pay union dues, and denying efforts to keep our American automobile industry as competitive as it needs to be in the world marketplace.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

MEDICARE

Mr. SANDERS. Mr. President, it is no great secret that the Congress has a very low favorable rating. Many people shake their heads and they wonder why this institution is so dysfunctional. There are a lot of reasons for that, but I suggest one of the reasons has to do with a lot of hypocrisy that we see in both bodies of Congress. I will give one example.

As all of us know, during the recent Presidential campaign, Republicans attacked Democrats over and over for voting to cut Medicare as part of the Affordable Care Act. They ran a significant part of their campaign on saying: Democrats have cut Medicare. We Republicans are here to protect Medicare.

In fact, this is exactly what Mitt Romney said on August 15, 2012.

> My campaign has made it very clear: the President's cuts of $716 billion to Medicare, those cuts are going to be restored if I become President and PAUL RYAN becomes Vice President.

The reality is that what we did under the Affordable Care Act resulted in zero cuts to benefits. We tried to make the system more efficient. But be that as it may, the Republicans posed as great champions of Medicare against those terrible Democrats who wanted to cut it. Meanwhile, Democrats went to town, taking on the Ryan budget which did make devastating cuts to Medicare and, in fact, wanted to voucherize that program. So we have Republicans beating Democrats for ostensibly—not accurately—trying to cut Medicare, Democrats attacking Republicans for, in fact—accurately—wanting to cut Medicare, and where are we today?

If we read the newspapers we hear and we know as a fact that Mr. BOEHNER, the Republican Speaker, has proposed devastating cuts in Medicare—a month after the election where the Republicans said they were going to defend Medicare. They want to raise the Medicare eligibility age from 65 to 67. Frankly, I am concerned there may be some Democrats—not a whole lot, I hope none, but some Democrats—who may end up going along with that disastrous proposal. That is hypocrisy. Everybody during the campaign is saying the other guy wants to cut Medicare. The day after the campaign, our Republican friends are talking about devastating cuts and maybe some Democrats are prepared to support that.

Raising the Medicare eligibility age from 65 to 67 would be an unmitigated disaster. It would cut Medicare benefits by $162 billion over the next decade and would deny Medicare to over 5 million Americans who are 65 or 66 years old.

The American people, when asked how do you feel: We are looking at deficit reduction. Do you think it is a good idea to raise the Medicare age? The American people overwhelmingly say, no, that is a dumb idea, don't do it.

According to a November 28, 2012, ABC News Washington Post poll, 67 percent of the American people are opposed to raising the Medicare eligibility age, including 71 percent of Democrats and, I suggest to my Republican friends, 68 percent of Republicans, 62 percent of Independents.

While there may be division in the Senate or House, there is no division among the American people. They think it is a dumb idea and the American people are right. They are right for very obvious reasons.

Think about some woman who is 66 years of age, not feeling well. She goes into the doctor's office and she is diagnosed with a serious health care problem. There is no Medicare there for her. What does she do? She goes over to a private insurance company. What do you think the private insurance company is going to charge this person who is already ill? An outrageous rate she cannot afford. What happens to this senior, that person who is 65 or 66? Do they die? Do they go bankrupt? Do they go to their kids who do not have the money to help them stay alive? It is a disastrous idea.

Raising the Medicare eligibility age from 65 to 67 would leave at least 435,000 seniors uninsured every year. Imagine being 66 and not having health insurance. Easy for folks around here in the Congress to laugh. Easy for wealthy people to laugh about it. It isn't so funny when you are living on $15,000 or $20,000 a year and have no health insurance. It would increase costs to businesses by $4.5 billion. It would, of course, increase out-of-pocket costs for seniors; the estimate is about $3.7 billion.

For the individual senior, the estimate is that for two-thirds of seniors age 65 to 66, they would pay an average of $2,200 more for health care. They are trying to live on $20,000, $25,000, $30,000 a year. Suddenly they are hit, on average—could be more, could be less—$2,200 a year. On it goes.

It would increase premiums by about 3 percent for those enrolled in the

health care exchanges created by the Affordable Care Act because many 65- and 66-year-olds would be enrolled in the exchanges instead of Medicare. It would save the Federal Government $5.7 billion in 2014, but it would cost seniors, businesses and State and local governments $11.4 billion—double that, double what the Federal Government would save.

I hope all those folks who, before the election—Republicans and Democrats—were running around the country and in their own States saying: We are for the middle class; we are going to protect Medicare—I hope they go back and read their preelection speeches and stick to what they said before the election.

That is one of the issues out there in terms of the so-called fiscal cliff or deficit reduction. Let me talk about another insidious one, in terms of raising the age of 65 to 67 on Medicare. That is a disaster, but it is pretty clear, everybody understands what it is about. There is now an underhanded way, an insidious way that some people are talking about doing deficit reduction, the so-called chained CPI, which nobody outside Washington, DC, has a clue as to what it is about.

What it would do is change the formulation in terms of how we determined COLAs for seniors, disabled vets, and others. The bottom line is, in my view and the view of many economists, we underestimate the inflationary cost of what seniors are spending because a lot of their spending goes into prescription drugs, health care, and that has gone up faster than general inflation. What the chained CPI says is: Oh, no. What we have now is too generous and we have to cut back. We have to make the COLA skimpier.

This is exactly what a chained CPI would do for people on Social Security. What it says is that somebody who was age 65 would see their benefits cut by $560 a year when they turn 75 and $1,000 a year when they turn 85. Again, I know we have CEOs from Wall Street who have huge salaries, who receive huge bonuses, who have the best care available in the world, they have great retirement programs—these guys who were bailed out by the working families of America when their greed nearly destroyed the financial system of the world—they are now coming to Capitol Hill and they are saying we have to cut Social Security and we have to cut Medicare and we have to cut Medicaid.

For those guys, when we talk about $560 a year for somebody who is 75, that is not a lot of money and $1 thousand when you are 85—what is a thousand bucks? Let me tell you, $1,000 is a lot of money when you are trying to survive on $18,000 or $20,000 a year. We must not allow that to take place.

There is something many people do not know; that is, the chained CPI would go beyond cutting benefits for seniors on Social Security. It would take a real devastating whack at disabled veterans. What about that? I want my Republican friends or any Democrats who support that to come to the floor of the Senate and tell the American people that when we send young men and women over to Afghanistan and Iraq and they got their arms blown off, they got their legs blown off, and we are now going to balance the budget on their backs by cutting benefits for disabled veterans—come to the floor of the Senate and tell the American people they support a chained CPI which would do exactly that.

We have some folks here saying, yes, people are making billions of dollars, we don't want to cut their taxes. But, yes, we will cut benefits for disabled vets who lost their arms and legs in Afghanistan. That is an obscenity and I hope very much we do not go in that direction.

When we talk about deficit reduction, we have to deal with it. It is a serious problem. There is a lot of discussion about the need to deal with $4 trillion over a 10-year period, and I support that. Let's talk about a way we can go forward without balancing the budget on the backs of the elderly, disabled vets, working families.

First of all, we have to understand and acknowledge that in the deficit reduction debates of 2010 and 2011, the Republicans won, basically, those negotiations. We have to be honest about that. Republicans acknowledge that. Some Democrats do. Republicans are tougher than Democrats, Democrats cave, Republicans stand tall.

We have to understand, despite the fact we have a growing inequality in this country, rich getting richer, middle class shrinking, after all the discussions about deficit reduction, the wealthiest people in this country have yet to pay one nickel more in taxes. But because the Democrats are not quite as tough as the Republicans, what has happened is that we have cut, in those two negotiations, $1.1 trillion in spending already. So if we are talking about a $4 trillion bill, understand that we have already cut $1.1 trillion, which leaves $2.9 trillion to be dealt with. I think the President is right, and I simply hope this time he sticks to his guns and does what he says.

What I am suggesting is that there are ways to do deficit reduction that are fair. The first point, in terms of $4 trillion over a 10-year period, we have already cut over $1 trillion in terms of spending—$1.1 trillion. No. 2, I think the President is right in suggesting we have to ask for significant revenue from the wealthiest people in this country—the top 2 percent—without asking for any tax increases for the bottom 98 percent. That would add $1.6 trillion in revenue, bringing us somewhere around $2.7 trillion, so we have a $1.3 trillion problem. Over a 10-year period, that is not a difficult problem to solve.

Let me throw out a few ideas, and I am sure other people have equally good ideas.

Before we cut Social Security, Medicare, and Medicaid, we might want to address the reality that this country is losing about $100 billion every single year from corporations and wealthy people who are stashing their money in the Cayman Islands, Bermuda, and other tax havens, and $100 billion is a heck of a lot of money.

At a time when gas and oil prices have soared recently, when we know major oil companies have in recent years paid nothing, in some cases—despite being enormously profitable—in Federal taxes, we can and must end tax breaks and subsidies for oil, gas, and coal companies.

This country is now spending almost as much as the rest of the world combined in terms of defense. Our friends and allies in Europe provide health care for all their people. In many of these countries, college education is free. We are spending twice as much as part of our GDP as they spend on defense. I think it is time to take a hard look at defense spending, and I think we can make cuts there which will still leave us with the kind of military we need to defend ourselves.

Instead of raising the Medicare eligibility age from 65 to 67, instead of cutting benefits, we can make Medicare and Medicaid more efficient. I believe we can save at least $200 billion over a 10-year period by eliminating waste, fraud, and abuse and lowering prescription drug costs for seniors. For example, the Medicare Part D prescription drug program prohibited Medicare from negotiating with the pharmaceutical companies for lower drug prices. The VA negotiates, and other government agencies negotiate. Medicare should be able to do that.

Fortunately, the war in Iraq is over. We are about to wind down in Afghanistan, and there are savings there.

So before I give the mic over to my colleague from Vermont, I wish to conclude by saying, yes, we go forward on deficit reduction, but there are ways to do it. At a time of growing wealth and income inequality in America, we can move forward and make significant reductions in our national debt, in our deficit, without doing it on the backs of the elderly, the children, the sick, and the poor.

Madam President, I ask unanimous consent that an article from the Washington Post on the subject of increasing the age for Medicare eligibility be printed in the RECORD.

[From the Washington Post, Dec. 11, 2012]

RAISING MEDICARE AGE COULD LEAVE HUNDREDS OF THOUSANDS UNINSURED

(By Greg Sargent)

It looks increasingly possible that lawmakers will reach a fiscal cliff deal that includes a hike in the Medicare eligibility age—a concession to those on the right who seem determined to see very deep entitlement cuts, even if they take benefits away from vulnerable seniors. One argument for raising the eligibility age is that seniors who lose benefits can get insurance through Medicaid or the Obamacare exchanges.

But a new report to be released later today undercuts that argument—and finds that up to half a million seniors could lose insurance if the eligibility age is raised.

The report, by the Center for American Progress, points out a key fact that's been mostly missing from the debate: The hope of getting seniors who lose Medicare insured through Obamacare could be seriously compromised by the Supreme Court decision allowing states to opt out of the Medicaid expansion. This would inflate the number of seniors who could be left without insurance, because many would fall into the category of lower-income senior that would be expected to gain access to Medicaid through its expansion. (Jonathan Cohn has written about this extensively.)

Here's how CAP reached its conclusion. The nonpartisan Congressional Budget Office recently concluded that a rise in the eligibility age could mean as many as 270,000 seniors are left uninsured in 2021. But that's assuming Obamacare is fully implemented in all states. The CAP report points out that 10 states have publicly declared they will opt out of the Medicaid expansion, and more are undecided.

The CAP study then totaled up how many seniors below the poverty line live in states that may opt out of the Medicaid expansion, using 2011 data. The total: Over 164,000. This table shows how many of these seniors live in each of these states:

Add these to the aforementioned 270,000 seniors, and you get a total of approximately 435,000 seniors who could be left without insurance annually by 2021. And this is a conservative estimate—it's based on 2011 data, and the population of seniors will grow significantly over the next decade.

Now, it's very possible that many of these states will ultimately drop their bluster and implement the Medicare expansion. But Republican state lawmakers are also stalling in setting up the exchanges and resisting the law in other ways. With Obamacare implementation up in the air, it may be too risky to raise the eligibility age and hope Obamacare can pick up the slack.

''With opponents of the health care law still working to block it at every turn, many more seniors would become uninsured because they would have nowhere else to turn,'' CAP's president, Neera Tanden, tells me. ''As a result this misguided proposal would undermine the promise of affordable health care for all.''

On top of this, the report finds, raising the eligibility age could also undermine a key goal of Obamacare by inflating medical costs and health care spending, for a range of reasons: Cost shifting, tampering with the health and age levels in insurance pools, and an increased reliance on private insurance, which isn't as good as Medicare at controlling costs.

In my view, the speculation that Dems will ultimately agree to raising the eligibility age has been a bit overheated—it's not clear this is definitely on the table. But it's certainly possible. After all, some on the right seem determined not to accept any entitlement reform as ''real'' unless vulnerable beneficiaries are harmed, and Obama and many Dems prefer a deal to going over the cliff. So anyone who doesn't want to see this happen should be making noise about it right about now. And there are a range of alternative ways to cut Medicare spending without harming beneficiaries.

I'll bring you a link to the report when it's available.

Mr. SANDERS. I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Vermont.

Mr. LEAHY. Madam President, I applaud my colleague from Vermont for what he has said. I think he expresses the feelings of so many Vermonters across the political spectrum, so I thank him for doing that.

EXECUTIVE SESSION

NOMINATION OF JOHN E. DOWDELL TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OKLAHOMA

NOMINATION OF JESUS G. BERNAL TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The bill clerk read the nominations of John E. Dowdell, of Oklahoma, to be United States District Judge for the Northern District of Oklahoma, and Jesus G. Bernal, of California, to be United States District Judge for the Central District of California.

The PRESIDING OFFICER. There will now be 30 minutes of debate equally divided in the usual form.

The Senator from Vermont.

Mr. LEAHY. Madam President, I want to begin by recognizing a significant achievement by the senior Senator from Iowa, our ranking Republican on the Judiciary Committee. Today Senator GRASSLEY has served for 31 years, 11 months, and 6 days as a member of our Committee. His tenure now exceeds that of our friend, former chairman, longtime member, and current Vice President, JOE BIDEN. Senator GRASSLEY is now the sixth longest-serving member in the history of the Senate Judiciary Committee. Senator GRASSLEY and I know how the Committee should operate in its best traditions. I will continue to work with him to achieve all we can for the American people.

Today, the Senate will finally be allowed to vote on the nominations of Jesus Bernal to fill a judicial emergency vacancy on the U.S. District Court for the Central District of California and John Dowdell to fill a vacancy on the U.S. District Court for the Northern District of Oklahoma. Both of these nominees were voted out of the Judiciary Committee by voice vote before the August recess and should have been confirmed months ago. These confirmations today will demonstrate that there was no good reason for the delay—just more partisan delay for delay's sake. This unnecessary obstruction is particularly egregious in connection with Jesus Bernal's nomination because it perpetuated a judicial emergency vacancy since the middle of July for no good reason and to the detriment of the people of Los Angeles and the Central District of California.

Also disconcerting is the Senate Republicans' continuing filibuster against another Oklahoma nominee. Although he had had the support of his two Republican home State Senators, Senate Republicans filibustered in July the nomination of Robert Bacharach of Oklahoma to a judgeship on the Tenth Circuit. Senate Republicans continue to object to voting on this nomination and are apparently intent on stopping his confirmation for the remainder of the year. This, despite the reassuring comments made by Republican Senators when they joined the filibuster in September and excused their participation by saying that after the election he would receive Senate action. With the American people's reelection of President Obama there is no good purpose to be served by this further delay. But Robert Bacharach and nearly a dozen judicial nominees, who could be confirmed and who would fill four circuit court vacancies and five additional judicial emergency vacancies, are being forced to wait until next year—or perhaps forever—by the Senate Republican leadership. Among those nominations is that of William Orrick III to fill another judicial emergency vacancy in the Northern District of California and that of Brian Davis to fill a judicial emergency vacancy in the Middle District of Florida.

A perceptive and long-time observer of these matters is Professor Carl Tobias. I ask that a copy of his recent article entitled ''Obama, Senate Must Fill Judicial Vacancies'' from The Miami Herald be included in the RECORD at the conclusion of my remarks.

(See exhibit 1.)

Mr. LEAHY. He recently wrote how these vacancies on our Federal trial courts ''erode speedy, economical and fair case resolution.'' He correctly points out that this President, unlike his predecessor, ''assiduously'' consults with home State Senators from both parties. Senate Republicans nonetheless stall confirmations virtually across the board. For example, they are filibustering the Bacharach nomination from Oklahoma and the Kayatta nomination from Maine, despite the support of Republican home state Senators.

Professor Tobias observes that the judicial nominees of President Obama are ''noncontroversial . . . of balanced temperament, who are intelligent, ethical, industrious, independent and diverse vis a vis ethnicity, gender and ideology.'' None of these characteristics or their outstanding qualifications matter to Senate Republicans intent on obstruction. The explanations that Republicans offer for their unprecedented stalling of nominees with bipartisan support, indicate that Republicans are fixated on a warped sense of partisan payback. They recognize none of the distinctions with the circumstances in 2004 when President Bush was seeking to pack the Federal courts with conservative activist ideologues and Senate Republicans ran roughshod over Senate practices and traditions. They ignore the history since 2004, the resolution of the impasse by recognition of a standard limiting filibusters only to situations of

''exceptional circumstances,'' or the marked difference in the role they have been accorded by President Obama and me in connection with his judicial nominations from their home States.

After this vote, the Senate remains backlogged with 18 judicial nominations reported by the Judiciary Committee, including 13 nominations from before the August recess. They should be confirmed before the Senate adjourns for the year. If the Senate were allowed to act in the best interests of the American people, it would vote to confirm these nominees and reduce the judicial vacancies that are plaguing our Federal courts and that delay justice for the American people. Sadly, it appears that Senate Republicans will persist in the bad practices they have followed since President Obama was elected and insist on stalling nearly a dozen judicial nominees who could and should be confirmed before the Senate adjourns this month.

By this point in President Bush's first term we had reduced judicial vacancies to 28. In stark contrast, there are still close to 80 judicial vacancies today. If the Senate were allowed to confirm the 20 judicial nominations currently pending, we could take a significant step forward by filling more than one-quarter of current vacancies and could reduce vacancies around the country below 60 for the first time since President Obama took office. Even that would be twice as many vacancies as existed toward the end of President Bush's first term.

That so many judicial nominations have been delayed by Senate Republicans into this lameduck session need not prevent the Senate from doing what is right for the American people. Those who contend that it would be ''unprecedented'' to confirm long-stalled nominations in this lameduck session are wrong. The fact is that from 1980 until this year, when a lameduck session followed a presidential election, every single judicial nominee reported with bipartisan Judiciary Committee support has been confirmed. That is the precedent that Senate Republicans are breaking. According to the nonpartisan Congressional Research Service, no consensus nominee reported prior to the August recess has ever been denied a vote—before now. That is something Senate Democrats have not done in any lameduck session, whether after a presidential or midterm election.

Senate Democrats allowed votes on 20 of President George W. Bush's judicial nominees, including three circuit court nominees, in the lameduck session after the elections in 2002. I remember I was the chairman of the Judiciary Committee who moved forward with those votes, including one on a very controversial circuit court nominee. The Senate proceeded to confirm judicial nominees in lameduck sessions after the elections in 2004 and 2006. In 2006 that included confirming another circuit court nominee. We proceeded to confirm 19 judicial nominees in the lameduck session after the elections in 2010, including five circuit court nominees.

That is our history and recent precedent. Those who contend that judicial confirmation votes during lameduck sessions do not take place are wrong. I have urged the Senate Republican leadership to reassess its damaging tactics, but apparently in vain. Their new precedent is bad for the Senate, the Federal courts and, most importantly, for the American people.

Further, their partisan spin on the past does nothing to help fill long-standing vacancies on our Federal courts, which are in dire need of additional assistance. Arguments about past Senate practice do not help the American people obtain justice. There are no good reasons to hold up the judicial nominations currently being stalled on the Senate Executive Calendar. A wrongheaded desire for partisan payback for some imagined offense from years ago is no good reason. A continuing effort to gum up the workings of the Senate and to delay Senate action on additional judicial nominees next year is no good reason.

It is past time for votes on the four circuit nominees and the other 14 district court nominees reported by the Senate Judiciary Committee. When we have consensus nominees before us who can fill judicial vacancies, especially judicial emergency vacancies, the Senate should be taking action on these nominations to help the American people. Doing so is consistent with Senate precedent, and it is right. Let us do our jobs so that all Americans can have access to justice.

John Dowdell is nominated to serve on the U.S. District Court for the Northern District of Oklahoma. He is currently a shareholder and director at the Tulsa law firm of Norman Wohlgemuth Chandler & Dowdell, where he has worked for nearly 30 years. After law school he served as a law clerk to Judge William J. Holloway, Jr. on the United States Court of Appeals for the Tenth Circuit. His nomination was reported nearly unanimously by the Judiciary Committee last June.

Jesus Bernal is nominated to fill a judicial emergency vacancy on the U.S. District Court for the Central District of California. Since 1996 he has served as a Deputy Federal Public Defender and is currently the Directing Attorney in the Riverside Branch Office. After graduating from law school he served as a law clerk to Judge David V. Kenyon of the U.S. District Court for the Central District of California. His nomination was reported by voice vote by the Senate Judiciary Committee last July.

Today, we are finally being allowed to vote on two consensus nominees who were stalled for months for no good reason.

EXHIBIT 1

[From the Miami Herald, Dec. 10, 2012]

OBAMA, SENATE MUST FILL JUDICIAL VACANCIES

(By Carl Tobias)

Now that President Obama has been re-elected and Democrats have retained a Senate majority, he must swiftly nominate, and the upper chamber expeditiously approve, judicial nominees, especially for the four Florida vacancies, so that the courts can deliver justice.

On Thursday, senators confirmed 94–0 Circuit Judge Mark Walker for the Northern District of Florida. However, the Judiciary Committee delayed action on Circuit Judge Brian Davis for the Middle District three times until the June 21 meeting when the panel reported Davis 10–7. The committee also only held a September hearing for Magistrate Judge Sherri Polster Chappell, whom President Barack Obama nominated to the Middle District in June and finally approved her on Thursday.

Moreover, the bench experiences 64 vacancies in the 679 district judgeships. These openings erode speedy, economical and fair case resolution.

Observers criticized Obama for nominating too slowly in 2009, but he has since picked up the pace. The chief executive assiduously consulted Republican and Democratic senators from states where vacancies occurred before nominations. He has suggested noncontroversial nominees of balanced temperament, who are intelligent, ethical, industrious, independent and diverse vis-à-vis ethnicity, gender and ideology.

Senator Patrick Leahy, the Vermont Democrat who chairs the Judiciary Committee, has rapidly set hearings and votes, sending nominees to the floor where many have languished. For instance, the Senate recessed September 22 without considering 19 excellent nominees; most enjoyed strong committee votes.

Republicans should cooperate better. The major problem has been the Senate floor. Sen. Mitch McConnell of Kentucky, the Republican Minority Leader, has rarely agreed to ballots, invoking unanimous consent, which allows one senator to halt votes. Especially troubling has been Republican refusal to vote on qualified consensus nominees, inaction that contravenes Senate custom. When senators have cast ballots, they overwhelmingly confirmed most nominees.

The 64 district vacancies are crucial. The Middle and Southern District each experience two. Obama has nominated 33 highly competent prospects nationwide. The President nominated Judge Davis and Judge Walker during February and Judge Chappell in June. Obama must quickly propose candidates for the 31 openings without nominees. Senators approved Judge Walker because he is well qualified. The chamber failed to consider the other similarly qualified Florida nominee, Judge Davis, before recessing in September but must vote on him in the lame duck session that began November 13. The committee reported Judge Davis in June 10–7 with Senator Lindsey Graham, R–S.C., not voting. Senator John Cornyn, R–Texas, voted against. He ''had a concern about some intemperate language that dates back to 1995 in what otherwise appears to be an unblemished record'' and would ''keep an open mind.''

Judge Davis was held over thrice at the request of Senator Charles Grassley, R–Iowa, the ranking member, who appeared concerned about Davis' answers in the May hearing and to later written questions. On June 21, Grassley voiced concern about Davis' perspectives respecting a few issues, particularly implicating race, and voted No.

Now that the committee has reported Judge Chappell, the Senate must quickly consider her, while the chamber should expeditiously process Circuit Judge William Thomas, whom Obama nominated for one Southern District vacancy November 14.

The administration should keep closely conferring with Florida Senators Bill Nelson and Marco Rubio, who expressed strong support for Walker, Davis, Chappell and Thomas, and soon propose a fine nominee for the Southern District opening created November 16 when Judge Patricia Seitz assumed senior status. The Senate, for its part, must speedily process that nominee.

The 64 vacancies undermine the delivery of justice. Accordingly, President Obama must swiftly nominate, and senators promptly approve, numerous excellent judges now that senators have reconvened for their lame duck session.

Mrs. BOXER. Madam President, I am very excited and rise in strong support of Jesus Bernal's nomination to be U.S. District Judge for the Central District of California. He is going to make an amazing judge.

He is the oldest son of two humble factory workers, Gilberto and Martha, who aspired for their sons and daughters to attend college.

As the daughter of a mom who never even graduated from high school because she had to go out and work to provide for her ailing dad, I can say that you know any parents who give up so much for their kids have the heart and you know their sons and daughters will have the heart and will make sure—whether they wind up here or teaching in a school or whatever their profession is, or being on the bench—they will work for justice for all.

Gilberto and Martha would tell young Jesus and his siblings: ''You study, we work.'' Those are the kinds of parents he came from. Their aspirations were realized. All five of their children attended college, and today, I believe, Mr. Bernal will be confirmed as a federal district court judge. What a country we live in.

When confirmed, Mr. Bernal will be the only Latino district court judge serving the central district's eastern division, which includes my home county of Riverside and San Bernardino County as well. What a tremendous honor for his family.

Mr. Bernal graduated from Yale with honors, and then Stanford Law School. After law school, he clerked for Judge David Kenyon on the same court to which he has been nominated. What an amazing thing: The clerk becomes the judge.

He began his career as an associate at Heller Ehrman, where he worked on complex commercial litigation cases. In 1996, he joined the L.A. office of the federal public defender for the central district and represented indigent defendants in federal court.

In 2006, he became the directing attorney for the Riverside branch office where he supervises a team of attorneys, investigators, paralegals, and administrative staff. He served on the board of directors for the Federal Bar Association, Inland Empire Chapter, since 2006, and he has dedicated time to working with at-risk youth.

Confirming a judge to the central district's eastern division comes not a moment too soon. Riverside County has 23 percent of the central district's population. But out of the 25 active judges, there is only 1 active judge sitting in Riverside. The people of Riverside need another judge. I am proud it will be Jesus Bernal, a highly respected member of that community.

I want to thank the Senate Judiciary Committee, for this amazing support. And I want to thank President Obama for moving this recommendation forward.

I also hope that before the Senate adjourns this year we approve four other California nominees who are awaiting confirmation: Fernando Olguin, Jon Tigar, Bill Orrick, and Troy Nunley. All are nominated to serve on courts that are considered judicial emergencies.

Mrs. FEINSTEIN. Madam President, I rise to express my strong support for the nomination of Jesus Bernal to be a U.S. District Judge for the Central District of California.

Born in Mexico, Mr. Bernal is 49 years old. He earned his Bachelor's Degree cum laude from Yale University in 1986 and his law degree from Stanford Law School in 1989. He became a U.S. citizen in 1987.

Following law school, Mr. Bernal spent 2 years as a law clerk for the Honorable David V. Kenyon on the same court to which he is nominated today, the U.S. District Court for the Central District of California.

Mr. Bernal began his career in private practice, working as an associate at the law firm of Heller, Ehrman, White, & McAuliffe in Los Angeles from 1991 through 1996. Mr. Bernal practiced complex civil litigation, representing corporate clients in business disputes.

Since 1996, Mr. Bernal has worked as a Deputy Federal Public Defender in the Central District of California, where he has personally represented hundreds of indigent criminal defendants and overseen hundreds of other representations.

Mr. Bernal has appeared hundreds of times in court. He represents defendants through each phase of their cases—in hearings and plea negotiations, and at trial, sentencing, and on appeal.

Since 2006, Mr. Bernal has been a leader in the Federal Public Defender's Office, experience that will help him manage his courtroom. He is the Directing Attorney of the Riverside Branch Office, a role in which Mr. Bernal supervises trial attorneys, investigators, and other personnel, in addition to carrying his own caseload.

He also serves as chairman of the Ethics Committee for the Federal Public Defender's Office for the whole Central District, which is the largest Federal Public Defender organization in the Nation. In this capacity, Mr. Bernal works to resolve ethical issues and to provide ethical guidance for the 240 employees who work for the Federal Public Defender in the Central District.

Mr. Bernal has over 20 years of legal practice, including 5 years in complex civil litigation and 15 years in Federal criminal defense. He also has extensive practical experience supervising other attorneys. In short, he is well-prepared to serve on the District Court.

The seat Mr. Bernal will fill has been vacant since former District Judge Stephen Larson stepped down from the bench in 2009.

Judge Larson sat in the Eastern Division of the Court, which hears cases in Riverside and covers the counties of San Bernardino and Riverside, the 11th and 12th most populated counties in the Nation.

The Central District is very busy. It has a caseload that is nearly 30 percent above the national average, and the sixth-highest civil caseload in the Nation.

The Eastern Division of the Central District is even more critically overloaded. It has only a single district judge. Yet it encompasses 2,000 annual civil filings and 4.2 million people roughly the population of the entire commonwealth of Kentucky, which has nine active district judges and seven senior judges to handle its workload.

In short, filling this particular seat is very important and will bring needed judicial resources to the Federal bench in Riverside.

I also want to urge the confirmations of other judicial nominees from my home State.

Including Mr. Bernal, 5 of the 15 district court nominees on the Executive Calendar are from California. The other nominees are:

Magistrate Judge Fernando Olguin, a nominee to the Central District whom I recommended to the President;

Superior Court Judge Jon Tigar and Bill Orrick, nominees to the Northern District recommended by Senator BOXER; and

Superior Court Judge Troy Nunley, a nominee to the Eastern District whom I recommended to the President.

All four were approved by bipartisan votes in the Judiciary Committee, three of them by voice vote.

Each of these districts is in a judicial emergency according to the Judicial Conference of the United States.

The Central District's caseload is over 30 percent above the national average. The Northern District's caseload is over 20 percent above the national average. It now takes over 50 percent longer for a case to go to trial than it did a year ago in the Northern District, which hears some of our county's most complex technology cases.

The Eastern District is the most overworked district in the Nation by far. With over 1,100 weighted filings per judgeship, its caseload is over twice the national average.

Simply put, my State more than any other urgently needs us to take prompt action on judicial nominees.

So, I urge my colleagues to support the nomination of Jesus Bernal, and to support confirming the four other distinguished California nominees pending on the Executive Calendar this year.

Mr. LEAHY. Madam President, I ask unanimous consent to proceed as in morning business.

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

THE FARM BILL

Mr. LEAHY. Madam President, no matter what calendar one goes by, we are nearing the end of this Congress. We have only a few short weeks to end the stalemate and pass a farm bill. For months, House leaders have blocked a vote on a bipartisan farm bill. We passed in this body, across the political spectrum—Republicans and Democrats alike—a bill that saved tens of billions of dollars. However, the Republican leadership in the House of Representatives will not allow it to come to a vote. Much is at stake—from rural communities to farmers who need the certainty that a farm bill extension would mean. I have said a lot of times on this floor that farming cannot be put on hold. We can't tell a farmer: Well, hold those crops for a couple of months while we wait to see what we are doing. Don't milk those cows for a few months until we figure out whether the Congress will get its act together on a farm bill. It doesn't work that way. Farmers already cope with innumerable variables in running their businesses. The last thing they need is for Congress to needlessly compound the uncertainty through weeks of delay and obstruction.

The Senate has passed a bipartisan bill under the leadership of the chair of our committee, Senator STABENOW. We passed a bipartisan bill that renews the charter for basic agriculture, nutrition, and conservation programs, while saving taxpayers $23 billion. What I have been told privately is that if the House leaders would permit a vote, this bill would pass in the House. Just as Republicans and Democrats came together in this body, they would in the other body. Passing it would end this corrosive stalemate, while contributing billions of dollars to deficit reduction. Unfortunately, it appears the nutrition programs that help millions of our most vulnerable fellow Americans are the latest excuse for preventing a House vote to get the farm bill done. In this, the wealthiest, most powerful Nation on Earth, some are saying they will hold this up because we have hungry people who need the support our nutrition programs provide.

With so many Americans still struggling to put food on the table, it is not only regrettable, but more than that, it is inexcusable that some House Republicans have turned to slashing central nutrition help for struggling Americans as a means to prevent action on the farm bill. Ensuring that these programs can continue to serve Vermonters and all Americans, especially those in need, is a key part of enacting a strong farm bill for this economy. It is a reality recognized by the Senate-passed farm bill. Unfortunately, consideration of the farm bill is not the first time this Congress has been forced to debate legislation that will greatly reduce the ability of the neediest among us to put food on the table for their families. Bills and amendments have been proposed that would cut tens of billions of dollars from the food stamp program, eliminating nutrition assistance for millions of Americans and denying hundreds of thousands of American children school meals. I am proud that time and again during this Congress the Senate has defeated such proposals. I will continue to help fight back against such attacks.

The bipartisan Senate-passed farm bill makes an investment in American agriculture that benefits our producers, our dairy farmers, our rural communities, our Main Street businesses, our taxpayers, and our consumers. Now it is being held hostage by House Republicans who are demanding Draconian cuts in food assistance programs just as we are coming out of the worst recession in generations. They are preventing final action on a bill that touches every community and millions of our fellow citizens across the Nation. It is ironic that during this holiday season, opponents of nutrition programs that help the poor are insisting on making it drastically more difficult, or impossible, for these families and their children to simply eat.

No Member of the Senate, no Member of the House of Representatives goes hungry except by choice. None of us do. We don't know what that is like. We don't go home and look at our children and say: We can't feed you tonight; hold on for another day. I know you are hungry. I know you are crying. I know you can't sleep. But we can't feed you today. None of us face that. But I can tell my colleagues that there are people in every single State we represent where that is their reality.

Those advocating for these drastic cuts couldn't have chosen a worse time. As winter approaches, Vermonters and others across the country are going to find the demands for paying for heat, electricity, and food a large strain on their family's budget. All this is before we even take into account those areas where they are recovering from such terrible natural disasters and those communities who probably face disasters in the future. I know there are Vermonters, as there are so many other Americans, who struggle every day to make ends meet and are forced to make tough decisions about whether to pay for rent or heat or medications or food. We are talking about essentials.

The Presiding Officer and I represent two of the most beautiful States in this country, but we also know that both our States can get very cold in the wintertime. When it is 5 and 10 below zero, heat is not a luxury and food shouldn't be a luxury. When it is 5 below zero, the choice should not be, can we heat or can we eat? This in America? That is wrong.

While the economy continues to recover, and we hope it will, we still have many Americans who rely on basic assistance to get by each month. Thankfully, the Supplemental Nutrition Assistance Program, or SNAP, has helped fill the gap. It offers the most comprehensive assistance available to the poorest Americans.

No one can deny the effects of hunger on Americans, especially children. Children who live in food insecure homes are at a greater risk of developmental delays, poor academic performance, nutrient deficiencies, obesity, and depression. Yet participation in food assistance programs turns these statistics on their head. Federal nutrition programs have been shown to lessen the risk that a child will develop health problems, and they are associated with decreases in the incidence of child abuse. Children from families who receive SNAP have higher achievement in math and reading. They have improved behavior, social interactions, and diet quality than children who go without this nutrition help.

It is unfortunate that during this fall's campaign, we saw candidates who were intent on spreading misconceptions about a program that lifts millions of Americans above the poverty line each year. The contention that SNAP beneficiaries are largely out-of-work Americans is far from accurate. Two-thirds of the beneficiaries are children, the disabled, or the elderly who cannot be expected to work. The remaining participants are subjected to rigorous work requirements in order to receive continuing benefits. And while SNAP offers crucial support to a family's grocery expenses, the benefits far from cover all of a family's food needs. With a benefit average of $1.25 per person, per meal, it is understandable that families typically fall short on benefits by the middle of the month.

Vermont has done a remarkable job at urging Vermonters to register for our SNAP program. We call it 3Squares. But the unfortunate reality is that thousands of Vermonters continue to go without food they could receive. I hear from Vermont families who participate in 3Squares about the importance of Federal food assistance. Parents have told me they ignore their own hunger to ensure their kids are fed, but they don't know how they can cope if benefits are cut further. Kathy, a mother from Barre, VT, where my father was born, says her child has come to her crying, wondering whether they will have enough money for food. Others have noted that expenses for necessities, such as heating and rent, are fixed costs. When Three Squares benefits run out, skipping breakfast or lunch is the only way to scrape by.

Unfortunately, both the Senate bill and the committee-passed farm bill in

the House include cuts to the nutrition assistance. Nonetheless, the Senate bill takes a more sensible approach. Of the $23 billion in deficit reduction included in our bill, $4.5 billion comes from nutrition programs, nearly four times less than the House Agriculture Committee bill. I do not support the cuts in the Senate bill, and I supported an amendment during the Floor debate to restore this funding to SNAP, so that families across the country would not lose an average of $90 per month in benefits. But the cuts in the Senate bill represent a concession from our Chair, and ultimately the Senate farm bill passed the Senate on a bipartisan vote, including mine, as it always has.

This concession is not enough for many House Republicans. The $16 billion reduction in nutrition programs they wish to see in a farm bill would devastate nutrition programs nationwide. Millions in every State in this country would be left without means to purchase food. These drastic reductions would result in the elimination of food assistance for an estimated 2 to 3 million people, and 280,000 children would lose eligibility for free school meals. This is shameful.

The budget choices we make in Congress reflect who we are as Americans. The American people want budget decisions that are fair and sensible. Americans do not want their friends, neighbors, or family members struggling to feed themselves or their children. Proposed cuts to food assistance programs will mean more hungry families in America. I have spent nearly 38 years in the Senate fighting hunger and I will continue to oppose efforts in the farm bill to further roll back hunger assistance programs that help our neediest fellow Americans. In a nation that spends billions on wasted diet fads, I would like to see us spend some money to feed the hungry in the most powerful Nation on Earth.

Madam President, I see my good friend from Oklahoma on the floor, and I know he wishes to speak on behalf of his nominee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, first of all, let me thank the chairman of the Judiciary Committee for allowing me to say something about our vote that is coming up.

Mr. Dowdell has been nominated to a vacancy on the U.S. District Court for the Northern District of Oklahoma, which sits in my hometown of Tulsa. In fact, he is a neighbor of mine in Tulsa.

After graduating from the University of Tulsa's College of Law, Mr. Dowdell began his legal career as a clerk to the chief judge of the Tenth Circuit Court of Appeals. Since 1983, Mr. Dowdell has accumulated extensive State and Federal litigation experience representing a variety of clients working at the same firm in Tulsa of which he is a partner.

Mr. Dowdell is a native Tulsan and has been extensively involved in the community, in addition to being widely recognized for his work on behalf of his clients. I received a number of letters from members of the legal community throughout Tulsa highlighting Mr. Dowdell's work ethic, his character, and his abilities as an advocate for his clients.

Mr. Dowdell already has experience as a mediator and arbitrator and has served as an adjunct settlement judge in the Northern District for the past 14 years, which is the district for which he is nominated. He and his wife of 24 years, Rochelle, like my wife and I, have four children, which I always remind people is just the right amount. If you are ever going to have 20 kids and grandkids, you have to start with 4, and he understands that.

Although it often seems as if I am on the opposite side of many of this administration's judicial nominees, I can say with confidence that this is not the case with Mr. Dowdell. Mr. Dowdell has the requisite experience and judicial temperament to make a fine judge in the Northern District of Oklahoma.

I am particularly impressed with Mr. Dowdell's commitment to ''render decisions fairly and impartially, applying the relevant law to the facts without bias or prejudgment,'' to interpret a statute or constitutional provision in a case of first impression by first considering ''the statutory text or provision in the context of its plain and ordinary meaning''—that says a lot—and to not consult foreign law when interpreting the U.S. Constitution. Too often in this country we have judges applying their own meanings to the Constitution and to the laws passed by Congress or allowing their own biases to affect their decisions. I can state confidently to my colleagues that Judge Dowdell will not be this type of a judge.

In his Questions for the Record to the Senate Judiciary Committee, Mr. Dowdell has stated that he does not agree with the notion that the Constitution is a ''living'' document that constantly evolves as society interprets it. He further states that the ''Constitution changes only through the amendment process, as set forth in Article V of the Constitution.'' That is refreshing. ''A court's job is to interpret and apply the Constitution, not to add or amend the rights contained therein.'' That is a quote by him.

Based on these statements, I can say that Mr. Dowdell's judicial philosophy is in keeping with the Framers and in lockstep with my own philosophy. My only wish is that we would get more of this type of judicial nominee from the administration.

It is for these reasons that I support Mr. Dowdell's confirmation to the U.S. District Court for the Northern District of Oklahoma, and I hope my colleagues will do the same.

This vote should be coming up in about 10 minutes. I do encourage a positive vote on Mr. Dowdell.

With that, I yield the floor.

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

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

VOTE ON NOMINATION OF JOHN E. DOWDELL

Under the previous order, the question is, Will the Senate advise and consent to the nomination of John E. Dowdell, of Oklahoma, to be United States District Judge for the Northern District of Oklahoma?

Mr. ISAKSON. Madam President, 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 bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Missouri (Mrs. MCCASKILL), and the Senator from Nebraska (Mr. NELSON) are necessarily absent.

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

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

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 226 Ex.]

YEAS—95

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

NOT VOTING—5

Inouye	Lautenberg	Nelson (NE)
Kirk	McCaskill	

The nomination was confirmed.

VOTE ON NOMINATION OF JESUS G. BERNAL

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Jesus G. Bernal, of California, to be United States District Judge for the Central District of California?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

TRANSACTION ACCOUNT GUARANTEE PROGRAM EXTENSION ACT—Continued

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

BUSH TAX CUTS

Mr. GRASSLEY. Mr. President, we have been hearing a lot about the so-called Bush tax cuts from my colleagues on the other side of the aisle. Given the rhetoric being used by some on the other side to describe this tax relief, I would like to take this time to correct the record.

But, first, during this talk about the fiscal cliff and about the tax cuts that sunset at the end of the year, all we have been hearing since the election is, What are we going to do about taxes? That is very significant as a result of the last election because I think it is a foregone conclusion there is going to be more revenue raised.

But if we raise the amount of revenue the President wants raised, and raise it from the 2 percent he wants to raise it from—the wealthy—that is only going to run the government for 8 days. So what will we do the other 357 days or, if we look at the deficit, it will only take care of 7 percent of the trillion-plus deficit we have every year. What about the other 93 percent?

So the point is that we can talk about taxes and taxes and taxes, but it is not going to solve the fiscal problems facing our Nation. We don't have a taxing problem, we have a spending problem. So we should have been spending the last 3 weeks talking about how we are going to take care of the other 93 percent of the problem. The President should have declared victory 3 weeks ago, and we wouldn't have had all this lost time between now and right after the election.

But I said I wanted to set the record straight. This tax relief of 2001 and 2003 reduced the tax burden for virtually every tax-paying American. It did this through across-the-board tax rate reductions, marriage penalty relief, and enhancing certain tax provisions for hard-working families, such as doubling the child tax credit.

Since the passage of this tax relief, there has been a concerted effort by my colleagues on the other side of the aisle to distort the truth about the present tax policy of the Federal Government. That tax policy has been in place for the last 12 years now. They have attempted to distort the truth behind its bipartisan support, its benefits to low- and middle-income Americans, and its fiscal and economic impact.

As one of the architects of the 2001 and 2003 tax legislation, I come to the floor to correct what I believe have become three common myths about this tax relief. The first myth is that this tax relief was a partisan Republican product. The second is that the tax relief was a giveaway to the wealthy. And the third is that the tax relief is a primary source of our current fiscal and economic problems.

First things first. We often hear the other side divisively refer to this tax relief as the Bush tax cuts. Given the rhetoric on the other side, one would think all this tax relief was forced through along party-line votes. The record proves otherwise. The conference report to the Economic Growth and Tax Reconciliation Act of 2001 passed the Senate by a vote of 58 to 33. In all, 12 Democrats voted for this legislation. Senator Jeffords, who later caucused with the Democrats, also voted for it.

As far as major pieces of legislation goes, it is difficult to find such major legislation passed with such broad support since there has been Democratic control of both the Senate and the White House. The President's 2009 stimulus bill, as an example, only had the support of three Republicans, as well as the Dodd-Frank bill. Of course, there is the health care bill, the President's signature legislation, which passed with no Republican votes.

Moreover, all the 2001 and 2003 tax relief was extended in 2010, just 2 years ago, with strong bipartisan support, and signed into law by this President. At that time—2 years ago—the Senate vote tally was 81 to 19. Now, understand, that has to be considered overwhelmingly bipartisan. So just 2 years ago we had overwhelming bipartisan support for the Bush tax cuts. Yet somehow this is a partisan measure we are dealing with. Given this record, instead of calling it the Bush tax cuts, as they are called, we really should be calling it the bipartisan tax relief.

I now would like to turn to the other side's criticism of the bipartisan tax relief or, as they say, tax cuts for the wealthy or another way they say it is it is a giveaway to the rich. This rhetoric demonstrates the difference in philosophy between this Senator and my Democratic colleagues.

First of all, a reduction in tax rates is not a giveaway to anyone. The income a taxpayer earns belongs to that taxpayer. It is not a pittance the taxpayer may keep based upon the good graces of our government. The burden should not be on the taxpayer to justify keeping their income. Instead, it should be on us in Washington to justify taking more away from them.

Secondly, there is a tendency on the other side to view everything as a zero sum game. In their minds, if someone has more, it means someone else will have less. So I would like to quote Ronald Reagan as the best example of this attitude when he said too many people in Washington ''can't see a fat man standing beside a thin one without coming to the conclusion that the fat man got that way by taking advantage of the thin one.''

I believe this is what is driving the animus against the so-called wealthy on the other side. They are under the impression the wealthy got rich at the expense of someone less fortunate.

The problem with this view is that in a free economy goods and services are transferred through voluntary exchanges. Both parties are better off as a result of this exchange; otherwise, it wouldn't occur. Moreover, wealth is not static. It can be both created as well as destroyed.

At worst, the government is a destroyer of wealth. At best, the government is a redistributor of wealth. It is through the force of government the zero sum exchanges occur. It is the private sector that creates wealth through innovation and providing the goods and services we need and want.

The leadership of the other side has become fixated on redistributing the existing economic pie. I believe the better policy is to increase the size of the pie. When this occurs, no one is made better off at the expense of anyone else.

The constant rhetoric of pitting American against American based upon economic status is not constructive. It also has not been constructive to accuse those of us who support the present tax policy for all Americans as agents of the rich. And I will soon get into discussing why that isn't true, as a result of the 2001 and 2003 tax bills.

I do not support tax cuts for the wealthy for the purpose of wealth redistribution. I support progrowth policies to increase the size of the economic pie. Free market, progrowth policies are the only proven way to improve the well-being of everybody.

My objection to the other side's characterization of the bipartisan tax relief is not only a philosophical one, but it is a factual one. The truth is that the bipartisan tax relief that was voted on in 2001 made the Tax Code more progressive, not less. With all the rhetoric around here over the last 5 or 6 years, nobody believes that, so I have a chart to show that.

Since its implementation, the share of the tax burden paid by the top 20 percent has increased. Conversely, the bottom 80 percent has seen its share of tax burden decrease. Additionally, the percentage reduction in average tax rates between 2000 and 2007 was the largest for the lowest income groups.

As you can see from this chart, there is a general trend downward from the

bottom 20 percent to the top 20 percent. The bottom 20 percent saw their average tax rate drop by the 25 percent that is shown there. The top 20 percent, on the other hand, only saw an 11-percent reduction, with the proportionate in between.

The truth about the bipartisan tax relief apparently has been recognized by my colleagues on the other side. They do not like to admit this, but this must be so since they now claim to support extending 75 percent of the bipartisan tax relief bill. In other words, 75 percent of what they are condemning of the 2001 tax bill the other side wants to make permanent law, which obviously I support too. You would think that if it really was a tax cut for the wealthy, however, the other side would be advocating letting all this tax relief expire. Certainly you would not think they would be advocating for more than half of it to be extended. To get around their seemingly contradictory position, they have stopped referring to the majority of the bipartisan relief as the Bush tax cuts. That term is now reserved only for the 25 percent they wish to see expire. They now refer to the 75 percent not as Bush tax cuts but as middle-class tax relief. So I have news for my colleagues. The middle-class tax relief you now claim to support is the same relief you previously demonized as tax cuts for the wealthy.

Finally, it has become en vogue for the other side to blame the bipartisan tax relief for everything from the Federal deficit to the state of the current economy. Neither is based in fact nor sound economic reason.

It is undisputed that in 2001 the Congressional Budget Office was projecting a 10-year budget surplus of $5.6 trillion. However, as a June 2012 CBO report shows, the bipartisan tax relief role in turning this projected surplus into deficits is dwarfed by other factors. This is the 2001–2003 tax cuts. See that smaller piece of the pie?

Then let's look at what else is the justification, according to the Congressional Budget Office—not this Senator—about where the deficit came from.

First off, the June CBO report tells us that their budget surplus projections were simply incorrect. That happens a lot with CBO. I like to refer to CBO around here as God because what they say goes, and you have to abide by it if you don't have 60 votes. But they aren't always right. Unlike God, CBO is not omnipotent. They do not have perfect foresight, and every once in a while even they make mistakes.

CBO's surplus projections were based on rosy economic assumptions as well as faulty technical assumptions that did not pan out. CBO failed to predict the bursting of the tech bubble that was so beneficial in propping up the economy of the Clinton years. CBO also could not predict the September 11, 2001, tragedy that hit New York and the Pentagon, killing 3,000 Americans, which wreaked havoc on our economy.

So add up all these things. All told, these and other economic and technical changes account for $3.2 trillion or, as I show in this chart, these faulty assumptions accounted for 27 percent of the change of the 2001 projections from surplus to deficit.

By far, the biggest reason for the change from surplus to deficit was an increase in spending. Some of this spending was justified. This includes bipartisan support for increased spending to protect our Nation against future terrorist attacks. But, of course, as has become the custom around here, we spent and spent and spent some more. This spending not only continued but escalated with the election of President Obama. His first act was to increase the deficit by $800 billion-plus through a failed stimulus package. In all, this increase in spending accounts for nearly 50 percent in the change from surplus to deficit. That is this part of the pie chart.

So how about the tax cuts we hear so much bellyaching about from the other side? If you look closely at my chart, you will see I have divided the tax relief into two slices. These two slices add up to about 25 percent. Eleven percent of this, which I labeled ''all other taxes,'' primarily consists of the tax relief provided in President Bush's 2008 stimulus package, President Obama's 2009 stimulus, and the payroll tax holiday. Of course, these provisions had large Democratic support, as we all know. That leaves us with the 2001 and 2003 tax relief accounting for merely 12.9 percent of the change in the projected surplus.

But understand what other people are saying—including, I think, even the President—about the reason we have this big budget deficit is because of the Bush tax cuts. Well, that is baloney. That is a far cry from being the driver of our deficits or even a substantial contributor. The truth is, even using CBO's static scoring assumptions, the tax relief did not push us into deficits. In fact, if the only change since CBO's 2001 projection had been the 2001 and 2003 tax relief, we would still be experiencing sizeable surpluses each year.

Along with blaming the bipartisan tax relief for deficits, my colleagues on the other side have alluded to this tax relief as being a cause of our recent recession. The President even made this claim in an ad during the Presidential election.

The exact logic of this claim escapes me. Apparently, it also escaped Washington Post fact checker Glenn Kessler. He described the reasoning supporting such a claim as a ''Rube Goldberg phenomenon.'' The Post was unable to find any respected academic study supporting this convoluted logic. There is good reason the Post could not find such a study. The focus of most economic research in this area is on the degree to which tax increases lower economic growth and tax decreases increase economic growth. There is considerable debate within this research, but it is difficult to find any suggesting that tax increases are good and decreases are bad for the economy.

Now that I have explained and hopefully corrected these myths, I hope we can have a more constructive discussion on averting the fiscal cliff. Republicans have already stated they are willing to accept some new revenues. Speaker BOEHNER has put $800 billion in new revenues on the table. However, we still haven't heard any substantive ideas from the President or other leading Democrats about cuts to spending or entitlements. We haven't even heard the President say good things about the Simpson-Bowles recommendations—a commission he appointed, a commission that had Republicans and Democrats on it, a commission that reported conservative Republicans and liberal Democrats saying: We ought to do what we can to see the Simpson-Bowles approach through. It would be nice to see the President endorse a recommendation of a committee he appointed that had a suggestion for taking care of this fiscal cliff problem. If he had done that 2 years ago, we wouldn't be debating fiscal cliff today.

So there are serious concerns on my side of the aisle that any agreement we reach will result in immediate tax hikes but promised spending cuts will never occur. We need more than just empty promises from the other side.

The President and my colleagues on the other side of the aisle need to get serious about looking at the spending side. It is time for the President to make good on his campaign promise of supporting a balanced approach to deficit reduction.

I repeat what I said at the beginning. All we have heard for 3 or 4 weeks now since the election is all about taxes. Too often, that is what Republicans are talking about, although they have to be considered now as a result of the election. But if we give the President everything he wants in the sense of taxing the wealthy with the figures he wants, it still runs the government only for 8 days. What about the other 357 days? It only takes care of 7 percent of the deficit problems we face year after year, and it is going to be year after year into the future if we don't get something done about it. So what about the other 93 percent? The taxes aren't going to take care of that. You can't tax us out of this deficit problem because we have a spending problem.

So if we had put as much time into the spending side of the ledger as we put into the taxing side of the ledger over the last 3 or 4 weeks, we would be well on the road and be certain to get out of here by Christmas Eve, which I have my doubts that we can.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

TRIBUTES TO DEPARTING SENATORS

Mr. ISAKSON. Mr. President, I rise to make four separate statements in commendation to my fellow colleagues in the Senate and one back in Georgia.

JON KYL

Mr. President, December of every even-numbered year is a sad time. Because of election outcomes or because of age and longevity, time takes over and some of our Members go and new Members come. I think it is important that we take the time to recognize those who served so long and served so well and served each of us—individuals such as JON KYL of Arizona, the whip for the Republican minority in the Senate. He is a great American, a great Arizonan, a man who carries a tremendous burden—two, as a matter of fact. One is trying to herd cats, known as the Republican conference, and the other is being the junior Senator to JOHN MCCAIN. Both of those are challenges that anybody would have a problem meeting, but JON KYL does it the right way. He has the temperament of a leader. I have been in 38 different legislative years, from the Georgia Legislature to the U.S. Congress. I have known a lot of whips. I have known a lot of them who cracked the whip, I have known a lot of them who were ineffective, and I have known a very few who were effective. And JON KYL is the most effective whip I have ever worked with and ever seen. He knows the issues and has the ability to communicate them. He knows how to put the party ahead of individual priorities but keep the country first no matter what it is.

I will give you one good example. We were debating the START treaty 2 years ago, which is a very important treaty for the United States. The Presiding Officer was on the Foreign Relations Committee when we had that debate. He might remember there were a lot of people who were concerned about the modernization of our nuclear arsenal while we were renewing the START treaty and what we would do in the prospective years ahead while we made a new treaty with Russia in terms of our modernization. It was JON KYL's leadership, working with Senator KERRY as the chairman of the committee, Secretary of State Clinton as our Secretary of State, and interests on both sides who carved out the agreement that ensured for the American people that we would have the modernized nuclear force we need to meet whatever challenge might come our way. That treaty passed in large measure because he gained the assurances from the administration and from those who were opposed that without modernization and the commitment for the money for it, it would not take place. That is not just a whip, that is a leader. That is a man who found a problem, found a solution, married the two, and we ratified a treaty. America is a safer country because of it, and our nuclear arsenal is being modernized.

That is the kind of man you look for in a legislator. JON KYL is a great legislator, a great whip, and a great friend of mine. I pay tribute to him for his service to the U.S. Senate, for his service to the people of America, and for his service to the people of his State of Arizona.

RICHARD LUGAR

I would like to turn to RICHARD LUGAR from Indiana. RICHARD LUGAR is one of those rare people who are referred to as an institution, and he is truly an institution: Six terms in 36 years in the Senate, a candidate for President of the United States in the Republican primary a number of years ago, a bipartisan man who worked with then-chairman of the Armed Services Committee Sam Nunn to put together the Nunn-Lugar agreement, which is allowing us to tear apart nuclear warheads, reprocess those nuclear warheads, tear down nuclear missiles and ballistic missile launchers, and have a safer world. The reason there is not a terrorist attack using nuclear fission materials today so far is probably more because of DICK LUGAR and Sam Nunn than any two individuals in the United States.

DICK LUGAR is a man I admire greatly. When I came here, I hoped one day I could work on the Foreign Relations Committee so I would have the opportunity to work with DICK LUGAR. That opportunity took place, and the Presiding Officer and I have served together with DICK LUGAR for 4 years. I watched DICK LUGAR during tough times, during happy times, during good times, and during challenging times. He is always even. He has always got an even keel. His rudder is in the water. He knows where he wants to take the committee, but he doesn't drive it, he leads it.

One of the great negotiators of our time, one of the great men of our time in terms of foreign relations, DICK LUGAR is the man who has meant more to our country than anybody I can possibly think of today, and he has a legacy of supporting the State of Indiana in any way he possibly could, from the school board, to mayor of Indianapolis, to U.S. Senator, to a great lecturer and leader on the national and international stage. We will miss DICK LUGAR very much, and I am sure DICK LUGAR will miss us, but I hope all of us will remember and learn from that he taught us about a steady hand, good diplomacy, and the importance of diplomacy over guns any day of the week.

KENT CONRAD

I wish to turn to another individual, a member of the Democratic conference and a dear friend of mine, KENT CONRAD from North Dakota.

When I came to the Senate, the first thing I noticed about KENT CONRAD was how he dressed. The second thing I noticed was his dog Dakota. You will see Dakota in the evening walking through the Halls of Congress, a smart little dog and his pet that he loves very much. His wife Lucy is a great lady and great leader in her own right in terms of Major League Baseball.

KENT CONRAD is a unique Member of the Senate. He has truly taken a bipartisan approach to the toughest problems we face in terms of spending, deficits, and debt. It was KENT CONRAD who was willing to help support the Simpson-Bowles proposal when it passed the Senate, and then it was KENT CONRAD who agreed to serve on Simpson-Bowles and came up with the recommendations they brought to us. It was KENT CONRAD who went on the Gang of 6 and tried to work out a tough compromise on the tough issues before us, and it is KENT CONRAD who has served as chairman of the Budget Committee of the Senate for the last 6 years. Along with Senator SESSIONS, he has done a great job, and along with his predecessor, Judd Gregg, they did an even greater job to see to it that we brought forward budgets and principles of spending money to help us not go into deficit or debt. KENT is one of those rare leaders who find the sweet spot. He looks for the place where people can find common ground. He understands that the importance of our job is the future for our children and our grandchildren.

Whether North Dakota or Georgia, California or New York, Pennsylvania or Ohio, KENT CONRAD is a Senator for all America. He has done a tremendous job for the United States. I wish him and Lucy and Dakota the very best.

TRIBUTE TO BILL CURRY

Mr. ISAKSON. I wish to turn to football coaches, which might seem to be a quick turn when you are talking about Senators, but in Georgia we are having a retirement that was just announced, the retiring of Bill Curry, the head coach of the Georgia State Panthers. Bill Curry is a legend in our State, not only of his time but in all time in terms of football. He played football in College Park and went on to Georgia Tech when they were in the Southeastern Conference. He was a small, 200-pound center on the Georgia Tech football team. He went from Georgia Tech to the Green Bay Packers and played in the first Super Bowl game as a starting center and was traded to the Baltimore Colts and played in the famous game when Joe Namath promised a victory and delivered it against the Colts. He went on to play for other NFL teams until he was hurt in a game with the Los Angeles Rams with an injury caused by Merlin Olsen, who then later went on to be a great pro bowler. But he didn't quit when his career ended in terms of playing football; he went into coaching. He went back to his home alma mater, Georgia Tech, and coached as an assistant. He then took Pepper Rogers' place and became the head coach at Georgia Tech, took them to the bowl games, took them to conference championships, and was a true leader.

From there he was sought out by the University of Alabama—a pretty big job in the South when it comes to football. He came after Bear Bryant had passed away and two successive coaches had failed to meet the Alabama standard. Bill Curry came and went to Alabama, and he scored. He won an SEC championship, 26 out of 36 games, and had a great career at Alabama.

He went from there to the University of Kentucky, which had not had a winning record in 9 years when Bill Curry showed up. He molded somebody else's recruits into a winning team with a winning record and a trip to the Peach Bowl in Atlanta, GA. He went from there to take on an interesting challenge. Georgia State University called and said: Bill Curry, we are going to start an NCAA division football program. We would like you to start from scratch. We don't have a field, we don't even have a football, but we have a desire.

Bill Curry took on that challenge and in 4 years built a great program which he will turn over to a new coach very shortly in Atlanta, a program where his first year, with a first-time football team that had never been together before, he won 6 out of 11 games and went on to have a great career and turn it over to another coach as he retires.

But his legacy is not the SEC championship. It is not playing in the first Super Bowl or playing in the famous bowl that Joe Namath called and guaranteed. It is not his attendance at Georgia Tech. It is not what he did at Georgia State. It is the fact that everywhere he went, Bill Curry's legacy was men who played football to learn the game of life because he was always a disciplinarian. He told people how to do things the right way. He set standards for his men that lasted not just through the football season but through a lifetime. There are men playing football, running banks, running insurance companies, and teaching today all over America who learned from Bill Curry.

On the occasion of his retirement at the age of 69 and the great success he has had throughout his career, I wanted to pause for a moment in the Senate and recognize not just his contribution to football but his contribution to the lives of young men and the people he has shaped to make this country and the State of Georgia a better State and a better country.

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

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

Mr. CORKER. Mr. President, I am here today to talk about the bill before the Senate, a 2-year extension of the TAG Program. As everyone knows, this will be the second 2-year extension of a program that was put in place as an emergency measure taken during the height of the financial crisis. It was also meant to end once the crisis passed.

I have exceptionally high regard for community bankers in Tennessee, as I know you do for those in Pennsylvania. They have had to deal with the financial crisis of 2008, a recession that had been left in its wake, and if that is not bad enough, since the passage of Dodd-Frank, they have had to deal with an onslaught of new regulations.

Many of these regulations, no doubt, were ill-conceived. If we remember, a lot of those were put in place as aspirational goals. All of them have dramatically increased the compliance burden of being in a small banking institution. Yet none of them has been on the table to be fixed or improved by us in the Senate since 2010. Obviously, there are a lot of reasons for this, but from a standpoint of community bankers, there is no doubt this has been a shame.

I am very hopeful that in the next Congress we will have a meaningful dialog about striking a better balance in terms of bank regulation, particularly as it relates to our community banks. Some of what we passed in Dodd-Frank makes a great deal of sense, but much of it does not, and it is for us to devote energy to fixing and improving the law where there are flaws. If we want to help community banks, this is where we should focus our energy, and I know there are a lot of bipartisan ideas around about how we can do that. I think all of us have heard from community bankers in our States about the onslaught of regulations they have, some of which was meant to deal with some of the bigger institutions. Again, that, to me, is where we can focus in a bipartisan way to give some relief to our community banks.

Giving out limitless deposit insurance, though, I suppose some people have decided is a consolation prize, and I hate that. That is too bad. We should fix Dodd-Frank if we want to help our community banks. But the vote in front of us today is a TAG extension, so I wish to speak a little bit about that specifically.

There are a series of policy reasons why it is time to end the TAG Program. I will go through a couple of them. First of all, the FDIC's Deposit Insurance Fund, or the DIF, is undercapitalized. This is a fund of reserves meant to protect taxpayers against an unexpected law stemming from bank failures. By law, the DIF is required to be at a 1.35-percent of total outstanding deposits. It is, however, only at .35 percent today. I do not see the wisdom in extending an insurance to $1.5 trillion in transaction deposits at a time when the Deposit Insurance Fund is already undercapitalized.

Second, there is ample liquidity in our banking system as to support loan demand. In fact, the ratio of loans to deposits is at a historical low. Liquidity to make loans is not the problem; slow economic growth is the problem. Extending insurance to keep these deposits around then fixes a problem that simply does not exist.

Third, the overwhelming majority of TAG deposits are actually with the largest banks. Some small banks have said they want an extension, but this is largely not a small bank product. Seventy-one percent of TAG deposits are in the largest banks. Sixty percent of TAG deposits are held by just the top five banks. I do not see the wisdom in leveraging the FDIC and the taxpayer to insure the deposits sitting in our country's largest financial institutions.

Fourth, extension of the TAG Program raises serious moral hazard issues. It encourages large deposits in banks that may be troubled with no market discipline. Moral hazard is why, throughout the history of deposit insurance, it has always been limited. I think Washington has contributed quite enough to moral hazard problems over the last 5 years—several years—and I think it is time for us to stop.

Finally, if we want to help community banks thrive and succeed, our focus should be on dialing back Washington's desire to micromanage our banking institutions. The regulatory pendulum of Washington trying to micromanage these institutions has absolutely gone too far and our focus should be on getting the pendulum back to a more reasonable place. Extending limitless FDIC insurance for these transaction deposits does not further that policy objective. In fact, it takes us in the other direction.

Let me put it another way: How can we ever get DC out of the business of telling banks where and when to lend if we are having DC guarantee all their deposits? The answer is we cannot.

I am offering a couple amendments that help insulate the taxpayer. Although, in reality, it is time to fully end this program. Even more important, it is time for us as members of the Banking Committee to take up the real challenges still facing our financial system.

I wish to say one other thing. I know all of us are watching as the President and Speaker BOEHNER and others are looking at dealing with the fiscal issue; we call it the fiscal cliff. I think all of us know what we need to do to deal with the fiscal cliff. We need a true fiscal reform package that I hope would be in the range of $4 trillion to $4.5 trillion, so we can put this issue behind us and begin this next year with it in the rearview mirror and our economy taking off. Then we would show the world we have actually dealt with these issues, and people in our own country would have the confidence to invest in our country because they know we in Washington have been responsible in that way.

One of the big discussions taking place right now is revenues. I think, at the end of the day, we are going to come to a conclusion very soon that it is probably time for us to go ahead and rescue the 98 percent of the country that have been caught up in all this. My sense is we are going to have some resolution to that in the very near future.

What I have found—and one of the reasons we don't have a solution—is that people on both sides of the aisle

are focused on the revenue side, but so far there has been almost no discussion on the entitlement reform side. Candidly, I think it is uncomfortable for many in Congress and even at the White House, obviously, to deal with this issue. As a matter of fact, on this issue, what I would say—and I know there is a difference of opinion—here we have a country that every developed nation knows its greatest threat is fiscal solvency. Economists on both sides of the aisle have said the greatest threat to our country is us not dealing with the fiscal solvency and the $16 trillion debt we have, which is growing. Yet, in fairness, we have a President who so far has not been willing to lay out a plan to deal with this issue. While it pains me to bring this up—because I think we as elected officials and the White House should sit down and deal with this issue because we know it is the biggest issue our Nation faces—it appears to me it is very possible we may move through the end of this year only dealing with rescuing the 98 percent of the people who have been caught up in this debate.

So there is a moment—I hate to use this word, but there is another moment coming—which probably will force us to deal with another issue in other ways; that is, the debt ceiling. While I don't think it is mature that we have to have a line in the sand to force us to sit down and deal with this issue, it is where we find ourselves in this Congress and in dealing with this White House; that is, needing a point of leverage to focus these discussions.

I hope we will sit down and come up with a $4 trillion, $4.5 trillion package to put this behind us—one that has both revenues and entitlement reforms—a solution that again would put this in the rearview mirror. But where I see us going is it is possible that by the time year end comes, all we will have done is rescued the 98 percent of taxpayers who have been caught in this and then moving to the debt ceiling as the next line in the sand that will be a forcing moment to cause us to deal with this issue. I think that is where we are headed unless something happens. I hope something big happens that I can support.

I will tell my colleagues this: I have been through this process. We all have. The 112th Congress knows more about this fiscal issue than any Congress in the history of man. We have been through two dry runs. We know what the cost of each change is. We know how much it saves Congress and saves our country if we deal with these issues. One thing I wish to say is I cannot support another process that leads us to another fiscal cliff.

Again, I hope the President and Speaker BOEHNER will come up with a solution that puts this behind us. We all know what we need to do. What we have lacked around here is the political courage to sit down—both sides of the aisle have issues; I understand that, but we have lacked the political courage to sit down and deal with this issue. It appears to me, again, that where we may be headed is toward the end of this month rescuing the 98 percent, putting that issue over to the side, and then using the debt ceiling or the CR as that forcing moment to cause us to finally come to terms with this fiscal issue.

I regret we are in a place in our country where we have to have these forcing moments, but that is where I believe we are headed. I can say to everybody in here, what I cannot abide by, one Senator—since we know what all the solutions are, we know the changes that need to be made, we can sit down and go through columns on either side, including revenues and changes, to get us in a place where we need to be, but we haven't done it, and I am afraid we are heading to a place where we are going to have to have another forcing moment.

I thank the Chair and yield the floor and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MORAN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

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

VAWA REAUTHORIZATION

Mr. MORAN. Mr. President, in communities across our country, millions of Americans, unfortunately, find themselves placed in danger by the very people who are supposed to love, care, and protect them. Domestic violence brings hopelessness, depression, and fear into the lives of those who fall victim to it.

I rise this evening on behalf of our victims—they are our neighbors, family members, brothers, sisters, mothers, fathers—as well as those people who are so careful in their desire to serve those who are subjected to domestic violence, to say that now—now—is the time for us to send to the President for his signature a bipartisan, commonsense Violence Against Women Act reauthorization bill. We got caught in a lot of partisan bickering, and we failed to do that earlier this year. I would like to rectify that course.

Each year more than 2 million women in the United States fall victim to domestic violence. In Kansas, my home State, an estimated 1 in 10 adult women is domestically abused each year. Studies have shown that more than 3 million children witness domestic violence every year.

All of these victims depend upon services and care provided by VAWA grants and funding recipients who benefit from those grants. On a single day last year shelters and organizations in Kansas that are funded in part by this legislation served more than 1,000 victims, and similar organizations around the country serve more than 67,000 victims each day.

A few weeks back I visited one such organization, Kansas SAFEHOME. It is a tremendous organization that serves the greater Kansas City area. I have always believed we change the world one person at a time. What I saw in my visit to SAFEHOME was exactly that: making the difference in a person's life each and every day, one person at a time.

SAFEHOME provides more than a shelter for those needing a place to live to escape from abuse. They provide advocacy and counseling, an in-house attorney, and assistance in finding a job. The agency also provides education in the community to prevent abuse and further abuse. We often think it does not exist, and yet this organization is making clear that the prevalence of domestic violence is known and combated.

Each year SAFEHOME helps thousands of women and children reestablish their lives without violence. The employees and volunteers there are making that difference that is so important in the lives of so many.

After my visit to SAFEHOME, a Kansan posted a question on my Facebook wall. Mr. Bachman asked if I came away from my SAFEHOME visit with ''any honest sense of how current political game playing [in Washington] and proposed legislation compromises not only the work [SAFEHOME] does, but also aggravates the conditions that breed and sustain violence and hostility against women.'' The question was do we know what our failures in Washington, DC, actually cause in the lives of folks across my State and around the country.

The point this constituent makes is right on. Despite the important and honorable work these organizations are performing, they are faced with uncertainty regarding the level of funding and the support they will receive. We have gambled with the well-being of countless victims of domestic violence, and we have left these organizations in limbo and unable to provide the maximum amount of care possible.

None of us here—Republicans or Democrats—can in good conscience let this continue. The election is over, the results are in, and I am hoping the days of extreme partisanship that plagued the 112th Congress are now behind us. We must begin to unite as a Congress, and history is clear proof that we can unite over the Violence Against Women Act.

The passage of the Violence Against Women Act in 1994 and its two reauthorizations—one in 2000 and one in 2005—has been the result of and demonstrates that we can have successful bipartisan, bicameral efforts. In order for us to move forward on combating domestic violence and caring for its

victims, we must set aside the divisive rhetoric that surrounded this debate. Of course, both sides—all of us—want to end discrimination and agree that shelters and similar grant recipients should provide services to everybody who needs them.

For anyone to suggest otherwise is not only disingenuous, but, more importantly, it is a waste of time. The millions of victims who depend on the services funded by VAWA deserve better from us; the American people we are here to serve deserve better from their representatives.

It is past time for the House and Senate and for the Democrats and Republicans to come together and approach this reauthorization as a reauthorization. It is not a major piece of legislation to overhaul the law as it exists but to reauthorize the programs that are currently in existence. We need to do so with a sense of urgency, of dedication to the cause, and a willingness to compromise.

If we do this, I am confident we can sort out the differences with respect to this bill and get it signed during this lameduck period. I stand ready to work with my colleagues on both sides of the aisle and on both sides of this building to accomplish exactly that. The American people, the victims of domestic violence, and the shelters and support organizations that care for those victims of violence deserve that.

Mr. President, I yield back the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

TRIBUTE TO MICHAEL B. McCALLISTER

Mr. McCONNELL. Mr. President, I rise today to pay tribute to a good friend of mine and a distinguished citizen of the Commonwealth of Kentucky. Mr. Michael B. McCallister, the highly respected chief executive officer of Humana, will retire from that position at the end of this month. He has served as Humana's CEO for the past 12 years.

Mike has spent his entire career with Humana, Kentucky's largest publicly traded company. After receiving his bachelor's degree from Louisiana Tech University in 1974, he went to work at Humana as a finance specialist. He has steadily risen up the ranks ever since. In 2000, he was named president and CEO of the Louisville-based company.

Humana employs more than 11,000 in Kentucky; thousands of those jobs have been created under Mike's tenure. Mike led the company in innovations such as going all digital to eliminate the use of paper for transactions in 2001, well ahead of the rest of the industry; and in creating consumer-driven products that allowed customers to make more of their own decisions about their health care plans. Under Mike's leadership, in 2004 it was ranked by Business Week magazine as one of the top-performing companies in the United States.

Mike has also been very active in civic and philanthropic endeavors, to the benefit of Kentucky and Louisville, the city we both call home. He headed the most successful communitywide fund drive in the history of the Louisville Metro United Way, raising $30 million in 2006. He was the communitywide chair of the Greater Louisville Fund for the Arts in 2003. He has also served on the board of the Committee Encouraging Corporate Philanthropy. He is the current chairman of the Workplace Wellness Alliance.

Mike's generous spirit of service has also influenced his company as a whole. Under his leadership, the Humana Foundation has donated more than $50 million to education, health, and arts initiatives in Kentucky and across America.

I know my colleagues will join me in extending congratulations and best wishes to Mike as well as his family: he and his wife Charlene have a daughter Megan, and a son Ryan. I am sure they are very proud of him and look forward to seeing more of him. It is my understanding that Mike has promised he will not golf more than twice a week. Also, Mike will not step away from Humana entirely: He will retain a position as its nonexecutive chairman.

Mr. Michael B. McCallister has set a remarkable example of dedication and service to the people of Kentucky. I wish him every success in his next endeavors in life.

COMMEMORATING THE 84TH BIRTHDAY OF HIS MAJESTY KING BHUMIBOL ADULYADEJ

Mr. KERRY. Mr. President, on December 5, His Majesty King Bhumibol Adulyadej of Thailand celebrated his 85th birthday, and this year marks the 66th year of his reign. I would like to mark the occasion by sending warm wishes to King Bhumibol and to all the people of Thailand as they celebrate this happy event.

The United States and Thailand have a long, rich, and growing partnership that has brought tremendous benefits to the people of both nations. Our bilateral relationship dates back 179 years and Thailand is our longest-standing diplomatic partner in East Asia. Over almost 60 years as modern treaty allies, the United States and Thailand have created flourishing business and cultural ties, underpinned by our shared values of democracy and rule of law. Our relationship has been cemented through our work together to face regional and global security challenges, often at great cost to our two peoples.

Overseeing and guiding this has been King Bhumibol Adulyadej. His support for the relationship between the United States and Thailand has been immeasurable, and the respect with which he is regarded in Washington is correspondingly great.

I send my congratulations to King Bhumibol Adulyadej and to all the people of Thailand.

TRIBUTE TO PAT GODFREY

Mr. HATCH. Mr. President. I appreciate this opportunity to pay tribute today to a wonderful staff member who is a true example of a dedicated public servant. Pat recently retired after 27 years of wonderful service to my office and the people of Utah.

Pat was the public face and voice of my office. She managed the front office and phones with kindness as she greeted literally thousands of people each year. No matter the issue or the anger, Pat would answer each constituent with grace and compassion.

She loved people, and it showed in her every day interactions. She always made the time to listen to visitors to our office, and she truly cared about the problems they were facing. She became the first-line advocate for many, many Utahns who were having problems with the Federal Government, and she would make sure that their calls were returned and their issues addressed.

At times the front desk phones would get extremely busy and many of the calls were from angry constituents. Yet you could always find Pat with a smile on her face and a calm demeanor. She was a strong advocate for the policies and issues I was fighting for on behalf of Utah in our Nation's Capital and always conveyed this in a down-to earth manner. No matter the disagreement, most callers left a conversation with Pat feeling better about why they called.

Pat made friends with everyone and was well known throughout the Federal Building. Many employees from various agencies would look out for Pat and always inquired about her well-being. She had the building management staff and security guards on speed dial and was always able to get the needs of the office addressed in a timely, efficient manner.

Pat's talents were in evident display at the office, but perhaps her great achievements came as a loving mother and grandmother. She dearly loves her family and expresses it often. Her pride and care for her children and grandchildren is evident and central to her

life. I want to commend her children, and most especially Deanna, who are lovingly caring for their mother now in her time of need.

Pat has a strong belief in our Heavenly Father and his son our Savior Jesus Christ. She has made her testimony in the Church of Jesus Christ of Latter-day Saints an important component of her life and has spent countless hours serving others in various capacities.

Mr. President. I am truly grateful for the tremendous service Pat Godfrey rendered to me, to our community, and to the thousands of constituents whose lives she touched with her kindness and compassion. I want to wish Pat the very best in retirement and know that she will make many more wonderful memories in the loving strength of her family. May our Heavenly Father bless Pat for the person she is and the service she has rendered to so many.

ADDITIONAL STATEMENTS

TRIBUTE TO VICE ADMIRAL RAY RIUTTA

● Mr. BEGICH. Mr. President, today I wish to recognize an Alaskan for his extraordinary 34 years of service to the United States Coast Guard and our Nation as well as 10 years of leadership within the Alaska seafood industry where he had a tremendous positive impact for our fishermen.

Ray Riutta has held the position of executive director of the Alaska Seafood Marketing Institute, ASMI, since August 2002. Since then, he has guided the organization through pivotal changes, including the implementation of the sustainability platform to showcase Alaska's commitment to responsibly managed fisheries. ASMI has worked diligently to increase the economic value of Alaska seafood resources through a collaborative partnership with the seafood industry. Since Mr. Riutta's arrival in 2002, the value of Alaska seafood exports increased nearly 23 percent from $1.78 billion to $2.2 billion in 2011.

Prior to joining ASMI, Mr. Riutta served in the United States Coast Guard for 34 years, retiring at the rank of vice admiral. During his career, he served on six ships, commanding four of them with over 12 years of sea service in the Bering Sea, Atlantic and Pacific Oceans as well as the Great Lakes and the Caribbean Sea. For 3 years he was assigned to the U.S. Embassy in London. While assigned to Coast Guard Headquarters in Washington, DC, Mr. Riutta was deputy chief of the Office of Law Enforcement and Defense Operations and later chief of operations.

During his tenure as district commander for Alaska, Mr. Riutta served as a member of the North Pacific Fisheries Management Council. He worked closely with the Pacific Region Coast Guards, China, Japan, Korea, Canada and Russia, while in command of all U.S. Coast Guard forces in the Pacific, a post he held on September 11, 2001. Mr. Riutta is originally from Astoria, OR, where many members of his family were involved in the fishing industry. Prior to entering the service, he worked part time commercial fishing on the Columbia River.

Mr. Riutta is a 1968 graduate of the U.S. Coast Guard Academy and a 1990 graduate of the National War College. He is married to Barbara Starr Kramer of Chester Springs, PA. They have two sons, Ian and Aaron.

On behalf of the State of Alaska, I ask my distinguished colleagues to join me in recognizing Vice Admiral Riutta's exceptional career. We owe him a debt of gratitude for his commitment to the Coast Guard, our Nation and Alaska's seafood industry. We wish him well in his retirement.●

ARKANSAS FARM FAMILY OF THE YEAR

● Mr. BOOZMAN. Mr. President, today I wish to congratulate the DeSalvo family for earning the distinction of 2012's Arkansas Farm Family of the Year.

This honor reflects the dedication of Tony DeSalvo, his son Phillip, daughter-in-law Beth, and grandchildren Benjamin and Isabelle to ranching and the importance of agriculture as Arkansas's No. 1 industry.

As owners of Big D Ranch, the DeSalvos oversee a 350-head commercial cow-calf operation. It is one of the largest herd of registered Ultrablack cattle in the State, and includes a 150-head of registered Ultrablack cattle 30 to 40 of which are registered bulls. The DeSalvos also grow around 900 acres of wheat and sorghum-sudan silage and Bermuda hay on the ranch. The DeSalvo family settled near Center Ridge in the late 1800s, and the family continues to work on that same land today. Phillip is passing along his passion for ranching with Benjamin and Isabella, and now they are learning the rewards of farm work.

The Arkansas Farm Bureau's program honors farm families across the State for their outstanding work both on their farms and in their communities. This recognition is a reflection of the contribution to agriculture at the community and State level and its implications for improved farm practices and management. The DeSalvos are well-deserving of this honor.

I congratulate Tony, Phillip, Beth, Benjamin, and Isabelle on their outstanding achievements in ranching and agriculture and ask my fellow colleagues to join me in honoring them for this accomplishment. I wish them continued success in their future endeavors and look forward to the contributions they will continue to offer Arkansas ranching and agriculture.●

TRIBUTE TO JOHN GRAY

● Mr. MERKLEY. Mr. President, today I wish to celebrate the life of John Gray, a son of the great State of Oregon, and a true pioneering spirit whose legacy will live on through his contributions to communities throughout our State.

John Gray, born in the small town of Monroe, OR, to a family of modest means, achieved personal success most can only dream of.

It was once written about John Gray that one ''might expect a man such as Gray, who has made it so big so quickly, to behave like the tycoon he is. Instead, he has the manner of a bashful lepidopterist making his first trip to the big city.''

At the time of that profile, Salishan was a new community, Sunriver had yet to open, and Skamania was but a twinkle in John Gray's eye. More than 4 decades later, the man who has forever changed the landscape of Oregon remains humble.

John Gray's longstanding commitment to preserving and protecting Oregon's natural beauty is evident in the communities he's developed, such as Sunriver, which complement their surroundings with signature elegance.

That commitment was matched by his passion for strengthening urban communities. Over the last several years, John Gray gave $2 million to Habitat for Humanity in Oregon. His cornerstone contribution of $1 million to Habitat's ''Block by Block'' initiative laid the foundation for a $10 million land-bank fund, which allowed Habitat to purchase large groups of home lots on Portland's east side. On these lots, Habitat will build entire blocks of new homes for low-income families, most of whom will be first-time homeowners.

Mr. Gray's generosity was expansive, extending beyond homeownership to a range of efforts to make Portland a better place. Twenty years ago, he established a fund at Reed College to make sure the school's students are able to enjoy ''cultural, social, and recreational programs of excellent quality'' outside the classroom. In 2011, he gave nearly half a million dollars to a private Portland-area school serving students from homeless and very low-income families to build a new classroom for its expanding roster of students. That same year, he pledged $5 million to the Knight Cancer Institute at Oregon Health & Science University to create an endowed professorship and to fund research and clinical care.

Mr. Gray's professional and civic accomplishments are widely known. As a developer, he created several of Oregon's signature communities. As a businessman, he led Omark Industries and was a director of Tektronix, Precision Castparts and First Interstate Bank. As a philanthropist, he has given millions of dollars to make Portland a place that offers opportunity for all.

But, not many people know that he is also a decorated veteran. He served with the Army's 82nd Airborne Division during World War II, rising to the

rank of Lieutenant Colonel and receiving the prestigious Bronze Star for his service.

This Friday, December 14, we will be opening an affordable housing development that will house dozens of homeless veterans. It is a fitting tribute that the development will bear John Gray's name.●

RECOGNIZING FOLIA JEWELRY

● Ms. SNOWE. Mr. President, a piece of jewelry can tell a story, trigger a memory, or commemorate a special occasion. The beauty and charm captured in a ring or a necklace can precisely convey a meaning without words. For birthdays, engagements, celebrations, and sometimes ''just because,'' a piece of jewelry is a popular and personal gift. Today I wish to recognize a jewelry store whose emphasis on detail, creativity, and quality sets it apart.

A downtown staple for nearly two decades, Folia Jewelry in Portland, ME, specializes in custom-made pieces of jewelry fashioned from precious metals and gemstones. The owner and creative mind behind these beautiful pieces of wearable art is Edith Armstrong. Edith studied jewelry making and metalsmithing at the Rhode Island School of Design and brings more than 25 years of expertise to the custom jewelry market. It is her passion and imagination that first brought Folia to Portland. Her work is now known throughout the area and even the world for its excellence and originality.

The custom design and quality of Edith and the other designers at Folia is exquisite. Folia showcases the talents of several of Maine's gifted and experienced artisans. The designers at Folia individually sit down with each customer interested in specially crafted pieces to discuss, sketch, and render models to exact specifications prior to work on the actual piece. This detail-oriented process yields pieces which are unique, beautiful, and personal. The philosophy of Folia is all in the personalization. If you do not see exactly what you're looking for in the many display cases, Edith and her team of artists will happily work with you to give form to your vision. Through their dedication to their craft and attention to detail, the designers at Folia have garnered a reputation as one of the best jewelry stores in Maine, and it is easy to see why.

Along with custom jewelry making, Folia also offers a wide array of prefabricated designs for customers to choose from, all made from the highest quality stones and metals. These designs are ready-made but each has that artistic flare so characteristic of Folia's custom creations. The intricacy with which each piece is fashioned is truly outstanding. Their expert craftsmen also specialize in restoration and repair of older jewelry.

In a world increasingly concerned with on-demand and instant gratification, it is comforting to know that there are delightful shops like Folia, run by designers who care more about their final product and intimate relationships with customers than the bottom line. I proudly offer my congratulations to Folia on their success and wish Edith and everyone at Folia all the best in the future.●

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. AKAKA, from the Committee on Indian Affairs, with amendments:

S. 2024. A bill to make technical amendment to the T'uf Shur Bien Preservation Trust Area Act, and for other purposes.

By Mr. AKAKA, from the Committee on Indian Affairs, without amendment:

S. 3546. A bill to amend the Native American Programs Act of 1974 to reauthorize a provision to ensure the survival and continuing vitality of Native American languages.

S. 3548. A bill to clarify certain provisions of the Native American Veterans' Memorial Establishment Act of 1994.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BENNET (for himself and Mr. UDALL of Colorado):

S. 3669. A bill to provide assistance for watersheds adversely affected by qualifying natural disasters; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LIEBERMAN (for himself, Mr. CASEY, Mr. RISCH, Mr. CARDIN, Mr. RUBIO, Mrs. FEINSTEIN, Ms. COLLINS, Mr. BROWN of Ohio, Mr. BLUMENTHAL, Mr. WICKER, Mrs. SHAHEEN, Mr. CRAPO, Mr. NELSON of Florida, Mr. INHOFE, Mrs. BOXER, Mr. BLUNT, Mr. WYDEN, Mr. KIRK, Mr. TESTER, Mr. ROBERTS, Mr. LAUTENBERG, Mr. ISAKSON, Mr. CHAMBLISS, Mr. GRAHAM, Mrs. GILLIBRAND, Mr. KYL, Mr. MENENDEZ, Mr. BARRASSO, Mr. JOHNSON of Wisconsin, Mr. BOOZMAN, Mr. BURR, Mr. UDALL of Colorado, Mr. JOHANNS, Mr. WHITEHOUSE, Mr. CORNYN, Mr. COONS, Mr. BROWN of Massachusetts, Mr. FRANKEN, Ms. AYOTTE, Ms. KLOBUCHAR, Mr. COATS, Mr. SCHUMER, Mr. LEE, Ms. MIKULSKI, Mr. MORAN, Mrs. MCCASKILL, Mr. HOEVEN, Mr. PRYOR, Mr. PORTMAN, Mr. BEGICH, Mr. MCCAIN, Mr. CARPER, Mr. THUNE, Mr. MCCONNELL, Mr. BENNET, Mr. ENZI, and Mr. JOHNSON of South Dakota):

S. Res. 613. A resolution urging the governments of Europe and the European Union to designate Hizballah as a terrorist organization and impose sanctions, and urging the President to provide information about Hizballah to the European allies of the United States and to support to the Government of Bulgaria in investigating the July 18, 2012, terrorist attack in Burgas; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 465

At the request of Mrs. GILLIBRAND, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 465, a bill to prevent mail, telemarketing, and Internet fraud targeting seniors in the United States, to promote efforts to increase public awareness of the enormous impact that mail, telemarketing, and Internet fraud have on seniors, to educate the public, seniors, and their families, and their caregivers about how to identify and combat fraudulent activity, and for other purposes.

S. 1868

At the request of Mr. MENENDEZ, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1868, a bill to establish within the Smithsonian Institution the Smithsonian American Latino Museum, and for other purposes.

S. 2212

At the request of Mrs. FEINSTEIN, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 2212, a bill to clarify the exception to foreign sovereign immunity set forth in section 1605(a)(3) title 28, United States Code.

S. 3208

At the request of Mr. PORTMAN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3208, a bill to reauthorize the Multinational Species Conservation Funds Semipostal Stamp, and for other purposes.

S. 3518

At the request of Mr. WYDEN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3518, a bill to make it a principal negotiating objective of the United States in trade negotiations to eliminate government fisheries subsidies, and for other purposes.

S. 3665

At the request of Mr. KERRY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3665, a bill to amend the Higher Education Act of 1965 to provide information to foster youth on their potential eligibility for Federal student aid.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 613—URGING THE GOVERNMENTS OF EUROPE AND THE EUROPEAN UNION TO DESIGNATE HIZBALLAH AS A TERRORIST ORGANIZATION AND IMPOSE SANCTIONS, AND URGING THE PRESIDENT TO PROVIDE INFORMATION ABOUT HIZBALLAH TO THE EUROPEAN ALLIES OF THE UNITED STATES AND TO SUPPORT TO THE GOVERNMENT OF BULGARIA IN INVESTIGATING THE JULY 18, 2012, TERRORIST ATTACK IN BURGAS

Mr. LIEBERMAN (for himself, Mr. CASEY, Mr. RISCH, Mr. CARDIN, Mr. RUBIO, Mrs. FEINSTEIN, Ms. COLLINS, Mr. BROWN of Ohio, Mr.

BLUMENTHAL, Mr. WICKER, Mrs. SHAHEEN, Mr. CRAPO, Mr. NELSON of Florida, Mr. INHOFE, Mrs. BOXER, Mr. BLUNT, Mr. WYDEN, Mr. KIRK, Mr. TESTER, Mr. ROBERTS, Mr. LAUTENBERG, Mr. ISAKSON, Mr. CHAMBLISS, Mr. GRAHAM, Mrs. GILLIBRAND, Mr. KYL, Mr. MENENDEZ, Mr. BARRASSO, Mr. JOHNSON of Wisconsin, Mr. BOOZMAN, Mr. BURR, Mr. UDALL of Colorado, Mr. JOHANNS, Mr. WHITEHOUSE, Mr. CORNYN, Mr. COONS, Mr. BROWN of Massachusetts, Mr. FRANKEN, Ms. AYOTTE, Ms. KLOBUCHAR, Mr. COATS, Mr. SCHUMER, Mr. LEE, Ms. MIKULSKI, Mr. MORAN, Mrs. MCCASKILL, Mr. HOEVEN, Mr. PRYOR, Mr. PORTMAN, Mr. BEGICH, Mr. MCCAIN, Mr. CARPER, Mr. THUNE, Mr. MCCONNELL, Mr. BENNET, Mr. ENZI, and Mr. JOHNSON of South Dakota) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 613

Whereas the Department of State has designated Hizballah as a foreign terrorist organization since October 1997;

Whereas the United States Government designated Hizballah a specially designated terrorist organization in January 1995 and a ''Specially Designated Global Terrorist'' pursuant to Executive Order 13224 (66 Fed. Reg. 49079) in October 2001;

Whereas Hizballah was established in 1982 through the direct sponsorship and support of Iran's Islamic Revolutionary Guards Corps (IRGC) Quds Force and continues to receive training, weapons, and explosives, as well as political, diplomatic, monetary, and organizational aid, from Iran;

Whereas Hizballah has been implicated in multiple acts of terrorism over the past 30 years, including the bombings in Lebanon in 1983 of the United States Embassy, the United States Marine barracks, and the French Army barracks, the airline hijackings and the kidnapping of European, American, and other Western hostages in the 1980s and 1990s, and support of the Khobar Towers attack in Saudi Arabia that killed 19 Americans in 1996;

Whereas, according to the 2011 Country Reports on Terrorism issued by the Department of State, ''Since at least 2004, Hizballah has provided training to select Iraqi Shia militants, including on the construction and use of improvised explosive devices (IEDs) that can penetrate heavily-armored vehicles.'';

Whereas, in 2007, a senior Hizballah operative, Ali Mussa Daqduq, was captured in Iraq with detailed documents that discussed tactics to attack Iraqi and coalition forces, and has been directly implicated in a terrorist attack that resulted in the murder of 5 members of the United States Armed Forces;

Whereas Hizballah has been implicated in the terrorist attacks in Buenos Aires, Argentina on the Israeli Embassy in 1992 and the Argentine Israelite Mutual Association in 1994;

Whereas Hizballah has been implicated in acts of terrorism and extrajudicial violence in Lebanon, including the assassination of political opponents;

Whereas, in June 2011, the Special Tribunal for Lebanon, an international tribunal for the prosecution of those responsible for the February 14, 2005, assassination of former Lebanese Prime Minister Rafiq Hariri, issued arrest warrants against 4 senior Hizballah members, including its top military commander, Mustafa Badr al-Din, identified as the primary suspect in the assassination;

Whereas, according to the 2011 Country Reports on Terrorism issued by the Department of State, Hizballah is ''the likely perpetrator'' of 2 bomb attacks that wounded United Nations Interim Force in Lebanon (UNIFIL) peacekeepers in Lebanon during 2011;

Whereas, according to the October 18, 2012, report of the Secretary-General of the United Nations to the United Nations Security Council on the implementation of Security Council Resolution 1559 (2004) (in this preamble referred to as the ''October 18 Report''), ''The maintenance by Hizbullah of sizeable sophisticated military capabilities outside the control of the Government of Lebanon. . .creates an atmosphere of intimidation in the country[,]. . .puts Lebanon in violation of its obligations under Resolution 1559 (2004)[,] and constitutes a threat to regional peace and stability.'';

Whereas John Brennan, Assistant to the President for Homeland Security and Counterterrorism, stated on October 26, 2012, that Hizballah's ''social and political activities must not obscure [its] true nature or prevent us from seeing it for what it is—an international terrorist organization actively supported by Iran's Islamic Revolutionary Guards Corps – Quds Force'';

Whereas David Cohen, Under Secretary of the Treasury for Terrorism and Financial Intelligence, stated on August 10, 2012, ''Before al Qaeda's attack on the U.S. on September 11, 2001, Hizballah was responsible for killing more Americans in terrorist attacks than any other terrorist group.'';

Whereas, according to a September 13, 2012, Department of the Treasury press release, ''The last year has witnessed Hizballah's most aggressive terrorist plotting outside the Middle East since the 1990s.'';

Whereas, since 2011, Hizballah has been implicated in thwarted terrorist plots in Azerbaijan, Cyprus, Thailand, and elsewhere;

Whereas, on July 18, 2012, a suicide bomber attacked a bus in Burgas, Bulgaria, murdering 5 Israeli tourists and the Bulgarian bus driver in a terrorist attack that, according to Mr. Brennan, ''bore the hallmarks of a Hizballah attack'';

Whereas Israeli prime minister Benjamin Netanyahu has stated of the Burgas terrorist attack, ''We have unquestionable, fully substantiated evidence that this was done by Hizballah backed by Iran.'';

Whereas Bulgaria is a member of the European Union and a member of the North Atlantic Treaty Organization (NATO);

Whereas, according to the October 18 Report, ''There have been credible reports suggesting involvement by Hizbullah and other Lebanese political forces in support of the parties in the conflict in Syria.. . . Such militant activities by Hizbullah in Syria contradict and undermine the disassociation policy of the Government of Lebanon, of which Hizbullah is a coalition member.'';

Whereas, on October 26, 2012, Mr. Brennan stated, ''We have seen Hizballah training militants in Yemen and Syria, where it continues to provide material support to the regime of Bashar al Assad, in part to preserve its weapon supply lines.'';

Whereas, on August 10, 2012, the Department of the Treasury designated Hizballah pursuant to Executive Order 13582 (76 Fed Reg. 52209), which targets those responsible for human rights abuses in Syria, for providing support to the Government of Syria;

Whereas, according to the Department of the Treasury, since early 2011, Hizballah ''has provided training, advice and extensive logistical support to the Government of Syria's increasingly ruthless effort to fight against the opposition'' and has ''directly trained Syrian government personnel inside Syria and has facilitated the training of Syrian forces by Iran's terrorism arm, the Islamic Revolutionary Guards Corps – Qods Force'';

Whereas, on September 13, 2012, the Department of the Treasury designated the Secretary-General of Hizballah, Hasan Nasrallah, for overseeing ''Hizballah's efforts to help the Syrian regime's violent crackdown on the Syrian civilian population'';

Whereas, on October 26, 2012, Mr. Brennan stated, ''Even in Europe, many countries. . .have not yet designated Hizballah as a terrorist organization. Nor has the European Union. Let me be clear: failure to designate Hizballah as a terrorist organization makes it harder to defend our countries and protect our citizens. As a result, for example, countries that have arrested Hizballah suspects for plotting in Europe have been unable to prosecute them on terrorism charges.''; and

Whereas, on October 26, 2012, Mr. Brennan called on the European Union to designate Hizballah as a terrorist organization, saying, ''European nations are our most sophisticated and important counterterrorism partners, and together we must make it clear that we will not tolerate Hizballah's criminal and terrorist activities.'': Now, therefore, be it

Resolved, That the Senate—

(1) urges the governments of Europe and the European Union to designate Hizballah as a terrorist organization so that Hizballah cannot use the territories of the European Union for fundraising, recruitment, financing, logistical support, training, and propaganda;

(2) urges the governments of Europe and the European Union to impose sanctions on Hizballah for providing material support to Bashar al Assad's ongoing campaign of violent repression against the people of Syria;

(3) expresses support for the Government of Bulgaria as it conducts an investigation into the July 18, 2012, terrorist attack in Burgas, and expresses hope that the investigation can be successfully concluded and that the perpetrators can be identified as quickly as possible;

(4) urges the President to provide all necessary diplomatic, intelligence, and law enforcement support to the Government of Bulgaria to investigate the July 18, 2012, terrorist attack in Burgas;

(5) reaffirms support for the Government of Bulgaria by the United States as a member of the North Atlantic Treaty Organization (NATO), and urges the United States, NATO, and the European Union to work with the Government of Bulgaria to safeguard its territory and citizens from the threat of terrorism; and

(6) urges the President to make available to European allies and the European public information about Hizballah's terrorist activities and material support to Bashar al Assad's campaign of violence in Syria.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3312. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; which was ordered to lie on the table.

SA 3313. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 3637, supra; which was ordered to lie on the table.

SA 3314. Mr. REID proposed an amendment to the bill S. 3637, supra.

SA 3315. Mr. REID proposed an amendment to amendment SA 3314 proposed by Mr. REID to the bill S. 3637, supra.

SA 3316. Mr. REID proposed an amendment to the bill S. 3637, supra.

SA 3317. Mr. REID proposed an amendment to amendment SA 3316 proposed by Mr. REID to the bill S. 3637, supra.

SA 3318. Mr. REID proposed an amendment to amendment SA 3317 proposed by Mr. REID

to the amendment SA 3316 proposed by Mr. REID to the bill S. 3637, supra.

SA 3319. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 3637, supra; which was ordered to lie on the table.

SA 3320. Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 3637, supra; which was ordered to lie on the table.

SA 3321. Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 3637, supra; which was ordered to lie on the table.

SA 3322. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3637, supra; which was ordered to lie on the table.

SA 3323. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3637, supra; which was ordered to lie on the table.

SA 3324. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3637, supra; which was ordered to lie on the table.

SA 3325. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 3637, supra; which was ordered to lie on the table.

SA 3326. Mr. LIEBERMAN (for himself and Ms. COLLINS) proposed an amendment to the bill S. 3564, to extend the Public Interest Declassification Act of 2000 until 2018 and for other purposes.

SA 3327. Mr. LIEBERMAN (for himself and Ms. COLLINS) proposed an amendment to the bill S. 3564, supra.

SA 3328. Mrs. GILLIBRAND (for herself, Mr. ROCKEFELLER, and Mr. TOOMEY) proposed an amendment to the bill H.R. 6328, to amend title 49, United States Code, to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to transfer unclaimed clothing recovered at airport security checkpoints to local veterans organizations and other local charitable organizations, and for other purposes.

TEXT OF AMENDMENTS

SA 3312. Mr. PAUL submitted an amendment intended to be proposed by him to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. _____. AUDIT REFORM AND TRANSPARENCY FOR THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

(a) IN GENERAL.—Notwithstanding section 714 of title 31, United States Code, or any other provision of law, an audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks under subsection (b) of that section 714 shall be completed before the end of calendar year 2012.

(b) REPORT.—

(1) IN GENERAL.—A report on the audit described in subsection (a) shall be—

(A) submitted by the Comptroller General of the United States to Congress before the end of the 90-day period beginning on the date on which such audit is completed; and

(B) made available to the Speaker of the House of Representatives, the majority and minority leaders of the House of Representatives, the majority and minority leaders of the Senate, the chairman and ranking member of the committee and each subcommittee of jurisdiction in the House of Representatives and the Senate, and any other Member of Congress who requests it.

(2) CONTENTS.—The report under paragraph (1) shall include a detailed description of the findings and conclusion of the Comptroller General with respect to the audit that is the subject of the report, together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

(c) REPEAL OF CERTAIN LIMITATIONS.—Section 714(b) of title 31, United States Code, is amended by striking all after ''in writing.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 714 of title 31, United States Code, is amended by striking subsection (f).

SA 3313. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1 and insert the following:

SECTION 1. TEMPORARY CONTINUATION OF THE TRANSACTION ACCOUNT GUARANTEE PROGRAM FOR INSURED DEPOSITORY INSTITUTIONS.

(a) TEMPORARY EXTENSION.—Notwithstanding any other provision of law that would repeal subparagraphs (B) and (C) of section (11)(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) on January 1, 2013, such subparagraphs shall remain in effect until December 31, 2014.

(b) PROSPECTIVE REPEAL.—Effective on January 1, 2015, section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended—

(1) in subparagraph (B)—

(A) by striking ''DEPOSIT.—'' and all that follows through ''clause (ii), the net amount'' in clause (i), and inserting ''DEPOSIT.—The net amount''; and

(B) by striking clauses (ii) and (iii); and

(2) in subparagraph (C), by striking ''subparagraph (B)(i)'' and inserting ''subparagraph (B)''.

(c) FEE SYSTEM.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation (in this section referred to as the ''Corporation'') shall establish, by rule, a fee system to fully offset the cost of the transaction account guarantee program under clauses (ii) and (iii) of section 11(A)(1)(B) of the Federal Deposit Insurance Act, such that there is no net cost to the Deposit Insurance Fund.

(2) PRICING SYSTEM REQUIREMENTS.—The fee system established by the Corporation under this subsection shall provide that—

(A) those depository institutions that voluntarily participate in the program shall be required to pay a pro rata share of such fees; and

(B) the 6 largest insured depository institutions, based on total assets, as determined by the Corporation, shall each be required to pay a share of such fees.

SA 3314. Mr. REID proposed an amendment to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; as follows:

At the end, add the following new section:

Sec. _____

This Act shall become effective 5 days after enactment.

SA 3315. Mr. REID proposed an amendment to amendment SA 3314 proposed by Mr. REID to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; as follows:

In the amendment, strike ''5 days'' and insert ''4 days''.

SA 3316. Mr. REID proposed an amendment to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; as follows:

At the end, add the following new section:

Sec. _____

This Act shall become effective 3 days after enactment.

SA 3317. Mr. REID proposed an amendment to amendment SA 3316 proposed by Mr. REID to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; as follows:

In the amendment, strike ''3 days'' and insert ''2 days''.

SA 3318. Mr. REID proposed an amendment to amendment SA 3317 proposed by Mr. REID to the amendment SA 3316 proposed by Mr. REID to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; as follows:

In the amendment, strike ''2 days'' and insert ''1 day''.

SA 3319. Mr. UDALL of Colorado submitted an amendment intended to be proposed by him to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____. CREDIT UNION SMALL BUSINESS DEVELOPMENT.

(a) DEFINITIONS.—In this section—

(1) the term ''Board'' means the National Credit Union Administration Board;

(2) the term ''insured credit union'' has the same meaning as in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);

(3) the term ''member business loan'' has the same meaning as in section 107A(c)(1) of the Federal Credit Union Act (12 U.S.C. 1757a(c)(1));

(4) the term ''net worth'' has the same meaning as in section 107A(c)(2) of the Federal Credit Union Act (12 U.S.C. 1757a(c)(2)); and

(5) the term ''well capitalized'' has the same meaning as in section 216(c)(1)(A) of the Federal Credit Union Act (12 U.S.C. 1709d(c)(1)(A)).

(b) LIMITS ON MEMBER BUSINESS LOANS.—Effective 6 months after the date of enactment of this Act, section 107A(a) of the Federal Credit Union Act (12 U.S.C. 1757a(a)) is amended to read as follows:

''(a) LIMITATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an insured credit union may not make any member business loan that would result in the total amount of such loans outstanding at that credit union at any one time to be equal to more than the lesser of—

''(A) 1.75 times the actual net worth of the credit union; or

''(B) 12.25 percent of the total assets of the credit union.

''(2) ADDITIONAL AUTHORITY.—The Board may approve an application by an insured credit union upon a finding that the credit union meets the criteria under this paragraph to make 1 or more member business loans that would result in a total amount of such loans outstanding at any one time of not more than 27.5 percent of the total assets of the credit union, if the credit union—

''(A) had member business loans outstanding at the end of each of the 4 consecutive quarters immediately preceding the date of the application, in a total amount of not less than 80 percent of the applicable limitation under paragraph (1);

''(B) is well capitalized, as defined in section 216(c)(1)(A);

''(C) can demonstrate at least 5 years of experience of sound underwriting and servicing of member business loans;

''(D) has the requisite policies and experience in managing member business loans; and

''(E) has satisfied other standards that the Board determines are necessary to maintain the safety and soundness of the insured credit union.

''(3) EFFECT OF NOT BEING WELL CAPITALIZED.—An insured credit union that has made member business loans under an authorization under paragraph (2) and that is not, as of its most recent quarterly call report, well capitalized, may not make any member business loans, until such time as the credit union becomes well capitalized (as defined in section 216(c)(1)(A)), as reflected in a subsequent quarterly call report, and obtains the approval of the Board.''.

(c) IMPLEMENTATION.—

(1) TIERED APPROVAL PROCESS.—The National Credit Union Administration Board shall develop a tiered approval process, under which an insured credit union gradually increases the amount of member business lending in a manner that is consistent with safe and sound operations, subject to the limits established under section 107A(a)(2) of the Federal Credit Union Act (as amended by this section). The rate of increase under the process established under this paragraph may not exceed 30 percent per year.

(2) RULEMAKING REQUIRED.—The Board shall issue proposed rules, not later than 6 months after the date of enactment of this Act, to establish the tiered approval process required under paragraph (1). The tiered approval process shall establish standards designed to ensure that the new business lending capacity authorized under the amendment made by subsection (b) is being used only by insured credit unions that are well-managed and well capitalized, as required by the amendments made under subsection (b), and as defined by the rules issued by the Board under this paragraph.

(3) CONSIDERATIONS.—In issuing rules required under this subsection, the Board shall consider—

(A) the experience level of the institutions, including a demonstrated history of sound member business lending;

(B) the criteria under section 107A(a)(2) of the Federal Credit Union Act, as amended by this section; and

(C) such other factors as the Board determines necessary or appropriate.

(d) REPORTS TO CONGRESS ON MEMBER BUSINESS LENDING.—

(1) REPORT OF THE BOARD.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Board shall submit a report to Congress on member business lending by insured credit unions.

(B) REPORT.—The report required under subparagraph (A) shall include—

(i) the types and asset size of insured credit unions making member business loans and the member business loan limitations applicable to the insured credit unions;

(ii) the overall amount and average size of member business loans by each insured credit union;

(iii) the ratio of member business loans by insured credit unions to total assets and net worth;

(iv) the performance of the member business loans, including delinquencies and net charge offs;

(v) the effect of this section and the amendments made by this section on the number of insured credit unions engaged in member business lending, any change in the amount of member business lending, and the extent to which any increase is attributed to the change in the limitation in section 107A(a) of the Federal Credit Union Act, as amended by this section;

(vi) the number, types, and asset size of insured credit unions that were denied or approved by the Board for increased member business loans under section 107A(a)(2) of the Federal Credit Union Act, as amended by this section, including denials and approvals under the tiered approval process;

(vii) the types and sizes of businesses that receive member business loans, the duration of the credit union membership of the businesses at the time of the loan, the types of collateral used to secure member business loans, and the income level of members receiving member business loans; and

(viii) the effect of any increases in member business loans on the risk to the National Credit Union Share Insurance Fund and the assessments on insured credit unions.

(2) GAO STUDY AND REPORT.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study on the status of member business lending by insured credit unions, including—

(i) trends in such lending;

(ii) types and amounts of member business loans;

(iii) the effectiveness of this section in enhancing small business lending;

(iv) recommendations for legislative action, if any, with respect to such lending; and

(v) any other information that the Comptroller General considers relevant with respect to such lending.

(B) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the study required by subparagraph (A).

SA 3320. Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ___. CONFIDENTIALITY OF INFORMATION SHARED BETWEEN STATE AND FEDERAL FINANCIAL SERVICES REGULATORS.

Section 1512(a) of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5111(a)) is amended by inserting ''or financial services'' before ''industry''.

SA 3321. Mr. TOOMEY submitted an amendment intended to be proposed by him to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE II—FHA EMERGENCY FISCAL SOLVENCY

SEC. 201. SHORT TITLE.

This title may be cited as the ''FHA Emergency Fiscal Solvency Act of 2012''.

SEC. 202. FHA ANNUAL MORTGAGE INSURANCE PREMIUMS.

(a) IN GENERAL.—Subparagraph (B) of section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)(B)) is amended—

(1) in the matter preceding clause (i)—

(A) by striking ''may'' and inserting ''shall'';

(B) by striking ''not exceeding 1.5 percent'' and inserting ''not less than 0.55 percent''; and

(C) by inserting ''and not exceeding 2.0 percent of such remaining insured principal balance'' before ''for the following periods:''; and

(2) in clause (ii), by striking ''1.55 percent'' and inserting ''2.05 percent''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect upon the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 203. INDEMNIFICATION BY FHA MORTGAGEES.

Section 202 of the National Housing Act (12 U.S.C. 1708) is amended by adding at the end the following new subsection:

''(i) INDEMNIFICATION BY MORTGAGEES.—

''(1) IN GENERAL.—If the Secretary determines that the mortgagee knew, or should have known, of a serious or material violation of the requirements established by the Secretary with respect to a mortgage executed by a mortgagee approved by the Secretary under the direct endorsement program or insured by a mortgagee pursuant to the delegation of authority under section 256 such that the mortgage loan should not have been approved and endorsed for insurance, and the Secretary pays an insurance claim with respect to the mortgage within a reasonable period specified by the Secretary, the Secretary may require the mortgagee approved by the Secretary under the direct endorsement program or the mortgagee delegated authority under section 256 to indemnify the Secretary for the loss, irrespective of whether the violation caused the mortgage default.

''(2) FRAUD OR MISREPRESENTATION.—If fraud or misrepresentation was involved in connection with the origination or underwriting and the Secretary determines that the mortgagee knew or should have known of the fraud or misrepresentation, the Secretary shall require the mortgagee approved by the Secretary under the direct endorsement program or the mortgagee delegated authority under section 256 to indemnify the Secretary for the loss regardless of when an insurance claim is paid.

''(3) APPEALS PROCESS.—The Secretary shall, by regulation, establish an appeals process for mortgagees to appeal indemnification determinations made pursuant to paragraph (1) or (2).

''(4) REQUIREMENTS AND PROCEDURES.—The Secretary shall issue regulations establishing appropriate requirements and procedures governing the indemnification of the Secretary by the mortgagee, including public reporting on—

''(A) the number of loans that—

''(i) were not originated or underwritten in accordance with the requirements established by the Secretary; and

''(ii) involved fraud or misrepresentation in connection with the origination or underwriting; and

''(B) the financial impact on the Mutual Mortgage Insurance Fund when indemnification is required.''.

SEC. 204. EARLY PERIOD DELINQUENCIES.

Subsection (a) of section 202 of the National Housing Act (12 U.S.C. 1708(a)) is amended by adding at the end the following new paragraphs:

''(8) PROGRAMMATIC REVIEW OF EARLY PERIOD DELINQUENCIES.—The Secretary shall establish and maintain a program—

''(A) to review the cause of each early period delinquency on a mortgage that is an obligation of the Mutual Mortgage Insurance Fund;

''(B) to require indemnification of the Secretary for a loss associated with any such early period delinquency that is the result of a material violation, as determined by the Secretary, of any provision, regulation, or other guideline established or promulgated pursuant to this title; and

''(C) to publicly report—

''(i) a summary of the results of all early period delinquencies reviewed under subparagraph (A);

''(ii) any indemnifications required under subparagraph (B); and

''(iii) the financial impact on the Mutual Mortgage Insurance Fund of any such indemnifications.

''(9) DEFINITION OF EARLY PERIOD DELINQUENCY.—For purposes of this section, the term 'early period delinquency' means, with respect to a mortgage, that the mortgage becomes 90 or more days delinquent within 24 months of the origination of such mortgage.''.

SEC. 205. SEMIANNUAL ACTUARIAL STUDIES OF MMIF DURING PERIODS OF CAPITAL DEPLETION.

(a) IN GENERAL.—Paragraph (4) of section 202(a) of the National Housing Act (12 U.S.C. 1708(a)(4)) is amended—

(1) in the first sentence, by inserting ''except as provided in subparagraph (B),'' after ''to be conducted annually,'';

(2) in the second sentence, by inserting '', except as provided in subparagraph (B),'' after ''annually'';

(3) by striking the paragraph designation and heading and all that follows through ''The Secretary shall provide'' and inserting the following:

''(4) INDEPENDENT ACTUARIAL STUDY.—

''(A) ANNUAL STUDY.—The Secretary shall provide''; and

(4) by adding at the end the following new subparagraph:

''(B) SEMIANNUAL STUDIES DURING PERIODS OF CAPITAL DEPLETION.—During any period that the Fund fails to maintain sufficient capital to comply with the capital ratio requirement under section 205(f)(2)—

''(i) the independent study required by subparagraph (A) shall be conducted semiannually and shall analyze the financial position of the Fund as of September 30 and March 31 of each fiscal year during such period; and

''(ii) the Secretary shall submit a report meeting the requirements of subparagraph (A) for each such semiannual study.''.

(b) ANALYSIS OF QUARTERLY ACTUARIAL STUDIES.—The Secretary of Housing and Urban Development shall conduct an analysis of the cost and feasibility of providing for an independent actuarial study of the Mutual Mortgage Insurance Fund on a calendar quarterly basis, which shall compare the cost and feasibility of conducting such a study on a quarterly basis as compared to a semi-annual basis and shall determine whether such an actuarial study can be conducted on a quarterly basis without substantial additional costs to the taxpayers. Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Congress setting forth the findings and conclusion of the analysis conducted pursuant to this subsection.

SEC. 206. DELEGATION OF FHA INSURING AUTHORITY.

Section 256 of the National Housing Act (12 U.S.C. 1715z–21) is amended—

(1) by striking subsection (c);

(2) in subsection (e), by striking '', including'' and all that follows through ''by the mortgagee''; and

(3) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 207. AUTHORITY TO TERMINATE FHA MORTGAGEE ORIGINATION AND UNDERWRITING APPROVAL.

Section 533 of the National Housing Act (12 U.S.C. 1735f–11) is amended—

(1) in the first sentence of subsection (b), by inserting ''or areas or on a nationwide basis'' after ''area'' each place such term appears; and

(2) in subsection (c), by striking ''(c)'' and all that follows through ''The Secretary'' in the first sentence of paragraph (2) and inserting the following:

''(c) TERMINATION OF MORTGAGEE ORIGINATION AND UNDERWRITING APPROVAL.—

''(1) TERMINATION AUTHORITY.—If the Secretary determines, under the comparison provided in subsection (b), that a mortgagee has a rate of early defaults and claims that is excessive, the Secretary may terminate the approval of the mortgagee to originate or underwrite single family mortgages for any area, or areas, or on a nationwide basis, notwithstanding section 202(c) of this Act.

''(2) PROCEDURE.—The Secretary''.

SEC. 208. AUTHORIZATION TO PARTICIPATE IN THE ORIGINATION OF FHA-INSURED LOANS.

(a) SINGLE FAMILY MORTGAGES.—Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) is amended by striking paragraph (1) and inserting the following new paragraph:

''(1) Have been made to a mortgagee approved by the Secretary or to a person or entity authorized by the Secretary under section 202(d)(1) to participate in the origination of the mortgage, and be held by a mortgagee approved by the Secretary as responsible and able to service the mortgage properly.''.

(b) HOME EQUITY CONVERSION MORTGAGES.—Section 255(d) of the National Housing Act (12 U.S.C. 1715z–20(d)) is amended by striking paragraph (1) and inserting the following new paragraph:

''(1) have been originated by a mortgagee approved by, or by a person or entity authorized under section 202(d)(1) to participate in the origination by, the Secretary;''.

SEC. 209. REPORTING OF MORTGAGEE ACTIONS TAKEN AGAINST OTHER MORTGAGEES.

Section 202 of the National Housing Act (12 U.S.C. 1708), as amended by the preceding provisions of this title, is further amended by adding at the end the following new subsection:

''(j) NOTIFICATION OF MORTGAGEE ACTIONS.—The Secretary shall require each mortgagee, as a condition for approval by the Secretary to originate or underwrite mortgages on single family or multifamily housing that are insured by the Secretary, if such mortgagee engages in the purchase of mortgages insured by the Secretary and originated by other mortgagees or in the purchase of the servicing rights to such mortgages, and such mortgagee at any time takes action to terminate or discontinue such purchases from another mortgagee based on any determination or evidence of fraud or material misrepresentation in connection with the origination of such mortgages, to notify the Secretary of the action taken and the reasons for such action not later than 15 days after taking such action.''.

SEC. 210. DEFAULT AND ORIGINATION INFORMATION BY LOAN SERVICER AND ORIGINATING DIRECT ENDORSEMENT LENDER.

(a) COLLECTION OF INFORMATION.—Paragraph (2) of section 540(b) of the National Housing Act (12 U.S.C. 1712 U.S.C. 1735f–18(b)(2)) is amended by adding at the end the following new subparagraph:

''(C) For each entity that services insured mortgages, data on the number of claims paid to each servicing mortgagee during each calendar quarter occurring during the applicable collection period.''.

(b) APPLICABILITY.—Information described in subparagraph (C) of section 540(b)(2) of the National Housing Act, as added by subsection (a) of this section, shall first be made available under such section 540 for the applicable collection period (as such term is defined in such section) relating to the first calendar quarter ending after the expiration of the 12-month period that begins on the date of the enactment of this Act.

SEC. 211. DEPUTY ASSISTANT SECRETARY OF FHA FOR RISK MANAGEMENT AND REGULATORY AFFAIRS.

(a) ESTABLISHMENT OF POSITION.—Subsection (b) of section 4 of the Department of Housing and Urban Development Act (42 U.S.C. 3533(b)) is amended—

(1) by inserting ''(1)'' after ''(b)''; and

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

''(2) There shall be in the Department, within the Federal Housing Administration, a Deputy Assistant Secretary for Risk Management and Regulatory Affairs, who shall be appointed by the Secretary and shall be responsible to the Federal Housing Commissioner for all matters relating to managing and mitigating risk to the mortgage insurance funds of the Department and ensuring the performance of mortgages insured by the Department.''.

(b) TERMINATION.—Upon the appointment of the initial Deputy Assistant Secretary for Risk Management and Regulatory Affairs pursuant to section 4(b)(2) of the Department of Housing and Urban Development Act, as amended by subsection (a) of this section, the position of chief risk officer within the Federal Housing Administration, filled by appointment by the Federal Housing Commissioner, is abolished.

SEC. 212. ESTABLISHMENT OF CHIEF RISK OFFICER FOR GNMA.

Section 4 of the Department of Housing and Urban Development Act (42 U.S.C. 3533) is amended by adding after subsection (g), as added by section 1442 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203; 124 Stat. 2163), the following new subsection:

''(h) There shall be in the Department a Chief Risk Officer for the Government National Mortgage Association, who shall—

''(1) be designated by the Secretary;

''(2) be responsible to the President of the Association for all matters related to evaluating, managing, and mitigating risk to the programs of the Association;

''(3) be in the competitive service or the senior executive service;

''(4) be a career appointee;

''(5) be designated from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in risk evaluation practices in large governmental or business entities; and

''(6) shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments if such submission include a statement indicating that the views expressed therein are those of the Chief Risk Officer of the Association and do not necessarily represent the views of the Secretary.''.

SEC. 213. REPORT ON MORTGAGE SERVICERS.

(a) EXAMINATION.—The Secretary of Housing and Urban Development shall conduct an

examination into mortgage servicer compliance with the loan servicing, loss mitigation, and insurance claim submission guidelines of the FHA mortgage insurance programs under the National Housing Act (12 U.S.C. 1701 et seq.), and an estimate of the annual costs to the Mutual Mortgage Insurance Fund, since 2008, resulting from any failures by mortgage servicers to comply with such guidelines.

(b) REPORT.—Not later than the expiration of the 120-day period that begins upon the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the results of the examination conducted pursuant to subsection (a), including recommendations for any administrative and legislative actions to improve mortgage servicer compliance with the guidelines referred to in subsection (a).

SEC. 214. FHA EMERGENCY CAPITAL PLAN.

(a) ESTABLISHMENT.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall develop, submit to the Congress, and commence implementation of an emergency capital plan for the restoration of the fiscal solvency of the Mutual Mortgage Insurance Fund (in this section referred to as the ''Fund'').

(b) CONTENTS.—The emergency capital plan developed pursuant to this section shall—

(1) provide a detailed explanation of the processes and controls by which amounts of capital that are assets of the Fund are monitored and tracked;

(2) establish a plan to ensure the financial safety and soundness of the Fund that avoids the need for borrowing amounts from the Treasury of the United States to meet obligations of the Fund; and

(3) describe the procedure by which, if necessary, any amounts from the Treasury needed to meet obligations of the Fund will be obtained from the Treasury.

(c) MONTHLY REPORTS.—

(1) REPORTS.—Subject to paragraph (3), upon the conclusion of each calendar month ending after the 14-day period that begins on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report assessing the financial status of the Fund at the conclusion of such month and setting forth the information described in paragraph (2).

(2) CONTENTS.—Each report required under paragraph (1) for a month shall contain the following information regarding the Fund as of the conclusion of such month:

(A) The number of mortgages that are obligations of the Fund that are 60 or more days delinquent, the expected losses to the Fund associated with such delinquent mortgages, and the methodology used to make such calculation.

(B) The number of mortgages that are obligations of the Fund that have a loan-to-value ratio at the time of origination that is less than 80 percent and the percentage of all mortgages that are obligations of the Fund having such a ratio.

(C) The number of mortgages that are obligations of the Fund that had an original principal obligation exceeding 125 percent of the median house price, for a home of the size of the residence subject to the mortgage, for the area in which such residence is located, and the percentage of all mortgages that are obligations of the Fund having such an original principal obligation.

(D) The number of mortgages that are obligations of the Fund for which the mortgagor's income at the time of origination of the mortgage is greater than the median income for the area in which the residence subject to the mortgage is located, and the percentage of all mortgages that are obligations of the Fund for which the mortgagor has such an income.

(E) The balances for the financing and capital reserve accounts of the Fund.

(F) Any actions taken during such month to help ensure the financial soundness of the Fund and compliance with section 205(f) of the National Housing Act (12 U.S.C. 1711(f); relating to a capital ratio requirement).

(3) TERMINATION OF REPORTING REQUIREMENT.—The requirement to submit reports under paragraph (1) shall terminate on the first date after the date of the enactment of this Act that the Fund attains a capital ratio (as such term is defined in section 205(f)(3) of the National Housing Act) of 2.0 percent.

SEC. 215. FHA SAFETY AND SOUNDNESS REVIEW.

(a) REVIEW.—The Comptroller General of the United States shall provide for an independent third party to—

(1) conduct a one-time review of the mortgage insurance programs and funds of the Secretary of Housing and Urban Development that shall determine, as of the time of such review—

(A) the financial safety and soundness of such programs and funds; and

(B) the extent of loan loss reserves and capital adequacy of such programs and funds; and

(2) to submit a report under subsection (b). Such review shall be conducted in accordance with generally accepted accounting principles applicable to the private sector and Federal entities.

(b) REPORT.—The report under this subsection shall describe the methodology and standards used to conduct the review under subsection (a)(1), set forth the results and findings of the review, including the extent of loan loss reserves and capital adequacy of the mortgage insurance programs and funds of the Secretary of Housing and Urban Development, and include recommendations regarding restoring such reserves and capital to maintain such programs and funds in a safe and sound condition.

(c) TIMING.—The review required under subsection (a) shall be completed, and the report required under subsection (b) shall be submitted, not later than the expiration of the 60-day period beginning on the date of the enactment of this Act.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to alter or affect, or exempt the Secretary of Housing and Urban Development from complying with, any laws, regulations, or guidance relating to preparation or submission of budgets or audits or financial or management statements or reports.

SEC. 216. FHA DISCLOSURE STANDARDS.

Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall review and revise all standards and requirements relating to disclosure of information regarding the mortgage insurance programs and funds, including actuarial studies conducted under section 202(a)(4) of the National Housing Act (12 U.S.C. 1708(a)(4)), quarterly reports under section 202(a)(5) of such Act, and annual audited financial statements under section 538 of such Act (12 U.S.C. 1735f–16), to ensure that, after the date of the enactment of this Act, such disclosures—

(1) provide meaningful financial and other information that is timely, comprehensive, and accurate;

(2) do not contain any material misstatements or misrepresentations;

(3) make available all relevant information; and

(4) prohibit material omissions that make the contents of the disclosure misleading.

SEC. 217. REPORT ON STREAMLINING FHA PROGRAMS.

(a) EXAMINATION.—The Secretary of Housing and Urban Development shall conduct an examination of the mortgage insurance and any other programs of the Federal Housing Administration to identify—

(1) the level of use and need for such programs;

(2) any such programs that are unused or underused; and

(3) methods for streamlining, consolidating, simplifying, increasing the efficiency of, and reducing the number of such programs.

(b) REPORT.—Not later than the expiration of the 12-month period that begins upon the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the results of the examination conducted pursuant to subsection (a), including recommendations for any administrative and legislative actions to streamline, consolidate, simplify, increase the efficiency of, and reduce the number of such programs.

SEC. 218. BUDGET COMPLIANCE.

The Secretary of Housing and Urban Development shall allocate $2,500,000 from the account for Administrative Contract Expenses each fiscal year through September 30, 2017, which amounts shall be available only for the purposes of this title and the amendments made by this title, including such additional actuarial reviews as may be required by section 205 of this title and the amendments made by such section.

SA 3322. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. 3. FHA STABILIZATION AND REFORM.

(a) ESTABLISHING MINIMUM FICO SCORE REQUIREMENT.—Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) is amended by inserting after paragraph (7) the following:

''(8) Have been made to a mortgagor having a FICO score of not less than 620.''.

(b) REDUCING LOAN LIMIT.—Section 203(b)(2)(A) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)) is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) in clause (ii), by adding ''or'' at the end; and

(3) by inserting before the undesignated matter following clause (ii) the following:

''(iii) $625,000;''.

(c) HECM MORATORIUM.—During the 24-month period beginning on the date of enactment of this Act, the Secretary of Housing and Urban Development may not enter into an agreement to insure a home equity conversion mortgage under section 255 of the National Housing Act (12 U.S.C. 1715z–20).

(d) LIMITATION ON LOANS TO BORROWERS WITH FORECLOSURES.—Section 203(b)(9)(A) of the National Housing Act (12 U.S.C. 1709(b)(9)(A)) is amended—

(1) by striking the period at the end and inserting ''; or'';

(2) by striking ''amount equal to not less'' and inserting the following: ''amount equal to—

''(A) not less''; and

(3) by adding at the end the following:

''(B) in the case of a mortgagor who was the mortgagor under a mortgage that was foreclosed upon during the 7-year period ending on the date on which the mortgagor applies for the mortgage insured under this section, not less than 20 percent of the appraised value of the property or such larger amount as the Secretary may determine.''.

SA 3323. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike line 14 and all that follows through page 3, line 6 and insert the following:

(c) RECOVERY OF LIABILITY INCREASE.—The Federal Deposit Insurance Corporation (in this section referred to as the ''Corporation'') shall fully and properly reserve, in each calendar year, for the increased prospective liability of the Deposit Insurance Fund established under section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) that occurs as a result of section 11(a)(1)(B)(ii) of that Act, by—

(1) estimating the amount of deposits of insured depository institutions that are insured as a result of section 11(a)(1)(B)(ii) of that Act; and

(2) collecting, at the same time as and in addition to the assessments that would otherwise be collected by the Corporation with respect to such year for insured depository institutions (as defined in section 3(c)(2) of that Act (12 U.S.C. 1813(c)(2))) pursuant to section 7(b) of that Act (12 U.S.C. 1817(b)), an amount that bears the same proportion to the assessments that would otherwise be collected as the amount of deposits estimated pursuant to subparagraph (1) bears to the total amount of insured deposits of insured depository institutions, less that estimated amount as of the end of the most recent preceding calendar quarter.

On page 4, strike lines 13 through 20 and insert the following:

(c) RECOVERY OF LIABILITY INCREASE.—The National Credit Union Administration (in this section referred to as the ''Administration'') shall fully and properly reserve, in each calendar year, for the increased prospective liability of the National Credit Union Share Insurance Fund established under section 203(a) of the Federal Credit Union Act (12 U.S.C. 1783(a)) that occurs as a result of section 207(k)(1) of that Act (12 U.S.C. 1787(k)(1)), by—

(1) estimating the amount of deposits of insured credit unions that are insured as a result of section 207(k)(1)(B) of that Act; and

(2) collecting, at the same time as and in addition to the assessments that would otherwise be collected by the Administration with respect to such year for insured credit unions (as defined in section 101 of that Act (12 U.S.C. 1752)) pursuant to section 202 of that Act (12 U.S.C. 1782), an amount that bears the same proportion to the assessments that would otherwise be collected as the amount of deposits estimated pursuant to subparagraph (1) bears to the total amount of insured deposits of insured credit unions, less that estimated amount as of the end of the most recent preceding calendar quarter.

SA 3324. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike line 24 and all that follows through page 4, line 20 and insert the following:

(2) collecting from participating insured depository institutions (as defined in section 11(a)(1)(B)(iv) of that Act) an amount equal to such estimated losses by September 30 of such calendar year, which shall be in addition to the assessments that would otherwise be collected by the Corporation with respect to such year for insured depository institutions (as defined in section 3(c)(2) of that Act (12 U.S.C. 1813(c)(2))) pursuant to section 7(b) of that Act (12 U.S.C. 1817(b)).

(d) DEPOSIT INSURANCE VOLUNTARY PARTICIPATION.—Effective on January 1, 2013, section 11(a)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(B)) is amended—

(1) in clause (ii), by striking ''an insured depository institution'' and inserting ''a participating insured depository institution''; and

(2) by adding at the end the following:

''(iv) PARTICIPATING INSURED DEPOSITORY INSTITUTION DEFINED.—For purposes of this subparagraph, the term 'participating insured depository institution' means an insured depository institution that elects, in a manner and during a time period for such election specified by the Corporation, to have all of its noninterest-bearing transaction accounts fully insured by the Corporation.''.

On page 4, strike lines 13 through 20 and insert the following:

(2) collecting from each participating insured credit union an amount equal to such estimated losses by September 30 of such calendar year, which shall be in addition to the assessments that would otherwise be collected by the Administration with respect to such year for insured credit unions (as defined in section 101 of that Act (12 U.S.C. 1752)) pursuant to section 202 of that Act (12 U.S.C. 1782).

(d) CREDIT UNION INSURANCE VOLUNTARY PARTICIPATION.—Effective on January 1, 2013, section 207(k)(1)(A) of the Federal Credit Union Act (12 U.S.C. 1787(k)(1)(A)) is amended—

(1) in clause (ii), by striking ''an insured credit union'' and inserting ''a participating insured credit union''; and

(2) by adding at the end the following:

''(iv) PARTICIPATING INSURED CREDIT UNION DEFINED.—For purposes of this subparagraph, the term 'participating insured credit union' means an insured credit union that elects, in a manner and during a time period for such election specified by the Administration, to have all of its noninterest-bearing transaction accounts fully insured by the Administration.''.

SA 3325. Mr. WICKER submitted an amendment intended to be proposed by him to the bill S. 3637, to temporarily extend the transaction account guarantee program, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 1, strike ''December 31'' and insert ''September 30''.

On page 3, line 13, strike ''December 31'' and insert ''September 30''.

At the end, add the following:

SEC. ___. LIMITS ON GUARANTEE AMOUNTS.

(a) DEPOSIT INSURANCE.—Section 11(a)(1)(B)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(B)(ii)) is amended—

(1) by striking ''shall fully insure the net amount that any'' and inserting ''shall insure not more than $1,000,000 of the amount that any single''; and

(2) by striking the second sentence.

(b) CREDIT UNION INSURANCE.—Section 207(k)(1)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1787(k)(1)(A)(ii)) is amended—

(1) by striking ''shall fully insure the net amount that any'' and inserting ''shall insure not more than $1,000,000 of the amount that any single''; and

(2) by striking the second sentence.

SA 3326. Mr. LIEBERMAN (for himself and Ms. COLLINS) proposed an amendment to the bill S. 3564, to extend the Public Interest Declassification Act of 2000 until 2018 and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Public Interest Declassification Board Reauthorization Act of 2012''.

SEC. 2. PUBLIC INTEREST DECLASSIFICATION BOARD.

(a) SUBSEQUENT APPOINTMENT.—Section 703(c)(2)(D) of the Public Interest Declassification Act of 2000 (Public Law 106–567; 50 U.S.C. 435 note) is amended by striking the period at the end and inserting ''from the date of the appointment.''.

(b) VACANCY.—Section 703(c)(3) of the Public Interest Declassification Act of 2000 (Public Law 106–567; 50 U.S.C. 435 note) is amended by striking ''A member of the Board appointed to fill a vacancy before the expiration of a term shall serve for the remainder of the term.''.

(c) EXTENSION OF SUNSET.—Section 710(b) of the Public Interest Declassification Act of 2000 (Public Law 106–567; 50 U.S.C. 435 note) is amended by striking ''2012.'' inserting ''2014.''.

SA 3327. Mr. LIEBERMAN (for himself and Ms. COLLINS) proposed an amendment to the bill S. 3564, to extend the Public Interest Declassification Act of 2000 until 2018 and for other purposes; as follows:

Amend the title so as to read: ''To extend the Public Interest Declassification Act of 2000 until 2014 and for other purposes.''.

SA 3328. Mrs. GILLIBRAND (for herself, Mr. ROCKEFELLER, and Mr. TOOMEY) proposed an amendment to the bill H.R. 6328, to amend title 49, United States Code, to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to transfer unclaimed clothing recovered at airport security checkpoints to local veterans organizations and other local charitable organizations, and for other purposes; as follows:

On page 2, line 20, after ''clothing to'' insert ''the local airport authority or other local authorities for donation to charity, including''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, December 11, 2012, at 10:30 a.m., to conduct a hearing entitled ''Streamlining and Strengthening HUD's Rental Housing Assistance Programs, Part II.''

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

COMMITTEE ON FINANCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on December 11, 2012, at 10 a.m., in room SD–215 of the Dirksen Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on December 11, 2012, at 2:30 p.m.

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

AMENDING THE FEDERAL DEPOSIT INSURANCE ACT

AMENDING THE ELECTRONIC FUND TRANSFER ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following bills en bloc: Calendar No. 344, H.R. 4014; and H.R. 4367, which was received from the House and is at the desk.

There being no objection, the Senate proceeded to consider the bills en bloc.

ATM FEE DISCLOSURE

Mr. HARKIN. Mr. President, in the last few years, a number of colleagues and I have grown increasingly worried about the fees that consumers face when using an automated teller machine, ATM. According to Bankrate.com 2010 Checking Survey, the average surcharge a consumer pays to use an ATM has increased to $2.33. Over 99 percent of ATM operators charge this fee. Some ATM operators also charge balance inquiry fees.

In addition, consumers are also increasingly likely to face a fee from their own financial institution for using an ATM not owned by their institution. According to the same Bankrate study, 75 percent of checking accounts charge this fee, which is now up to $1.41 on average. Therefore, frequently, consumers may face fees of almost $4.00 for accessing their own cash.

Consumers who use prepaid cards are especially likely to pay a variety of fees for using an ATM. They can face ATM withdrawal fees, balance inquiry fees, and denied transaction fees. They may get no notice at the ATM of fees charged by the prepaid card.

Mr. UDALL of New Mexico. I thank the Senator.

I too am concerned by the rising consumer ATM costs. As you know, the Senate recently passed legislation that does away with the requirement that ATMs post a physical sign notifying consumers that they may be charged multiple fees for a transaction. In many ways this requirement was outdated and it put our local institutions at risk for frivolous lawsuits. While I supported the bill we passed, I believe we must proceed with caution.

All of my friends speaking on this issue today, myself included, believe that this legislation was only intended to remove duplicative disclosures and not to lessen the important information consumers rely on when making an ATM transactions. We are concerned that one of the unintended consequences of this legislation is that consumers will lose access to information about the fees that they might face at an ATM, including, for example, fees for simple transactions like a balance inquiry and additional fees imposed by their own institution.

I would like to ask Senator JOHNSON, the distinguished chairman of the Banking Committee, for his input on this point as well.

Mr. JOHNSON of South Dakota. I thank Senators UDALL and HARKIN.

The Senator has raised an important point about this legislation. The intent of this legislation is not to lessen the amount of information that a consumer receives prior to conducting a transaction at an ATM. As the Senator has laid out, it is important that consumers be fully informed of the types of fees that they may face at the time of the transaction. The point was to modernize the information that consumers get, taking into account technological changes. But this bill is only one step toward modernization. The CFPB may wish to look at other steps to ensure that consumers are fully informed about the fees they may incur, whether that be through improved onscreen ATM disclosures, better disclosures at point of sale, or other methods.

I understand that the Consumer Financial Protection Bureau is already taking a look at this issue as part of an existing rulemaking to streamline inherited regulations, and I agree that it is important for them to keep this fact in mind as they move forward on this rulemaking.

Mr. MERKLEY: I thank Chairman JOHNSON.

Yes, I would like to reiterate that the intent of this bill is to streamline duplicative disclosures and not make consumers less aware of potential fees that they face. Like you, I encourage the Bureau to use their upcoming rulemaking to ensure that this is not the case. I now turn to my friend from Minnesota.

Mr. FRANKEN. I thank Senator MERKLEY.

I would like to echo the concerns of my friends and colleagues, Senators HARKIN, UDALL, MERKLEY, and Chairman JOHNSON. This legislation is intended to provide relief from a physical signage requirement that is subject to abuse, not reduce the disclosure available to consumers using ATM machines. I encourage the CFPB to issue regulations that clarify that consumers should have, at a minimum, the same access to timely information as they had prior to the passage of this legislation. Consumers are in the best position to make the financial decisions that are best for them, but to do so, they must have the relevant information at the appropriate time. I am pleased that so many of my colleagues have come together to support this legislative effort—one that remedies a problem affecting so many of our community banks and credit unions, but that retains protections for American consumers.

Mr. REID. Mr. President, I ask unanimous consent that the bills be read three times and passed en bloc, the motions to reconsider be laid upon the table en bloc, with no intervening action or debate, and any related statements to these matters be printed in the RECORD.

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

The bills (H.R. 4014 and H.R. 4367) were ordered to a third reading, were read the third time, and passed.

BRIDGEPORT INDIAN COLONY LAND TRUST, HEALTH, AND ECONOMIC DEVELOPMENT ACT OF 2012

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 534, H.R. 2467.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2467) to take certain Federal lands in Mono County, California, into trust for the benefit of the Bridgeport Indian Colony.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be considered made and laid upon the table, there be no intervening action or debate, and any statements relating to this measure be printed in the RECORD.

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

The bill (H.R. 2467) was ordered to a third reading, was read the third time, and passed.

PUBLIC INTEREST DECLASSIFICATION ACT OF 2012

Mr. REID. Mr. President, I ask unanimous consent the Homeland Security and Governmental Affairs Committee be discharged from further consideration of S. 3564 and the Senate proceed to its consideration.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3564) to extend the Public Interest Declassification Act of 2000 until 2018, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that the Lieberman substitute amendment which is at the desk be agreed to, the bill, as amended, be read three times and passed, the Lieberman title amendment which is at the desk be agreed to, and the motions to reconsider be laid upon the table, with no intervening action or debate, and any related statements be printed in the RECORD.

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

The amendment (No. 3326) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Public Interest Declassification Board Reauthorization Act of 2012''.

SEC. 2. PUBLIC INTEREST DECLASSIFICATION BOARD.

(a) SUBSEQUENT APPOINTMENT.—Section 703(c)(2)(D) of the Public Interest Declassification Act of 2000 (Public Law 106–567; 50 U.S.C. 435 note) is amended by striking the period at the end and inserting ''from the date of the appointment.''.

(b) VACANCY.—Section 703(c)(3) of the Public Interest Declassification Act of 2000 (Public Law 106–567; 50 U.S.C. 435 note) is amended by striking ''A member of the Board appointed to fill a vacancy before the expiration of a term shall serve for the remainder of the term.''.

(c) EXTENSION OF SUNSET.—Section 710(b) of the Public Interest Declassification Act of 2000 (Public Law 106–567; 50 U.S.C. 435 note) is amended by striking ''2012.'' inserting ''2014.''.

The amendment (No. 3327) was agreed to, as follows:

(Purpose: To amend the title)

Amend the title so as to read: ''To extend the Public Interest Declassification Act of 2000 until 2014 and for other purposes.''.

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

The bill (S. 3564), as amended, was passed.

PASCUA YAQUI TRIBE MEMBERSHIP

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of H.R. 3319 and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3319) to allow the Pascua Yaqui Tribe to determine the requirements for membership in that tribe.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be considered made and laid upon the table, with no intervening action or debate, and any statements relating to the measure be printed in the RECORD as if read.

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

The bill (H.R. 3319) was ordered to a third reading, was read the third time, and passed.

CLOTHE A HOMELESS HERO ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 6328 which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6328) to amend title 49 United States Code, to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to transfer unclaimed clothing recovered at airport security checkpoints to local veterans organizations and other local charitable organizations, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. REID. Mr. President, I ask unanimous consent that a Gillibrand amendment which is at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be considered made and laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD as if read.

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

The amendment (No. 3328) was agreed to, as follows:

(Purpose: To clarify that the clothing should be transferred to the local airport authority or other local authorities for donation to charity, including local veterans organizations or other local charitable organizations for distribution to homeless or needy veterans and veteran families)

On page 2, line 20, after ''clothing to'' insert ''the local airport authority or other local authorities for donation to charity, including''.

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

The bill (H.R. 6328) was read the third time and passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 6328) entitled ''An Act to amend title 49, United States Code, to direct the Assistant Secretary of Homeland Security (Transportation Security Administration) to transfer unclaimed clothing recovered at airport security checkpoints to local veterans organizations and other local charitable organizations, and for other purposes.'', do pass with the following amendment:

On page 2, line 20, after ''clothing to'' insert ''the local airport authority or other local authorities for donation to charity, including''.

ORDER FOR STAR PRINTING

Mr. REID. Mr. President, I ask unanimous consent that the report to accompany Calendar No. 514, (S. 76), be star-printed with changes at the desk.

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

ORDERS FOR WEDNESDAY, DECEMBER 12, 2012

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, December 12, 2012; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate will be in a period of morning business until 2 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the first hour equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; and that the previous order with respect to the remarks of retiring Senators be amended to occur from 11:30 a.m. until 2 p.m; and that following morning business, the Senate resume consideration of S. 3637, the TAG extension legislation.

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

PROGRAM

Mr. REID. During today's session, cloture was filed on S. 3637. As a result, the filing deadline for all first-degree amendments to the bill is 1 p.m. Wednesday. Under the rule, that cloture vote will be Thursday morning.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:18 p.m., adjourned until Wednesday, December 12, 2012, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate Tuesday, December 11, 2012:

THE JUDICIARY

JOHN E. DOWDELL, OF OKLAHOMA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OKLAHOMA.

JESUS G. BERNAL, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.